

2SHB 2647 - H AMD 1255

By Representative Newhouse

WITHDRAWN 02/18/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** In an effort to further protect children's
4 health, the legislature intends to establish an allowed amount of lead
5 in products intended for use by children and directs the state to
6 develop a chemical action plan for cadmium and phthalates. The
7 legislature further intends that the allowed amount of lead be
8 consistent with federal lead use regulations, or this act, whichever is
9 lower.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires otherwise.

12 (1) "Children's cosmetics" means cosmetics that are made for,
13 marketed for use by, or marketed to children under the age of seven.
14 Children's cosmetics includes cosmetics that meet any of the following
15 conditions:

16 (a) Represented in its packaging, display, or advertising as
17 appropriate for use by children;

18 (b) Sold in conjunction with, attached to, or packaged together
19 with other products that are packaged, displayed, or advertised as
20 appropriate for use by children; or

21 (c) Sold in any of the following:

22 (i) Retail store, catalogue, or online web site, in which a person
23 exclusively offers for sale products that are packaged, displayed, or
24 advertised as appropriate for use by children; or

25 (ii) A discrete portion of a retail store, catalogue, or online web
26 site, in which a person offers for sale products that are packaged,
27 displayed, or advertised as appropriate for use by children.

28 (2) "Children's jewelry" means jewelry that is made for, marketed

1 for use by, or marketed to children under the age of seven. Children's
2 jewelry includes jewelry that meets any of the following conditions:

3 (a) Represented in its packaging, display, or advertising as
4 appropriate for use by children under the age of seven;

5 (b) Sold in conjunction with, attached to, or packaged together
6 with other products that are packaged, displayed, or advertised as
7 appropriate for use by children;

8 (c) Sized for children and not intended for use by adults; or

9 (d) Sold in any of the following:

10 (i) A vending machine;

11 (ii) Retail store, catalogue, or online web site, in which a person
12 exclusively offers for sale products that are packaged, displayed, or
13 advertised as appropriate for use by children; or

14 (iii) A discrete portion of a retail store, catalogue, or online
15 web site, in which a person offers for sale products that are packaged,
16 displayed, or advertised as appropriate for use by children.

17 (3) "Children's product" includes any of the following:

18 (a) Toys;

19 (b) Children's cosmetics;

20 (c) Children's jewelry;

21 (d) A product designed or intended by the manufacturer to help a
22 child with sucking or teething, to facilitate sleep, relaxation, or the
23 feeding of a child, or to be worn as clothing by children; or

24 (e) Child car seats.

25 (4) "Commission" means the United States consumer products safety
26 commission.

27 (5) "Cosmetics" includes articles intended to be rubbed, poured,
28 sprinkled, or sprayed on, introduced into, or otherwise applied to the
29 human body or any part thereof for cleansing, beautifying, promoting
30 attractiveness, or altering the appearance, and articles intended for
31 use as a component of such an article. "Cosmetics" does not include
32 soap, dietary supplements, or food and drugs approved by the United
33 States food and drug administration.

34 (6) "Department" means the department of ecology.

35 (7) "Manufacturer" includes any person, firm, association,
36 partnership, corporation, governmental entity, organization, or joint
37 venture that produces a children's product, has a children's product
38 produced for sale under a brand name that it owns, or imports a

1 children's product. For the purposes of this section, "importer" means
2 the person, firm, association, partnership, corporation, governmental
3 entity, organization, or joint venture listed as the importer of record
4 of the product when it cleared customs into the territorial boundaries
5 of the United States.

6 (8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl
7 phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate
8 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

9 (9) "Toy" means a product designed or intended by the manufacturer
10 to be used by a child under the age of seven at play.

11 (10) "Trade association" means a membership organization of persons
12 engaging in a similar or related line of commerce, organized to promote
13 and improve business conditions in that line of commerce and not to
14 engage in a regular business of a kind ordinarily carried on for
15 profit.

16 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2010, except for
17 existing inventories, no manufacturer, wholesaler, or retailer may
18 manufacture, knowingly sell, offer for sale, distribute for sale, or
19 distribute for use in this state a children's product containing lead
20 at more than .009 percent by weight (ninety parts per million).

