

# FINAL BILL REPORT

## E2SHB 2647

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### PARTIAL VETO

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Synopsis as Enacted

**Brief Description:** Regarding the children's safe products act.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Dickerson, Hudgins, Hunt, Morrell, Pedersen, Williams, Cody, Green, Campbell, VanDeWege, Hasegawa, Roberts, Loomis, Upthegrove, Lias, Hunter, Chase, Smith, McIntire, Barlow, Conway, Priest, Schual-Berke, Simpson, Kenney, Goodman, Sells, Rolfes, Darneille and Lantz).

**House Select Committee on Environmental Health**

**House Committee on Appropriations**

**Senate Committee on Water, Energy & Telecommunications**

**Senate Committee on Ways & Means**

#### **Background:**

##### Federal Laws, Regulations, and Guidelines.

The Federal Hazardous Substances Act (FHSA) grants the Consumer Product Safety Commission (CPSC) the authority to promulgate regulations to protect consumers from products containing hazardous substances. The CPSC has restricted the amount of lead in paint to a maximum of 600 parts per million (ppm). This restriction applies to consumer products, toys, furniture, and products sold to consumers for use in homes, schools, parks, hospitals, and other areas. The CPSC is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. A part of CPSC's mission is to inform the public about product hazards and to issue notices of public recalls. The CPSC issues recalls for toys.

Cosmetics marketed in the United States are regulated by the Food and Drug Administration (FDA) pursuant to the Federal Food, Drug, and Cosmetic Act (FDCA) and the Fair Packaging and Labeling Act (FPLA). The FDCA prohibits the marketing of adulterated or misbranded cosmetics in interstate commerce. Violations of the FDCA involving product composition – whether they result from ingredients, contaminants, processing, packaging, or shipping and handling – cause cosmetics to be adulterated and subject to regulatory action. In addition, under the authority of the FPLA, the FDA requires an ingredient declaration on the cosmetic products sold at the retail level to consumers.

##### Lead.

According to the Centers for Disease Control and Prevention's International Chemical Safety Card for lead, lead can be absorbed into the body by inhalation and ingestion. Long term or

repeated exposure to lead may have effects on the blood bone marrow, central nervous system, peripheral nervous system, and kidneys, resulting in anemia, encephalopathy (e.g., convulsions), peripheral nerve disease, abdominal cramps and kidney impairment. Long term or repeated exposure to lead may cause toxicity to human reproduction or development.

The American Academy of Pediatrics recommends a level of 40 ppm of lead as the maximum that should be allowed in children's products. Lead is often found in brightly colored wood and vinyl toys and imported jewelry.

### Cadmium.

According to the Centers for Disease Control and Prevention's International Chemical Safety Card for cadmium, cadmium can be absorbed into the body by inhalation of its aerosol and by ingestion. Cadmium exposure is associated in animal studies with developmental effects, including possible decreases in birth weight, delayed sensory-motor development, hormonal effects, and altered behavior. Cadmium can cause adverse effects on the kidney, lung, and intestines. Cadmium is classified as a known human carcinogen, associated with lung and prostate cancer. Exposure to cadmium can result in bone loss and increased blood pressure. Acute toxicity from ingestion of high levels of cadmium can result in abdominal pain, nausea, vomiting, and death.

There are no restrictions on cadmium in children's products in the United States. The U.S. Environmental Protection Agency has set a limit of five parts of cadmium per billion parts of drinking water (5 ppb). The FDA limits the amount of cadmium in food colors to 15 ppm. The Occupational Safety and Health Administration limits workplace air to 100 micrograms cadmium per cubic meter as cadmium fumes and 200 mg/m<sup>3</sup> as cadmium dust.

### Phthalates.

Phthalates are a group of chemicals used in hundreds of products, such as toys, vinyl flooring and wall coverings, detergents, lubricating oils, food packaging, pharmaceuticals, blood bags and tubing, and personal care products such as nail polish, hair sprays, soaps, and shampoos. Phthalates are plasticizers that are added to polyvinyl chloride (PVC) products to impart flexibility and durability.

