
SUBSTITUTE SENATE BILL 6120

State of Washington

62nd Legislature

2012 Regular Session

By Senate Environment (originally sponsored by Senators Nelson, Swecker, Harper, Hargrove, Kohl-Welles, Fraser, Kastama, Pridemore, Rolfes, Frockt, Ranker, Regala, Shin, Tom, Kline, Chase, Keiser, and Conway)

READ FIRST TIME 01/23/12.

1 AN ACT Relating to children's safe products; amending RCW
2 70.240.010; adding new sections to chapter 70.240 RCW; and creating a
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

15 (b) Sold in conjunction with, attached to, or packaged together
16 with other products that are packaged, displayed, or advertised as
17 appropriate for use by children; or

18 (c) Sold in any of the following:

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

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

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

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

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;

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

17 (d) Sold in any of the following:

18 (i) A vending machine;

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

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

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

26 (i) Toys;

27 (ii) Children's cosmetics;

28 (iii) Children's jewelry;

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

32 (v) Child car seats.

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

34 (i) Batteries;

35 (ii) Slings and catapults;

36 (iii) Sets of darts with metallic points;

37 (iv) Toy steam engines;

38 (v) Bicycles and tricycles;

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

3 (vii) Chemistry sets;

4 (viii) Consumer electronic products, including but not limited to
5 personal computers, audio and video equipment, calculators, wireless
6 phones, game consoles, and handheld devices incorporating a video
7 screen, used to access interactive software and their associated
8 peripherals;

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

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

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

14 (xii) Sporting equipment, including, but not limited to bats,
15 balls, gloves, sticks, pucks, and pads;

16 (xiii) Roller skates;

17 (xiv) Scooters;

18 (xv) Model rockets;

19 (xvi) Athletic shoes with cleats or spikes; and

20 (xvii) Pocket knives and multitools.

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

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

29 (6) "High priority chemical" means a chemical identified by a state
30 agency, federal agency, or accredited research university, or other
31 scientific evidence deemed authoritative by the department on the basis
32 of credible scientific evidence as known to do one or more of the
33 following:

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

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

37 (c) Disrupt the endocrine system;

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

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

4 (f) Be very persistent and very bioaccumulative.

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

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

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

15 (10) "Trade association" means a membership organization of persons
16 engaging in a similar or related line of commerce, organized to promote
17 and improve business conditions in that line of commerce and not to
18 engage in a regular business of a kind ordinarily carried on for
19 profit.

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

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

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

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

29 (13) "TRIS" means either TDCPP (tris(1,3-dichloro-2-
30 propyl)phosphate), chemical abstracts service number 13674-87-8, as of
31 the effective date of this section, or TCEP (tris(2-chloroethyl)
32 phosphate), chemical abstracts service number 115-96-8, as of the
33 effective date of this section, or both.

34 (14) "Alternative" means a substitute process, product, material,
35 chemical, strategy, or combination of these that serve a functionally
36 equivalent purpose to a chemical in a children's product.

37 (15) "Chemical of high concern for children" means a chemical
38 identified as required by RCW 70.240.030.

1 NEW SECTION. **Sec. 2.** (1) Beginning July 1, 2014, no manufacturer,
2 wholesaler, or retailer may manufacture, knowingly sell, offer for
3 sale, distribute for sale, or distribute for use in this state, a
4 children's product containing TRIS in amounts greater than fifty parts
5 per million in any component.

6 (2) The sale or purchase of any previously owned product containing
7 TRIS made in casual or isolated sales as defined in RCW 82.04.040, or
8 sales by nonprofit organizations, are exempt from subsection (1) of
9 this section.

10 NEW SECTION. **Sec. 3.** (1) By January 1, 2014, the manufacturer of
11 a children's product whose product contains TRIS shall submit to the
12 department an alternatives assessment consistent with section 5 of this
13 act.

14 (2) Beginning August 31, 2013, the manufacturer of a children's
15 product that has provided notice as required under RCW 70.240.040 that
16 their product contains formaldehyde must, within one year of providing
17 notice, submit to the department an alternatives assessment consistent
18 with section 5 of this act.

19 (3) Beginning August 31, 2014, the manufacturer of a children's
20 product that has provided notice as required under RCW 70.240.040 that
21 their product contains antimony or antimony compounds or bisphenol-a
22 must, within one year of providing notice, submit to the department an
23 alternatives assessment consistent with section 5 of this act.

