

HOUSE BILL REPORT

2SSB 6120

As Reported by House Committee On:

Environment

General Government Appropriations & Oversight

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

Brief Description: Concerning children's safe products.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nelson, Swecker, Harper, Hargrove, Kohl-Welles, Fraser, Kastama, Pridemore, Rolfes, Frockt, Ranker, Regala, Shin, Tom, Kline, Chase, Keiser and Conway).

Brief History:

Committee Activity:

Environment: 2/17/12, 2/21/12 [DP];

General Government Appropriations & Oversight: 2/22/12, 2/23/12 [DPA].

Brief Summary of Second Substitute Bill (As Amended by Committee)

- 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.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass. Signed by 17 members: Representatives Upthegrove, Chair; Tharinger, Vice Chair; Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Crouse, Fitzgibbon, Hansen, Jinkins, Morris, Moscoso, Nealey, Pearson, Pollet, Shea, Takko, Taylor and Wylie.

Staff: Kara Durbin (786-7133).

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 Legislature passed the Children's Safe Products Act (CSPA), 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 [WAC 173-334-130]. 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. 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, and sale of children's products containing TCEP is prohibited beginning July 1, 2014, if the TCEP is intentionally added 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 TCEP or to previously owned products sold in casual or isolated sales or by nonprofit organizations.

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) This work began in 2009 to protect children and small babies from chemicals. Chemicals like chlorinated TRIS and others can affect our children and their health. This bill is aimed so that babies and children can have a healthier life.

(In support with amendment) These TRIS chemicals are not needed to meet fire safety standards. Some companies have already stopped using these chemicals. All of the chemicals identified in the original bill harm children's health. We would prefer that the ban also address TDCPP that was in a previous version of the bill. Major concerns have been raised about the toxicity of TDCPP. California has designated this chemical as a carcinogen. Alternative assessments should also be a part of this bill. Only the safest products should be on the market. Alternative assessments are needed so that TRIS is not just replaced with another equally harmful substance. Parents should not need to be scientists to determine what products are safe for our kids. The original provisions in the bill should be restored: the alternative assessments and the ban of the other chemical, TDCPP.

(Neutral) A ban on TCEP might be premature at this time. The current rules should be implemented before creating a statewide ban on a chemical of high concern. While there might be certain instances in which a ban is appropriate, bans need to be considered carefully. Other states are exploring a ban on TDCPP, but no other states have such a ban in place.

(Opposed) None.

Persons Testifying: (In support) Senator Nelson, prime sponsor.

(In support with amendment) Dylan Doty, Washington Fire Chiefs; Craig Soucy, Washington State Coalition of Fire Fighters; Erika Schrader and Nick Federici, Washington Toxics Coalition; Erin Naumawicz, Lullaby Organics; Karen Bowman, Washington State Nurses Association; and Elizabeth Davis, League of Women Voters.

(Neutral) Courtney Barnes, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: Do pass as amended. 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: Jeff Olsen (786-7175) and Kara Durbin (786-7133).

Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On Environment:

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

The effective date of the ban is moved up by one year to July 1, 2013. However, children's products containing TRIS may be sold until July 1, 2014, if the manufacturer of such products conducts an alternatives assessment. 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. The Department of Ecology is to provide technical assistance, upon request, to any manufacturer conducting an alternatives assessment.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill continues the Legislature's work to protect children and babies from harmful carcinogens. Products containing TRIS are in nursing pillows, car seats, and other babies' products. Using toxic funds to protect our tiniest citizens is worthwhile. Developmental disabilities are caused by environmental toxins like TRIS.

(In support with amendment) The original bill banned two forms of TRIS, both TCEP and TDCPP. The chemical TDCPP is of particular concern because it can cause tumors and harm brain cells. There are safer alternatives on the market, including using alternative materials. The chemical TCEP is no longer widely used, but TDCPP is and should be addressed in the bill as well. Both forms of TRIS were banned from children's pajamas in the 1970s because of the risk and should also be banned in other children's products.

(Other) The consequences of creating a statewide ban are not known. This bill may be premature because reporting has not occurred yet and the data is not yet available. The chemical TDCPP has not been identified as a chemical of high concern and should not be part of a statewide ban at this time. Requiring alternatives assessments can be expensive for both the industry and for the state.

Persons Testifying: (In support) Senator Nelson, prime sponsor; and Diana Stadden, The Arc of Washington.

(In support with amendment) Erika Schreder and Nick Federici, Washington Toxics Coalition; and Craig Soucy, Washington State Council of Firefighters.

(Other) Courtney Barnes, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.