

# SENATE BILL REPORT

## E2SHB 2647

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As Reported By Senate Committee On:  
Water, Energy & Telecommunications, February 29, 2008  
Ways & Means, March 03, 2008

**Title:** An act relating to the children's safe products act.

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

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

**Brief History:** Passed House: 2/18/08, 95-0.

**Committee Activity:** Water, Energy & Telecommunications: 2/27/08, 2/29/08 [DPA-WM, DNP].

Ways & Means: 3/3/08 [DPA(WET), DNP, w/oRec].

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Fraser, Oemig, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Hatfield, Holmquist and Morton.

**Staff:** Jan Odano (786-7486)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended by Committee on Water, Energy & Telecommunications.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Fairley, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Rockefeller and Tom.

**Minority Report:** Do not pass.

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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.*

Signed by Senators Hatfield and Honeyford.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Carrell, Parlette, Roach and Schoesler.

**Staff:** Elise Greef (786-7708)

**Background:** Children are more susceptible and vulnerable than adults when exposed to toxic chemicals. Children potentially face greater and more severe consequences depending on the age of the child when exposed to a toxic chemical because of their rapid growth and development and immaturity of body systems.

Harmful effects from lead exposure in young children include learning difficulties and reduced growth, and for infants may cause decreased mental abilities. The U.S. Consumer Product Safety Commission (CPSC) is responsible for protecting the public from products containing hazardous substances. The CPSC has restricted the amount of lead in paint in consumer products to a maximum of 600 ppm. Recently, the CPSC has issued several recalls for toys in violation of the lead paint standard.

Cadmium is a naturally occurring element found in the earth's crust. It has many uses, including batteries, pigments, metal coatings, and plastics. Human are exposed to cadmium through contaminated air and drinking water and consumption of fish. The Department of Health and Human Services (DHHS) has determined that cadmium and cadmium compounds are probable carcinogens. Long-term, low level exposure to cadmium may cause possible kidney disease, lung damage, and fragile bones. It is not clear if cadmium affects the development of an unborn child, child behavior or development.

Phthalates are a group of chemicals used in the manufacture of plastics. Phthalates are used to increase the flexibility, durability, and lifespan of plastics. Products containing phthalates include plastic bags, children's toys, some pharmaceutical products, vinyl flooring, and personal care products such as nail polish, shampoo, and hair spray. There have been human health studies exploring the possible associations between phthalates and developmental and reproductive outcomes. However, the effects of phthalates are not yet fully known.

**Summary of Bill (Recommended Amendments):** As of July 1, 2009, no person may manufacture, knowingly sell, offer for sale, or distribute children's products or product components containing: 1) lead at more than .009 percent by weight (90 ppm); 2) cadmium at more than .004 percent by weight (40 ppm); or 3) phthalates, individually or in combination at more than .001 percent by weight (1000 ppm). Beginning July 1, 2010, the sale, distribution, or manufacture of children's products or product components containing: 1) lead at more than .004 percent by weight (40 ppm) is prohibited.

The Department of Ecology (Ecology) must identify high priority chemicals that are of high concern for children by January 1, 2009. In addition, Ecology must identify children's products or product categories that may contain chemicals of high concern for children. A chemical of high concern for children is defined as a chemical that has been identified as a high priority chemical that is known to harm fetal development, cause cancer, genetic damage, or reproductive harm, disrupt the endocrine system, cause systemic toxicity, and is persistent, bioaccumulative and toxic; and is also found in one or more of the following:

human umbilical cord blood, breast milk, urine or other bodily fluids; household dust, indoor air, drinking water or elsewhere in the home environment; or consumer product used or present in the home.

Beginning six months after a chemical has been identified as a chemical of high concern for children, a manufacturer of a children's product with a chemical of high concern must notify Ecology. The notice must be filed annually and contain information such as: chemical name, description of the product, description of the function, and amount of the chemical. Manufacturers also must notify persons that sell their products within 90 days the restrictions become effective. Manufacturers must recall and reimburse the retailer of any prohibited product. A manufacturer who violates these provisions is subject to a penalty not to exceed \$5,000 for the first offense and \$10,000 for each repeat offense.