24 (4) A manufacturer required to conduct an alternatives assessment
25 under this section may work with a trade association, other
26 manufacturers, or third parties to complete and submit a single
27 alternatives assessment.

28 (5) A manufacturer of children's products with annual gross sales,
29 both within and outside of Washington, of less than five million
30 dollars, based on the manufacturer's most recent tax year filing, is
31 exempt from the requirements of this section.

32 NEW SECTION. **Sec. 4.** The department must provide technical
33 assistance to any manufacturer required to conduct an alternatives
34 assessment that requests assistance. Technical assistance includes
35 providing: Alternatives assessments previously submitted to the
36 department; existing resources and tools for conducting alternatives

1 assessments; information existing within the department gathered from
2 literature reviews; informal manufacture's surveys; and information
3 from the interstate chemicals clearinghouse.

4 NEW SECTION. **Sec. 5.** (1) An alternatives assessment must identify
5 alternatives for consideration that reduce or eliminate the use of and
6 potential for children's exposure to the chemical of high concern for
7 children. For the chemical of high concern for children and each
8 potential alternative, an alternatives assessment must include the
9 following elements:

10 (a) Chemical names and chemical abstracts service registry numbers;

11 (b) An assessment of whether, based on credible scientific
12 evidence, the alternative demonstrates the potential to do one or more
13 of the following:

14 (i) Harm the normal development of a fetus or child or cause other
15 developmental toxicity;

16 (ii) Cause cancer or genetic damage;

17 (iii) Cause reproductive toxicity;

18 (iv) Disrupt the endocrine system;

19 (v) Damage the nervous system, immune system, or organs or cause
20 other systemic toxicity;

21 (vi) Cause sensitization and immune system response;

22 (vii) Cause negative ecological impacts;

23 (viii) Be persistent, bioaccumulative, and toxic; or

24 (ix) Be very persistent and very bioaccumulative;

25 (c) Available information or data, based on credible scientific
26 evidence regarding:

27 (i) The degree of toxicity including dose response studies; and

28 (ii) Potential routes of exposure to children through which the
29 chemical or alternative may cause each effect identified in (b)(i)
30 through (vi) of this subsection;

31 (d) Information on performance and functionality of the potential
32 alternatives in product and materials addressed in the alternatives
33 assessment; and

34 (e) Opportunities for product reformulation, chemical substitution,
35 product redesign, or manufacturing process redesign.

36 (2) The alternatives assessment must include: (a) A comparison
37 among alternatives and chemicals of high concern for children for the

1 elements required in subsection (1)(b) through (e) of this subsection;
2 (b) a description of the criteria and assumptions used to compare
3 alternatives, including identification of data gaps; and (c) an
4 explanation of the findings and conclusions of the supporting data for
5 the alternatives assessment.

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

13 NEW SECTION. **Sec. 6.** (1) By July 1, 2015, the department, in
14 consultation with the department of health, shall provide a report to
15 the legislature summarizing and evaluating manufacturers' notices on
16 chemicals of high concern for children and alternatives assessments
17 required under section 5 of this act.

18 (2) The report must include a summary of the information provided
19 by manufacturers about the use of chemicals of high concern for
20 children used in children's products; evidence of children's exposure
21 to chemicals of high concern for children; opportunities for preventing
22 children's exposure to chemicals of high concern for children; and
23 results from completed alternatives assessments, including whether
24 there are safer alternatives to the chemical of high concern for
25 children. In addition, the report must include recommendations for
26 legislative action to protect children's health and to improve the
27 alternatives assessment process.

28 (3) The definitions in RCW 70.240.010 apply throughout this section
29 unless the context clearly requires otherwise.

30 NEW SECTION. **Sec. 7.** Beginning July 1, 2017, the department may
31 require a manufacturer of children's products containing chemicals of
32 high concern for children to conduct an alternatives assessment
33 consistent with section 5 of this act. The department must provide a
34 manufacturer at least one year to submit the alternatives assessment.
35 The department may require alternatives assessments for no more than
36 two chemicals of high concern for children per year.

1 NEW SECTION. **Sec. 8.** Sections 2 through 5 and 7 of this act are
2 each added to chapter 70.240 RCW.

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