

**E2SHB 2647** - S COMM AMD

By Committee on Water, Energy & Telecommunications

ADOPTED AND ENGROSSED 03/07/08

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

3 "NEW SECTION. **Sec. 1.** Research shows that many toys and other  
4 children's products contain toxic chemicals, such as lead, cadmium, and  
5 phthalates that have been shown to cause harm to children's health and  
6 the environment. These chemicals have been linked to long-term health  
7 impacts, such as birth defects, reproductive harm, impaired learning,  
8 liver toxicity, and cancer. Because children's bodies are growing and  
9 developing, they are especially vulnerable to the effects of toxic  
10 chemicals. Regulation of toxic chemicals in children's toys and other  
11 products is woefully inadequate. To protect children's health, it is  
12 important to phase out the use of lead, cadmium, and phthalates in  
13 children's toys and other products and to begin collecting information  
14 on other chemicals that are present in toys and other products to  
15 determine whether further action is required.

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

18 (1) "Children's cosmetics" means cosmetics that are made for,  
19 marketed for use by, or marketed to children under the age of twelve.  
20 "Children's cosmetics" includes cosmetics that meet any of the  
21 following conditions:

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

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

27 (c) Sold in any of the following:

28 (i) Retail store, catalogue, or online web site, in which a person

1 exclusively offers for sale products that are packaged, displayed, or  
2 advertised as appropriate for use by children; or  
3 (ii) A discrete portion of a retail store, catalogue, or online web  
4 site, in which a person offers for sale products that are packaged,  
5 displayed, or advertised as appropriate for use by children.  
6 (2) "Children's jewelry" means jewelry that is made for, marketed  
7 for use by, or marketed to children under the age of twelve.  
8 "Children's jewelry" includes jewelry that meets any of the following  
9 conditions:  
10 (a) Represented in its packaging, display, or advertising as  
11 appropriate for use by children under the age of twelve;  
12 (b) Sold in conjunction with, attached to, or packaged together  
13 with other products that are packaged, displayed, or advertised as  
14 appropriate for use by children;  
15 (c) Sized for children and not intended for use by adults; or  
16 (d) Sold in any of the following:  
17 (i) A vending machine;  
18 (ii) Retail store, catalogue, or online web site, in which a person  
19 exclusively offers for sale products that are packaged, displayed, or  
20 advertised as appropriate for use by children; or  
21 (iii) A discrete portion of a retail store, catalogue, or online  
22 web site, in which a person offers for sale products that are packaged,  
23 displayed, or advertised as appropriate for use by children.  
24 (3)(a) "Children's product" includes any of the following:  
25 (i) Toys;  
26 (ii) Children's cosmetics;  
27 (iii) Children's jewelry;  
28 (iv) A product designed or intended by the manufacturer to help a  
29 child with sucking or teething, to facilitate sleep, relaxation, or the  
30 feeding of a child, or to be worn as clothing by children; or  
31 (v) Child car seats.  
32 (b) "Children's product" does not include the following:  
33 (i) Batteries;  
34 (ii) Slings and catapults;  
35 (iii) Sets of darts with metallic points;  
36 (iv) Toy steam engines;  
37 (v) Bicycles and tricycles;

1 (vi) Video toys that can be connected to a video screen and are  
2 operated at a nominal voltage exceeding twenty-four volts;

3 (vii) Chemistry sets;

4 (viii) Consumer electronic products, including but not limited to  
5 personal computers, audio and video equipment, calculators, wireless  
6 phones, game consoles, and handheld devices incorporating a video  
7 screen, used to access interactive software and their associated  
8 peripherals;

9 (ix) Interactive software, intended for leisure and entertainment,  
10 such as computer games, and their storage media, such as compact disks;

11 (x) BB guns, pellet guns, and air rifles;

12 (xi) Snow sporting equipment, including skis, poles, boots, snow  
13 boards, sleds, and bindings;

14 (xii) Sporting equipment, including, but not limited to bats,  
15 balls, gloves, sticks, pucks, and pads;

16 (xiii) Roller skates;

17 (xiv) Scooters;

18 (xv) Model rockets;

19 (xvi) Athletic shoes with cleats or spikes; and

20 (xvii) Pocket knives and multitools.

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

28 (5) "Department" means the department of ecology.