Ecology is required to provide information to manufacturers and retailers to assist with identifying prohibited products for sale, manufacture, or distribution. In addition, Ecology must develop and publish a web site to provide consumers with information about chemicals used in children's products and safer alternatives.

**EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments):** The sale, manufacture, or distribution of any children's product with more than 90 ppm of lead and phthalates with 1,000 ppm is prohibited beginning July 1, 2009. Beginning July 1, 2010, the sale, manufacture, or distribution of any children's product with 40 ppm of lead is prohibited. Certain electronic products are added to the list of items that are not considered children's products.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Second Substitute Bill (Water, Energy & Telecommunications):** PRO: The federal government hasn't taken action, and the states need to protect the most vulnerable and weakest, the children. We are morally responsible to protect the children. Over 20 million toys were recalled. Many toys can and have reached the 40 ppm standard for lead. Many stores are phasing out toys with levels of chemicals higher than what the bill requires. The bill is targeted to those most vulnerable and products that are the most likely to cause harm.

CON: We support the sale of safe products. Products that are not safe are removed from the shelves, and refunds are provided if the product has been sold. There needs to be a consistent national standard. There is a need to have harmony with other jurisdictions to ensure that we can do business outside of Washington.

OTHER: If there are many types of products to test, it can be very expensive. The costs will create a financial burden, especially to the small business owners. They will not be able to stay in business. The smaller manufacturers of unique toys may not be able to afford testing.

There are concerns about the requirements for components of a toy that a child would not be able to access.

**Persons Testifying (Water, Energy & Telecommunications):** PRO: Representative Mary Lou Dickerson, prime sponsor; Erika Schrader, Nick Federici, Jim Dawson, WA Toxics Coalition; Barry Lawson, American Academy of Pediatrics; Marissa Cacciara, Earth Justice Ministry; Beth Anderson, Earth Ministry; Jennifer Garvin, preschool teacher; Nancy Dickeman, WA Physicians For Social Responsibility.

CON: Steve Gano, Wal-Mart; Mark Johnson, WA Retail Association; Bob Knight, Find it Games; Grant Nelson, Association of Washington Business.

OTHER: Michael Temke, Wind Up Here Toy Store; Rob Herriott, Toy Industry Association; Brad Tower, NW Grocery Assn.; Steve Damrau, D&D Distributing; Mary Sisson, Kazoodles, LLC; Debbie Baillie, Rowdy Rascals Toy Store; Carol Kraege, Ecology; Charlie Brown, Consumer Electronics Assn.; James Spainhower, father; Allen Rickert, Top Ten Toys.

**Staff Summary of Public Testimony on WET Recommended Amendments (Ways & Means):** PRO: The bill is prompted by the recall of over 20 million toxic toys last year. The bill is designed to be very targeted, to hold down state costs and to target efforts to children under age 13 and to those products we know are most hazardous to them. We support funding for the Department of Ecology oversight that will be required. We believe safer toys will yield higher consumer confidence rather than reduce sales tax revenue.

CON: Concerns about the underlying policy as well as the fiscal (revenue) impact. It is estimated that toy sales in Washington are approximately \$450 million per year; at 8 percent sales tax, that represents state and local revenue generation of about \$36 million. We believe a significant portion of these sales and the associated sales tax revenues are at risk under this bill. The new program that requires identification of, and reporting of, chemicals is of concern. Without the resources to comply, small manufacturers will elect to not sell in Washington. Clients are primarily small businesses. This will result in a decrease in the inventory available and the sales tax revenue associated. The second area of concern is with the restriction levels set and the timelines; we believe they cannot be met. The toys will still meet the Washington market but through internet and catalog retailers.

**Persons Testifying (Ways & Means):** PRO: Nick Federici, Washington Toxics Coalition.

CON: Scott Hazlegrove, Toy Industry Association; Mark Johnson, Washington Retail Association.