Phthalates are widely detected in human blood and urine samples. According to the Centers for Disease Control, phthalates are found in Americans of all ages, sizes, and races. A 2005 study from the Centers for Disease Control indicates that women are slightly more exposed than men, and younger children (ages 6-11) are more exposed than older children (ages 12-19 or 20).

Phthalates are animal carcinogens and can cause fetal death, malformations, and reproductive toxicity in laboratory animals. Nondietary ingestion of phthalates can occur when children mouth, suck, or chew on phthalate-containing toys or other objects.

### **Summary:**

Beginning July 1, 2009, manufacturers, wholesalers, and retailers are prohibited from manufacturing, selling, offering for sale, distributing for sale, or distributing for use a children's product or product component that contains:

- lead at more than .009 percent by weight (90 ppm);
- cadmium at more than .004 percent by weight (40 ppm); or
- phthalates at more than 0.1 percent by weight (1000 ppm).

However, following a review by the Department of Ecology (DOE) and the Department of Health (DOH), a standard of .004 percent by weight (40 ppm) may be established by rule. The review must determine that the standard is feasible to achieve and necessary to protect children's health.

Certain products are exempt from the definition of children's product, such as chemistry sets, bicycles and tricycles, video toys, consumer electronic products, sporting equipment, and batteries.

#### Department of Ecology.

The DOE must:

- identify high priority chemicals that are of high concern for children in consultation with the DOH (by January 1, 2009);
- identify children's products or product categories that contain chemicals of high concern for children (by January 1, 2009);
- prepare and distribute information to in-state and out-of-state manufacturers to assist them in identifying prohibited products (by July 1, 2009);
- finalize the list of high priority chemicals of high concern for children (by January 1, 2010);
- assist in-state retailers in identifying prohibited products;
- develop and publish a website providing consumers with information regarding the high priority chemicals and safer alternatives; and
- submit a report on chemicals of high concern to the appropriate standing committees of the Legislature (by January 1, 2009).

High priority chemicals that are of high concern for children are determined based on a consideration of a child's or developing fetus's potential for exposure to each chemical. The list must include chemicals that have been found to be in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids, or to be present in household dust, indoor air, drinking water, or elsewhere in the home environment. This list must also include chemicals that have been added to or are present in consumer products used or present in the home.

The DOE's report to the Legislature must include policy options regarding addressing children's products that contain chemicals of high concern. The report must also include recommendations for additional ways to inform consumers about toxic chemicals in products.

The DOE may adopt rules implementing, administering, and enforcing this act.

Manufacturers.

Beginning six months after DOE has adopted rules to finalize the list of high priority chemicals, manufacturers must notify the DOE of its products that contain a high priority chemical. This notice must be filed annually and must include:

- the name and chemical abstracts service registry number of the chemical;
- a description of the product or product component;
- a description of the function of the chemical in the product;
- the amount of the chemical in the product; and
- the name and address of the manufacturer and contact information.

The DOE may require manufacturers to electronically file their annual notice.

No less than 90 days prior to the effective date of the restrictions on children's products, manufacturers must notify persons that sell its products about these restrictions. Manufacturers must recall products and reimburse retailers and purchasers for products sold that are prohibited from sale under these restrictions.

Manufacturers in violation of these restrictions may be subject to a civil penalty of up to \$5,000 per violation, and up to \$10,000 for each repeat offense.

Retailers.

Retailers that unknowingly sell prohibited products are not liable under this chapter.

Secretary of Health.

The Secretary of Health is authorized to establish a product safety education campaign to promote greater awareness of infants and children products that contain chemicals of high concern for children.

The act is null and void unless funded in the budget.

**Votes on Final Passage:**

House	95	0	
Senate	40	9	(Senate amended)
House	92	2	(House concurred)

**Effective:** June 12, 2008

**Partial Veto Summary:** The Governor vetoed the intent section. The Governor also vetoed the section that allows the DOE to require manufacturers to electronically file a high priority chemical notice and that requires the DOE to: (1) assist manufacturers and retailers in product identification, (2) publish a website with consumer information on chemicals used in children's products, and (3) adopt rules to finalize the list of chemicals of high concern for children.