29 (6) "High priority chemical" means a chemical identified by a state  
30 agency, federal agency, or accredited research university, or other  
31 scientific evidence deemed authoritative by the department on the basis  
32 of credible scientific evidence as known to do one or more of the  
33 following:

34 (a) Harm the normal development of a fetus or child or cause other  
35 developmental toxicity;

36 (b) Cause cancer, genetic damage, or reproductive harm;

37 (c) Disrupt the endocrine system;

1 (d) Damage the nervous system, immune system, or organs or cause  
2 other systemic toxicity;

3 (e) Be persistent, bioaccumulative, and toxic; or

4 (f) Be very persistent and very bioaccumulative.

5 (7) "Manufacturer" includes any person, firm, association,  
6 partnership, corporation, governmental entity, organization, or joint  
7 venture that produces a children's product or an importer or domestic  
8 distributor of a children's product. For the purposes of this  
9 subsection, "importer" means the owner of the children's product.

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

13 (9) "Toy" means a product designed or intended by the manufacturer  
14 to be used by a child at play.

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

20 (11) "Very bioaccumulative" means having a bioconcentration factor  
21 or bioaccumulation factor greater than or equal to five thousand, or if  
22 neither are available, having a log Kow greater than 5.0.

23 (12) "Very persistent" means having a half-life greater than or  
24 equal to one of the following:

25 (a) A half-life in soil or sediment of greater than one hundred  
26 eighty days;

27 (b) A half-life greater than or equal to sixty days in water or  
28 evidence of long-range transport.

29 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2009, no manufacturer,  
30 wholesaler, or retailer may manufacture, knowingly sell, offer for  
31 sale, distribute for sale, or distribute for use in this state a  
32 children's product or product component containing the following:

33 (a) Except as provided in subsection (2) of this section, lead at  
34 more than .009 percent by weight (ninety parts per million);

35 (b) Cadmium at more than .004 percent by weight (forty parts per  
36 million); or

1 (c) Phthalates, individually or in combination, at more than 0.10  
2 percent by weight (one thousand parts per million).

3 (2) If determined feasible for manufacturers to achieve and  
4 necessary to protect children's health, the department, in consultation  
5 with the department of health, may by rule require that no  
6 manufacturer, wholesaler, or retailer may manufacture, knowingly sell,  
7 offer for sale, distribute for sale, or distribute for use in this  
8 state a children's product or product component containing lead at more  
9 than .004 percent by weight (forty parts per million).

10 NEW SECTION. **Sec. 4.** (1) By January 1, 2009, the department, in  
11 consultation with the department of health, shall identify high  
12 priority chemicals that are of high concern for children after  
13 considering a child's or developing fetus's potential for exposure to  
14 each chemical. In identifying the chemicals, the department shall  
15 include chemicals that meet one or more of the following criteria:

16 (a) The chemical has been found through biomonitoring studies that  
17 demonstrate the presence of the chemical in human umbilical cord blood,  
18 human breast milk, human urine, or other bodily tissues or fluids;

19 (b) The chemical has been found through sampling and analysis to be  
20 present in household dust, indoor air, drinking water, or elsewhere in  
21 the home environment; or

22 (c) The chemical has been added to or is present in a consumer  
23 product used or present in the home.

24 (2) By January 1, 2009, the department shall identify children's  
25 products or product categories that may contain chemicals identified  
26 under subsection (1) of this section.

27 (3) By January 1, 2009, the department shall submit a report on the  
28 chemicals of high concern to children and the children's products or  
29 product categories they identify to the appropriate standing committees  
30 of the legislature. The report shall include policy options for  
31 addressing children's products that contain chemicals of high concern  
32 for children, including recommendations for additional ways to inform  
33 consumers about toxic chemicals in products, such as labeling.

34 NEW SECTION. **Sec. 5.** Beginning six months after the department  
35 has adopted rules under section 8(5) of this act, a manufacturer of a  
36 children's product, or a trade organization on behalf of its member

1 manufacturers, shall provide notice to the department that the  
2 manufacturer's product contains a high priority chemical. The notice  
3 must be filed annually with the department and must include the  
4 following information:

5 (1) The name of the chemical used or produced and its chemical  
6 abstracts service registry number;

7 (2) A brief description of the product or product component  
8 containing the substance;

9 (3) A description of the function of the chemical in the product;

10 (4) The amount of the chemical used in each unit of the product or  
11 product component. The amount may be reported in ranges, rather than  
12 the exact amount;

13 (5) The name and address of the manufacturer and the name, address,  
14 and phone number of a contact person for the manufacturer; and

15 (6) Any other information the manufacturer deems relevant to the  
16 appropriate use of the product.

