

2SSB 6120 - H COMM AMD

By Committee on General Government Appropriations & Oversight

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 70.240.010 and 2008 c 288 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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; or

16 (c) Sold in any of the following:

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

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

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

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

29 (b) Sold in conjunction with, attached to, or packaged together

1 with other products that are packaged, displayed, or advertised as
2 appropriate for use by children;

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

4 (d) Sold in any of the following:

5 (i) A vending machine;

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

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

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

13 (i) Toys;

14 (ii) Children's cosmetics;

15 (iii) Children's jewelry;

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

19 (v) Child car seats.

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

21 (i) Batteries;

22 (ii) Slings and catapults;

23 (iii) Sets of darts with metallic points;

24 (iv) Toy steam engines;

25 (v) Bicycles and tricycles;

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

28 (vii) Chemistry sets;

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

34 (ix) Interactive software, intended for leisure and entertainment,
35 such as computer games, and their storage media, such as compact disks;

36 (x) BB guns, pellet guns, and air rifles;

37 (xi) Snow sporting equipment, including skis, poles, boots, snow
38 boards, sleds, and bindings;

- 1 (xii) Sporting equipment, including, but not limited to bats,
2 balls, gloves, sticks, pucks, and pads;
3 (xiii) Roller skates;
4 (xiv) Scooters;
5 (xv) Model rockets;
6 (xvi) Athletic shoes with cleats or spikes; and
7 (xvii) Pocket knives and multitools.

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

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

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

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

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

24 (c) Disrupt the endocrine system;

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

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

28 (f) Be very persistent and very bioaccumulative.

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

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

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

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

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

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

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

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

15 (13) "TRIS" means tris(2-chloroethyl) phosphate, chemical abstracts
16 service number 115-96-8, as of the effective date of this section and
17 tris(1,3-dichloro-2-propyl)phosphate, chemical abstracts service number
18 13674-87-8, as of the effective date of this section.

19 NEW SECTION. Sec. 2. A new section is added to chapter 70.240 RCW
20 to read as follows:

21 (1) Except as provided in subsection (2) of this section, beginning
22 July 1, 2013, no manufacturer, wholesaler, or retailer may manufacture,
23 knowingly sell, offer for sale, distribute for sale, or distribute for
24 use in this state a children's product containing TRIS in amounts
25 greater than one hundred parts per million in any component.

26 (2) Manufacturers, wholesalers, or retailers may sell children's
27 products containing TRIS until July 1, 2014, if manufacturers of such
28 products have conducted an alternatives assessment as provided in
29 section 3 of this act. The sale or purchase of any previously owned
30 product containing TRIS made in casual or isolated sales as defined in
31 RCW 82.04.040, or by nonprofit organizations, is exempt from subsection
32 (1) of this section.

33 (3) The sale or use of recycled materials containing less than .01
34 percent of TRIS is exempt from subsection (1) of this section.

35 NEW SECTION. Sec. 3. A new section is added to chapter 70.240 RCW
36 to read as follows:

1 (1) Manufacturers conducting an alternatives assessment must
2 identify alternatives for consideration that reduce or eliminate the
3 use of and potential for children's exposure to chemicals of high
4 concern for children using:

5 (a) The United States environmental protection agency's design for
6 the environment program alternatives assessment criteria for hazard
7 evaluation, version 2.0, August 2011;

8 (b) The alternatives assessment framework of the Lowell center for
9 sustainable production, version 1.0, July 2006, following the
10 alternatives assessment processes and addressing the elements in each
11 evaluation module; or

12 (c) An alternatives assessment for the chemical of high concern for
13 children and each potential alternative that includes the following
14 elements:

15 (i) Chemical names and chemical abstracts service registry numbers;

16 (ii) An assessment of whether, based on credible scientific
17 evidence, the alternative demonstrates the potential to do one or more
18 of the following:

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

21 (B) Cause cancer or genetic damage;

22 (C) Cause reproductive toxicity;

23 (D) Disrupt the endocrine system;

24 (E) Damage the nervous system, immune system, or organs or cause
25 other systemic toxicity;

26 (F) Cause sensitization and immune system response;

27 (G) Cause negative ecological impacts;

28 (H) Be persistent, bioaccumulative, and toxic; or

29 (I) Be very persistent and very bioaccumulative;

30 (iii) Available information or data, based on credible scientific
31 evidence regarding:

32 (A) The degree of toxicity, including dose response studies; and

33 (B) Potential routes of exposure to children through which the
34 chemical or alternative may cause each effect identified in (c)(ii)(A)
35 through (F) of this subsection;

36 (iv) Information on performance and functionality of the potential
37 alternatives in products and materials addressed in the alternatives
38 assessment; and

1 (v) Opportunities for product reformulation, chemical substitution,
2 product redesign, or manufacturing process redesign.

3 (2) The alternatives assessment must include: (a) A comparison
4 among alternatives and chemicals of high concern for children for the
5 elements required in subsection (1)(c)(i) through (v) of this section;
6 (b) a description of the criteria and assumptions used to compare
7 alternatives, including identification of data gaps; and (c) an
8 explanation of the findings and conclusions of the supporting data for
9 the alternatives assessment.

10 (3) The manufacturer may provide any additional information that
11 assisted in evaluating alternatives or deemed by the manufacturer
12 relevant to the alternatives assessment, such as: Cost and
13 availability of potential alternatives; purchase price differential
14 between the product containing chemicals of high concern for children
15 and the alternative; conditions of use; chemical management; and
16 technical feasibility.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.240 RCW
18 to read as follows:

19 The department must provide technical assistance to any
20 manufacturer conducting an alternatives assessment that requests
21 assistance. Technical assistance includes providing: Alternatives
22 assessments previously submitted to the department; existing resources
23 and tools for conducting alternatives assessments; information existing
24 within the department gathered from literature reviews; informal
25 manufacturer's surveys; and information from the interstate chemicals
26 clearinghouse."

27 Correct the title.

EFFECT: Modifies the definition of TCEP in the bill to add tris
(1,3-dichloro-2-propyl) phosphate or TDCPP and refer to TCEP and TDCPP
collectively as "TRIS." Replaces the term "TCEP" with the term "TRIS"
throughout the bill (which has the effect of applying the ban to both
TCEP and TDCPP). Removes the provision that TCEP must be intentionally
added to a children's product in order for the ban to apply.

Moves the effective date of the ban up by one year (from July 1,
2014, to July 1, 2013). Specifies that children's products containing

TRIS may be sold until July 1, 2014, if the manufacturer of such products conducts an alternatives assessment. Provides that if a manufacturer conducts an alternatives assessment, it must use one of three methods: (1) The U.S. environmental protection agency's design for the environment program alternatives assessment criteria for hazard evaluation; (2) the alternatives assessment framework of the Lowell center for sustainable production; or (3) an alternatives assessment for the chemical of high concern and each potential alternative that addresses several elements related to toxicity, routes of exposure, and performance and functionality of potential alternatives. Requires the department of ecology to provide technical assistance, upon request, to any manufacturer conducting an alternatives assessment.

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