

E2SHB 2647 - S AMD to S COMM AMD (S-5756.6) **319**

By Senator Rockefeller

ADOPTED 3/07/2008

1 On page 1, after line 2 strike everything beginning with "NEW
2 SECTION" through "70 RCW" on page 8, line 11 and insert the following:

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

12 NEW SECTION. Sec. 2 The definitions in this section apply throughout this chapter unless the context
13 clearly requires otherwise.

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

- 17 (a) Represented in its packaging, display, or advertising as appropriate for use by children;
18 (b) Sold in conjunction with, attached to, or packaged together with other products that are packaged,
19 displayed, or advertised as appropriate for use by children; or
20 (c) Sold in any of the following:
21 (i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that
22 are packaged, displayed, or advertised as appropriate for use by children; or
23 (ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale
24 products that are packaged, displayed, or advertised as appropriate for use by children.

25 (2) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children
26 under the age of twelve. Children's jewelry includes jewelry that meets any of the following conditions:

- 27 (a) Represented in its packaging, display, or advertising as appropriate for use by children under the age
28 of twelve;
29 (b) Sold in conjunction with, attached to, or packaged together with other products that are packaged,
30 displayed, or advertised as appropriate for use by children;
31 (c) Sized for children and not intended for use by adults; or
32 (d) Sold in any of the following:
33 (i) A vending machine;

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

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

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

6 (i) Toys;

7 (ii) Children's cosmetics;

8 (iii) Children's jewelry;

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

11 (v) Child car seats.

12 (b) "Children's product" does not include the following:

13 (i) Batteries;

14 (ii) Slings and catapults;

15 (iii) Sets of darts with metallic points;

16 (iv) Toy steam engines;

17 (v) Bicycles;

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

20 (vii) Chemistry sets;

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

24 (ix) Interactive software, intended for leisure and entertainment, such as computer games, and their
25 storage media, such as compact disks.

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

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

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

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

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

37 (c) Disrupt the endocrine system;

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

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

1 (f) Be very persistent and very bioaccumulative.

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) Beginning July 1, 2010, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell,
25 offer for sale, distribute for sale, or distribute for use in this state a children's product or product component
26 containing lead at more than .004 percent by weight (forty parts per million).

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

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

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

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

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

38 (3) By January 1, 2009, the department shall submit a report on the chemicals of high concern to
39 children and the children's products or product categories they identify to the appropriate standing

1 committees of the legislature. The report shall include policy options for addressing children's products
2 that contain chemicals of high concern for children, including recommendations for additional ways to
3 inform consumers about toxic chemicals in products, such as labeling.

4 **NEW SECTION. Sec. 5** Beginning six months after the department has adopted rules under section 8(5)
5 of this act, a manufacturer of a children's product, or a trade organization on behalf of its member
6 manufacturers, shall provide notice to the department that the manufacturer's product contains a high
7 priority chemical. The notice must be filed annually with the department and must include the following
8 information:

- 9 (1) The name of the chemical used or produced and its chemical abstracts service registry number;
- 10 (2) A brief description of the product or product component containing the substance;
- 11 (3) A description of the function of the chemical in the product;
- 12 (4) The amount of the chemical used in each unit of the product or product component. The amount may
13 be reported in ranges, rather than the exact amount;
- 14 (5) The name and address of the manufacturer and the name, address, and phone number of a contact
15 person for the manufacturer; and
- 16 (6) Any other information the manufacturer deems relevant to the appropriate use of the product.

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

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

- 21 (a) Are recalled by the United States consumer products safety commission;
- 22 (b) Do not meet federal safety regulations and voluntary safety standards; ((or))
- 23 (c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter
24 70.111 RCW; or
- 25 (d) Contain chemicals of high concern for children as identified under section 4 of this act.

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

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

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

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

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

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

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

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

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

15 **NEW SECTION. Sec. 8** (1) Before the prohibitions under section 3 of this act take effect, the department
16 shall prepare and distribute information to in-state and out-of-state manufacturers, to the maximum extent
17 practicable, to assist them in identifying products prohibited for manufacture, sale, or distribution under
18 this chapter.

19 (2) The department must assist in-state retailers in identifying products restricted under this chapter.

20 (3) The department may require manufacturers to electronically file the notice required under section
21 5 of this act to the department that the manufacturer's product contains a high priority chemical.

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

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

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

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

31 Renumber the sections consecutively and correct any internal references accordingly.

1

2 **E2SHB 2647** - S AMD to S COMM AMD (S-5756.6) **319**

3 By Senator Rockefeller

4

ADOPTED 3/07/2008

5

6 On page 1, line 1 of the title, after "act;" strike the remainder of the title and insert "amending RCW
7 43.70.660; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties."

--- END ---