17 **Sec. 6.** RCW 43.70.660 and 2001 c 257 s 2 are each amended to read  
18 as follows:

19 (1) The legislature authorizes the secretary to establish and  
20 maintain a product safety education campaign to promote greater  
21 awareness of products designed to be used by infants and children(~~(~~  
22 ~~excluding toys,~~) that:

23 (a) Are recalled by the United States consumer products safety  
24 commission;

25 (b) Do not meet federal safety regulations and voluntary safety  
26 standards; (~~(or)~~)

27 (c) Are unsafe or illegal to place into the stream of commerce  
28 under the infant crib safety act, chapter 70.111 RCW; or

29 (d) Contain chemicals of high concern for children as identified  
30 under section 4 of this act.

31 (2) The department shall make reasonable efforts to ensure that  
32 this infant and children product safety education campaign reaches the  
33 target population. The target population for this campaign includes,  
34 but is not limited to, parents, foster parents and other caregivers,  
35 child care providers, consignment and resale stores selling infant and  
36 child products, and charitable and governmental entities serving  
37 infants, children, and families.

1 (3) The secretary may utilize a combination of methods to achieve  
2 this outreach and education goal, including but not limited to print  
3 and electronic media. The secretary may operate the campaign or may  
4 contract with a vendor.

5 (4) The department shall coordinate this infant and children  
6 product safety education campaign with child-serving entities  
7 including, but not limited to, hospitals, birthing centers, midwives,  
8 pediatricians, obstetricians, family practice physicians, governmental  
9 and private entities serving infants, children, and families, and  
10 relevant manufacturers.

11 (5) The department shall coordinate with other agencies and  
12 entities to eliminate duplication of effort in disseminating infant and  
13 children consumer product safety information.

14 (6) The department may receive funding for this infant and children  
15 product safety education effort from federal, state, and local  
16 governmental entities, child-serving foundations, or other private  
17 sources.

18 NEW SECTION. **Sec. 7.** (1) A manufacturer of products that are  
19 restricted under this chapter must notify persons that sell the  
20 manufacturer's products in this state about the provisions of this  
21 chapter no less than ninety days prior to the effective date of the  
22 restrictions.

23 (2) A manufacturer that produces, sells, or distributes a product  
24 prohibited from manufacture, sale, or distribution in this state under  
25 this chapter shall recall the product and reimburse the retailer or any  
26 other purchaser for the product.

27 (3) A manufacturer of children's products in violation of this  
28 chapter is subject to a civil penalty not to exceed five thousand  
29 dollars for each violation in the case of a first offense.  
30 Manufacturers who are repeat violators are subject to a civil penalty  
31 not to exceed ten thousand dollars for each repeat offense. Penalties  
32 collected under this section must be deposited in the state toxics  
33 control account created in RCW 70.105D.070.

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

1        NEW SECTION.    **Sec. 8.**    (1) Before the prohibitions under section 3  
2 of 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        (2) The department must assist in-state retailers in identifying  
7 products restricted under this chapter.

8        (3) The department may require manufacturers to electronically file  
9 the notice required under section 5 of this act to the department that  
10 the manufacturer's product contains a high priority chemical.

11       (4) The department shall develop and publish a web site that  
12 provides consumers with information on the chemicals used in children's  
13 products, the reason the chemical has been identified as a high  
14 priority chemical, and any safer alternatives to the chemical.

15       (5) The department shall adopt rules to finalize the list of high  
16 priority chemicals that are of high concern for children identified in  
17 section 4(1) of this act by January 1, 2010.

18       NEW SECTION.    **Sec. 9.**    The department may adopt rules as necessary  
19 for the purpose of implementing, administering, and enforcing this  
20 chapter.

21       NEW SECTION.    **Sec. 10.**    Sections 1 through 5 and 7 through 9 of  
22 this act constitute a new chapter in Title 70 RCW.

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

**E2SHB 2647** - S COMM AMD  
By Committee on Water, Energy & Telecommunications

**ADOPTED 03/07/08**

27       On page 1, line 1 of the title, after "act;" strike the remainder



1 of the title and insert "amending RCW 43.70.660; adding a new chapter  
2 to Title 70 RCW; creating a new section; and prescribing penalties."

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