

HOUSE BILL REPORT

HB 2821

As Reported by House Committee On:
General Government Appropriations & Oversight

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

Brief Description: Concerning children's safe products.

Sponsors: Representatives Dickerson, Hudgins, Upthegrove, Maxwell, Kagi, Dunshee, Fitzgibbon, Jinkins, Hunter, Liias, Appleton, Tharinger, Pedersen and Hansen.

Brief History:

Committee Activity:

General Government Appropriations & Oversight: 4/4/12 [DP].

Brief Summary of Bill

- Prohibits the manufacture, sale, or distribution of children's products containing TRIS in amounts greater than 100 parts per million in any component beginning July 1, 2013.
- Allows children's products containing TRIS to be sold until July 1, 2014, if the manufacturer of such products conducts an alternatives assessment by July 1, 2013.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: Do pass. Signed by 7 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; Moscoso, Vice Chair; Fitzgibbon, Ladenburg, Pedersen and Van De Wege.

Minority Report: Do not pass. Signed by 6 members: Representatives McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Armstrong, Blake and Wilcox.

Staff: Kara Durbin (786-7133) and Michael Bennion (786-7118).

Background:

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.

Children's Safe Products Act.

In 2008 the Children's Safe Products Act (CSPA) was enacted, which limits certain chemicals in children's products and requires the Department of Ecology (DOE) to identify chemicals of high concern for children using certain criteria. The CSPA also requires manufacturers of children's products containing identified chemicals of high concern to annually report product information to the DOE.

The CSPA requires the DOE, in consultation with the Department of Health (DOH), to develop a list of priority chemicals of high concern for children. The DOE identified 66 chemicals of high concern for children by rule that took effect August 21, 2011. These rules also provide notification requirements for manufacturers and set enforcement actions. The notification requirements are phased in by manufacturer size and type of children's product. The manufacturer's notice must be filed annually and provide information about chemicals of high concern for children that are intentionally added to the product.

TRIS.

The chemicals TCEP (Tris(2-chloroethyl) phosphate) and TDCPP (Tris(1, 3-dichloro-2-propyl) phosphate), known collectively as TRIS, may be added to plastics, foams, and textiles as flame retardants in foams, plastics, and fabric backings. TRIS may be found in some children's products such as car seats, baby changing pads, and baby carriers. In some cases, TRIS has been used as a replacement for certain Polybrominated Diphenyl Ether (PBDE) flame retardants, which have been banned or voluntarily phased out of use.

Summary of Bill:

The manufacture, distribution, or sale of children's products containing TRIS is prohibited beginning July 1, 2013, if the children's product contains TRIS in amounts greater than 100 parts per million in any component. The prohibition does not apply to recycled materials containing less than .01 percent of TRIS or to previously owned products sold in casual or isolated sales or by nonprofit organizations.

Children's products containing TRIS may be sold until July 1, 2014, if the manufacturer of such products conducts an alternatives assessment by July 1, 2013, and submits it to the DOE. If a manufacturer conducts an alternatives assessment, it must use one of three methods: (1) the United States 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. The DOE must provide technical assistance, upon request, to any manufacturer conducting an alternatives assessment.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill is virtually identical to a bill the committee already passed in the previous session. The New York Assembly recently voted unanimously to ban both forms of TRIS chemicals. Additionally, there are now over 40 different organizations supporting this bill such as nurses, firefighters, and a host of environmental organizations that together represent tens of thousands of state residents. The two chemicals are shown to be carcinogenic and also neurotoxins found in products used by babies and toddlers, two groups particularly sensitive to toxic chemicals. The bill is an investment in prevention, and saves money in environmental cleanup and health care costs. Parents and grandparents should not have to be chemists to determine whether the products they are purchasing are safe for their children. TRIS breaks down in fires into very toxic substances that can kill.

The bill addresses an urgent public health concern for products used by children on a daily basis. Safety should be the top priority when manufacturing products for children, but chlorinated TRIS can be found in changing pads, car seats, and bassinet pads at levels up to 5 percent of the weight of the foam in the product. One of the DOH's concerns cited about chlorinated TRIS is that it is found to cause cancer in animals. Although the bill does not guarantee the use of safer alternatives, it does send a message to manufacturers that the state cares about what is used in children's products and will act to protect children. The use of chlorinated TRIS does not result in greater safety from fighting fires. Research and scientific opinion on firefighting safety has shown that there is no reason to add chemicals to children's products and there is no requirement that fire safety needs should be satisfied by using toxic substances that negatively impact people's health.

The evidence says that chlorinated TRIS causes cancer and affects our most vulnerable population. Children should reach their full potential and not be put at risk by playing with toys or by resting their head on a nursing pillow.

The bill is a preventative measure. Years ago, pediatricians in the state initiated the ban of the chemical under discussion today from use in pajamas and pediatricians continue to support banning the substance from other products that the chemical is unnecessarily found in.

The bill will prevent injury to infants and children. The California Environmental Protection Agency identified chlorinated TRIS as a carcinogen and the Federal Consumer Products Safety Commission has also labeled it as a carcinogen that causes 600 cases of cancer per one million adults. Scientific publications through animal studies and in-vitro studies have shown that chlorinated TRIS is a neurotoxin and damages brain development.

There are clear alternatives to these chemicals, and the costs of not making this change are passed to other areas of our state government.

(Opposed) Safety of products is very important to the retail industry. A national standard is preferred to a state-by-state patchwork which makes compliance difficult for manufacturers distributing products in multiple states. The bill circumvents the process in place now by the DOE.

The option of the alternatives assessment is particularly opposed. There are 160 toy companies who are either based in Washington or have a large presence here, and that together employ over 9,000 people. Existing laws at the federal level are continually reassessed and provide sufficient regulation. This bill does not improve safety.

A statewide ban is premature. The bill would be improved by amending it to reflect the version that passed out of the Senate in the regular session which would ban only one of the two chemical forms in question today. The DOE and the DOH created a list of chemicals of high concern to children and chlorinated TRIS has not been identified on that list. Chlorinated TRIS could be added to that list rather than banning it. The alternatives assessments component only provides an additional year, which is not of much use to manufacturers, and it is an unnecessary expansion of the current CSPA. There remains debate about the science and the data with several conflicting sources presenting differing positions.

Persons Testifying: (In support) Representative Dickerson, prime sponsor; Erika Schreder and Nick Federici, Washington Toxics Coalition; Karen Bowman, Washington State Nurses Association; Laurie Lippold, Washington Chapter of the American Academy of Pediatrics; Jessie Dye, Earth Ministry; Tracy Biers, Washington Physicians for Social Responsibility; and Lonnie Johns-Brown, League of Women Voters of Washington.

(Opposed) Mark Johnson, Washington Retail Association; Joe Gregorich, Toy Industry Association; and Courtney Barnes, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.