

**E2SHB 2647** - S COMM AMD

By Committee on Water, Energy & Telecommunications

ADOPTED AS AMENDED 03/07/2008

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, and others like them, have been  
7 linked to long-term health impacts such as birth defects, reproductive  
8 harm, impaired learning, liver toxicity, and cancer. Because  
9 children's bodies are growing and developing, they are especially  
10 vulnerable to the effects of toxic chemicals. Regulation of toxic  
11 chemicals in children's toys and other products is woefully inadequate.  
12 To protect children's health, it is important to phase out the use of  
13 lead, cadmium, and phthalates in children's toys and other products and  
14 to begin collecting information on other chemicals that are present in  
15 toys and other products to determine whether further action is  
16 required.

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

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

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

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

28 (c) Sold in any of the following:

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

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

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

11 (a) Represented in its packaging, display, or advertising as  
12 appropriate for use by children under the age of twelve;

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

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

17 (d) Sold in any of the following:

18 (i) A vending machine;

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

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

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

26 (i) Toys;

27 (ii) Children's cosmetics;

28 (iii) Children's jewelry;

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

32 (v) Child car seats.

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

34 (i) Batteries;

35 (ii) Slings and catapults;

36 (iii) Sets of darts with metallic points;

37 (iv) Toy steam engines;

38 (v) Bicycles;

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; and

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

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

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

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

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

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

27 (c) Disrupt the endocrine system;

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

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

31 (f) Be very persistent and very bioaccumulative.

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

37 (8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl

1 phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate  
2 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

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

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

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

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 4.** (1) By January 1, 2009, the department, in  
35 consultation with the department of health, shall identify high  
36 priority chemicals that are of high concern for children after

1 considering a child's or developing fetus's potential for exposure to  
2 each chemical. In identifying the chemicals, the department shall  
3 include chemicals that meet one or more of the following criteria:

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

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

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

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

15 (3) By January 1, 2009, the department shall submit a report on the  
16 chemicals of high concern to children and the children's products or  
17 product categories they identify to the appropriate standing committees  
18 of the legislature. The report shall include policy options for  
19 addressing children's products that contain chemicals of high concern  
20 for children, including recommendations for additional ways to inform  
21 consumers about toxic chemicals in products, such as labeling.

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

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

31 (2) A brief description of the product or product component  
32 containing the substance;

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

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

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

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

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

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

11 (a) Are recalled by the United States consumer products safety  
12 commission;

13 (b) Do not meet federal safety regulations and voluntary safety  
14 standards; (~~or~~)

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

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

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

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

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

36 (5) The department shall coordinate with other agencies and

1 entities to eliminate duplication of effort in disseminating infant and  
2 children consumer product safety information.

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

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

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

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

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

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

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

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

35 (4) The department shall develop and publish a web site that

1 provides consumers with information on the chemicals used in children's  
2 products, the reason the chemical has been identified as a high  
3 priority chemical, and any safer alternatives to the chemical.

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

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

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

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

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

**ADOPTED AS AMENDED 03/07/2008**

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

EFFECT: Exempts electronic equipment, such as personal computers,  
video games, and interactive software unless specifically designed and  
targeted to children; changes the allowable percent of lead to 90 ppm  
beginning July 1, 2009, and then 40 ppm beginning July 1, 2010; and  
changes the allowable phthalate level to 1000 ppm.

--- END ---