21 (2) Subsection (1) of this section does not apply to any component
22 part of a children's product that is not accessible to a child through
23 normal and reasonably foreseeable use and abuse of such a product, as
24 determined by the commission. A component part is not accessible under
25 this subsection if such a component part is not physically exposed by
26 reason of a sealed covering or casing and does not become physically
27 exposed through reasonably foreseeable use and abuse of the product.
28 The commission may require that certain electronic devices be equipped
29 with a child-resistant cover or casing that prevents exposure of and
30 accessibility to the parts of the product containing lead if the
31 commission determines that it is not feasible for such a product to
32 otherwise meet such a standard.

33 NEW SECTION. **Sec. 4.** (1) By July 1, 2009, the department shall
34 develop a chemical action plan for phthalates in products intended for
35 use by children under the age of seven. The phthalate chemical action
36 plan must include: (a) The identification of current phthalate sources

1 and uses in products intended for use by children under the age of
2 seven in Washington; (b) an analysis of current state and federal laws,
3 regulations, rules, and other measures governing ingredients in toys
4 and children's products; (c) an assessment and summary of relevant
5 studies on phthalates used in children's products and toys, including
6 scientific reviews and risk assessments conducted by the commission,
7 the European Union, and other independent scientific panels or bodies;
8 and (d) an identification of future policy options pertaining to
9 phthalates in toys and children's products that are: Cost-effective,
10 based on best available science, technological feasibility, and result
11 in measurable benefits to human health or the environment in the state.

12 (2) By December 1, 2009, the department shall develop a chemical
13 action plan for cadmium in products intended for use by children under
14 the age of seven. The cadmium chemical action plan must include: (a)
15 The identification of current cadmium sources and uses in products
16 intended for use by children under the age of seven in Washington; (b)
17 an analysis of current state and federal laws, regulations, rules, and
18 other measures governing ingredients in toys and children's products;
19 (c) an assessment and summary of relevant studies on cadmium used in
20 children's products and toys, including scientific reviews and risk
21 assessments conducted by the commission, the European Union, and other
22 independent scientific panels or bodies; and (d) an identification of
23 future policy options pertaining to cadmium in toys and children's
24 products that are: Cost-effective, based on best available science,
25 technological feasibility, and results in measurable benefits to human
26 health or the environment in the state.

27 NEW SECTION. **Sec. 5.** (1) A manufacturer of children's products in
28 violation of this chapter is subject to a civil penalty not to exceed
29 one thousand dollars for each violation in the case of a first offense.
30 Subsequent violations are subject to a civil penalty not to exceed five
31 thousand dollars. Penalties collected under this section must be
32 deposited in the state toxics control account created in RCW
33 70.105D.070.

34 (2) Retailers who unknowingly sell products that are restricted
35 from sale under this chapter are not liable under this chapter.

1 NEW SECTION. **Sec. 6.** Before the prohibitions under section 3 of
2 this act take effect, the department shall prepare and distribute
3 information to in-state and out-of-state manufacturers, to the maximum
4 extent practicable, to assist them in identifying products prohibited
5 for manufacture, sale, or distribution under this chapter.

6 NEW SECTION. **Sec. 7.** The department may adopt rules as necessary
7 for the purpose of implementing, administering, and enforcing this
8 chapter.

9 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
10 a new chapter in Title 70 RCW.

11 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
12 act, referencing this act by bill or chapter number, is not provided by
13 June 30, 2008, in the omnibus appropriations act, this act is null and
14 void."

15 Correct the title.

EFFECT: Changes the percent content of lead that is prohibited
in children's products from more than .004% to more than .009%.
Provides that lead prohibition does not apply to any component part of
a children's product that is not accessible to a child through normal
and reasonably foreseeable use and abuse. Deletes requirements that
manufacturer provide certain notices to those who sell their products
and to department of ecology. Deletes prohibitions and notice
requirements regarding cadmium and phthalates.

Requires the department of ecology to develop chemical action plans
for cadmium and phthalates. Requires that the chemical action plans
consider such things as current uses of the chemicals, analysis of laws
and regulations, and assessment of relevant studies. Requires that the
chemical action plans identify policy options.

Changes the penalties for first offense from a \$5,000 fine to a
\$1,000 fine. Changes the penalties for repeat offenses from a maximum
of \$10,000 to \$5,000.

Deletes requirement that department of ecology identify high
priority chemicals that are of high concern for children. Deletes
requirement that the secretary of health establish and maintain an
education campaign regarding chemicals of high concern for children.

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