

# HOUSE BILL REPORT

## HB 2882

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**As Reported by House Committee On:**

Environmental Health, Select  
Appropriations Subcommittee on General Government & Audit Review

**Title:** An act relating to labeling of lead-containing products.

**Brief Description:** Concerning the labeling of lead-containing products.

**Sponsors:** Representatives Wood, Hudgins, Hasegawa and Ormsby.

**Brief History:**

**Committee Activity:**

Select Committee on Environmental Health: 1/22/08, 1/30/08 [DPS];  
Appropriations Subcommittee on General Government & Audit Review: 2/5/08, 2/7/08  
[DP2S(w/o sub ENVH)].

**Brief Summary of Second Substitute Bill**

- Prohibits manufacturers and wholesalers from selling a lead-containing product at retail in this state, to a retailer in this state, or for use in this state, unless the product is labeled to show the percent content of lead.
- Allows the Department of Ecology to adopt rules to implement this chapter.
- Authorizes a fine of up to \$1,000 for each violation in the case of a first violation and up to \$5,000 for each repeat violation.

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### HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Chase, Hunt, Morrell and Wood.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Sump, Ranking Minority Member; and Newhouse.

**Staff:** Ashley Pedersen (786-7303).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

According to the U.S. Environmental Protection Agency, exposure to lead is highly dangerous, especially to children ages 6 and younger. Young children are more likely to ingest lead dust, and as such, are at higher risk for lead poisoning. In addition, children are more likely to be affected by lead poisoning than adults due to their smaller and still developing bodies. Lead poisoning in children can cause irreversible learning difficulties, mental retardation, and delayed neurological and physical development.

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**Summary of Substitute Bill:****Labeling:**

Effective January 1, 2010, manufacturers and wholesalers may not sell a lead-containing product with greater than 0.009 percent lead at retail in this state, to a retailer in this state, or for use in this state, unless the lead-containing product is labeled. This prohibition does not apply to ammunition, products that are under 0.5 inches in all dimensions, or products in which the lead portion of the product does not come into human contact during installation or use.

Manufacturers are primarily responsible for affixing the labels on lead-containing products. A lead-containing product is properly labeled if it has a label and an imprint identifying the percentage content of lead in a minimum of 10 point font. The label must be on the outer portion of the package viewable to consumers at the time of purchase, or, if the lead-containing product is not contained in a package, then directly on the lead-containing product.

Manufacturers, wholesalers, and retailers are prohibited from removing any required label or imprint that relates to lead.

**Transporting and Storing:**

Manufacturers, importers, and domestic distributors are not prohibited from transporting products through the state or from storing products in the state for later distribution outside the state.

**Penalties:**

A violation of this chapter or any rule adopted under this chapter is punishable by a civil penalty of up to \$1,000 for each violation in the case of a first violation. Repeat violators are liable for a civil penalty of up to exceed \$5,000 for each repeat violation. Penalties collected under this section must be deposited in the State Toxics Control Account created in statute.

**Rules:**

The Department of Ecology may adopt rules to implement this chapter.

**Substitute Bill Compared to Original Bill:**

The substitute bill includes an exemption from the labeling requirement for ammunition, lead-containing consumer products that are under 0.5 inches in all dimensions and lead-containing consumer products in which the lead portion of the product does not come into human contact during installation or use.

The substitute bill changes "lead-containing products" to "lead-containing consumer products" and changes the manufacturers' responsibility for affixing labels and the imprint from "primary responsibility" to simply "responsibility."

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) It is important to catch children early regarding their lead levels and eliminate lead exposure because a child's Intelligence Quotient (IQ) drops more when their blood lead level goes from two microgram/deciliter to 10 then from 10 to 20. We have a responsibility to ensure that our children reach their full potential. In Washington there are 522,000 children under 6 years of age. Roughly 1.1 percent of those children, or 5,700, have lead levels above 10. About 40,000 have lead levels above five. The cost of lead exposure in Washington is over \$1 billion per year. This is a problem for all kinds of children, not just low-income children. Children are exposed through toys, lead paint, dust, and it all adds up to a big problem.

(Neutral) The Department of Ecology (DOE) is in the process of developing a chemical action plan for lead. Chemical action plans involve looking at all the information about how the chemical is used, manufactured, released, and affects people. An advisory group with a diverse group of people who are working with the chemical will pull together recommendations as to how to protect the human health and environment. The DOE has completed the research phase and is moving forward to develop a recommendation phase. There are a couple key findings that the chemical action plan will show: lead is a problem at lower levels than were previously thought and it is important to interrupt the exposure where we can. Lead is used in a wide variety of products. It is intentionally added to some products and is an unintentional contaminant in others. We have looked at labeling and found that it does not appear that labeling in and of itself will limit the manufacturing of lead-containing products or affect most consumer's behavior. However, labeling could be a successful part of a more comprehensive strategy and used along with other actions.

(Opposed) None.

**Persons Testifying:** (In support) Representative Wood, prime sponsor; Jeff Ketchal, Public Health Seattle King County; Janice Deguchi, Denise Louie Education Center; and Steven G. Gilbert, Institute of Neurotoxicology and Neurological Disorders.

(Neutral) Carol Kraege, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Select Committee on Environmental Health. Signed by 9 members: Representatives Linville, Chair; Ericks, Vice Chair; Blake, Lantz, Liias, Miloscia, Morris, Nelson and Van De Wege.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Armstrong, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Alexander, Chandler and Kretz.

**Staff:** Alicia Dunkin (786-7178).

### **Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Audit Review Compared to Recommendation of Committee On Select Committee on Environmental Health:**

A null and void clause was added, making the bill null and void unless funded in the budget.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

### **Staff Summary of Public Testimony:**

(In support) People that use muzzle loaders, which have round lead balls, do not meet the exemptions of this bill and that is why we want to add an exemption for ammunition components to this bill. We also want to make the standards in this bill consistent with the European Unions' standards.

(With concerns) I am concerned about the impacts of the bill to those who load their own ammunition, such as muzzle loaders. I think we can address this issue with an amendment that exempts ammunition components. This bill's requirements should be consistent with lead labeling requirements of the European Union. We have concerns with the fiscal note because we don't think that Ecology can sample all of the inventory that we have and we don't want to

build expectations as to what this bill will actually do. We don't think that you can sample lead as low as what is required by this bill. We think the level of lead should be phased in.

**Persons Testifying:** (In support) Terry Byinton; and Ed Owens, Hunters Heritage Council.

(With concerns) Steve Gano, WalMart; and Mark Johnson, Washington Retail Association.

**Persons Signed In To Testify But Not Testifying:** None.