

SHB 1294 - H AMD 115

By Representative Springer

WITHDRAWN 03/06/2013

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

3 "Sec. 1. RCW 70.240.020 and 2008 c 288 s 3 are each amended to
4 read as follows:

5 (1) Beginning July 1, 2009, no manufacturer, wholesaler, or
6 retailer may manufacture, knowingly sell, offer for sale, distribute
7 for sale, or distribute for use in this state a children's product or
8 product component containing the following:

9 (a) Except as provided in subsection (2) of this section, lead at
10 more than .009 percent by weight (ninety parts per million);

11 (b) Cadmium at more than .004 percent by weight (forty parts per
12 million); or

13 (c) Phthalates, individually or in combination, at more than 0.10
14 percent by weight (one thousand parts per million).

15 (2) Beginning July 1, 2015, no manufacturer, wholesaler, or
16 retailer may manufacture, knowingly sell, offer for sale, distribute
17 for sale, or distribute for use in this state children's products or
18 residential upholstered furniture, as defined in RCW 70.76.010,
19 containing TDCPP or TCEP in amounts greater than one hundred parts
20 per million in any product component.

21 (3) If determined feasible for manufacturers to achieve and
22 necessary to protect children's health, the department, in
23 consultation with the department of health, may by rule require that
24 no manufacturer, wholesaler, or retailer may manufacture, knowingly
25 sell, offer for sale, distribute for sale, or distribute for use in
26 this state a children's product or product component containing lead
27 at more than .004 percent by weight (forty parts per million).

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

3 (1) Beginning July 1, 2015, no manufacturer, wholesaler, or
4 retailer may manufacture, knowingly sell, offer for sale, distribute
5 for sale or distribute for use in this state, residential upholstered
6 furniture, as defined in RCW 70.76.010, or children's products
7 containing a flame retardant not included in RCW 70.240.020 in any
8 product component in amounts greater than one hundred parts per
9 million identified by the department as a high priority chemical of
10 high concern for children as required under RCW 70.240.030.

11 (2) The department shall develop an alternative assessment
12 guidance document for use by companies to replace chemicals of concern
13 with safer alternatives.

14 (3) Upon the completion of the guidance document required in this
15 section, a manufacturer may request a temporary exemption from the
16 restrictions in this section for a period of up to two years, using
17 the methodology established in subsection (2) of this section.

18
19 **Sec. 3.** RCW 70.240.010 and 2008 c 288 s 2 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

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

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

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

32 (c) Sold in any of the following:

33
34

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
5 web site, in which a person offers for sale products that are
6 packaged, 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
20 person exclusively offers for sale products that are packaged,
21 displayed, or 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
24 packaged, 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
31 the 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;

- 1 (ii) Slings and catapults;
- 2 (iii) Sets of darts with metallic points;
- 3 (iv) Toy steam engines;
- 4 (v) Bicycles and tricycles;
- 5 (vi) Video toys that can be connected to a video screen and are
6 operated at a nominal voltage exceeding twenty-four volts;
- 7 (vii) Chemistry sets;
- 8 (viii) Consumer electronic products, including but not limited to
9 personal computers, audio and video equipment, calculators, wireless
10 phones, game consoles, and handheld devices incorporating a video
11 screen, used to access interactive software and their associated
12 peripherals;
- 13 (ix) Interactive software, intended for leisure and entertainment,
14 such as computer games, and their storage media, such as compact
15 disks;
- 16 (x) BB guns, pellet guns, and air rifles;
- 17 (xi) Snow sporting equipment, including skis, poles, boots, snow
18 boards, sleds, and bindings;
- 19 (xii) Sporting equipment, including, but not limited to bats,
20 balls, gloves, sticks, pucks, and pads;
- 21 (xiii) Roller skates;
- 22 (xiv) Scooters;
- 23 (xv) Model rockets;
- 24 (xvi) Athletic shoes with cleats or spikes; and
- 25 (xvii) Pocket knives and multitools.
- 26 (4) "Cosmetics" includes articles intended to be rubbed, poured,
27 sprinkled, or sprayed on, introduced into, or otherwise applied to the
28 human body or any part thereof for cleansing, beautifying, promoting
29 attractiveness, or altering the appearance, and articles intended for
30 use as a component of such an article. "Cosmetics" does not include
31 soap, dietary supplements, or food and drugs approved by the United
32 States food and drug administration.
- 33 (5) "Department" means the department of ecology.
- 34

1 (6) "High priority chemical" means a chemical identified by a
2 state agency, federal agency, or accredited research university, or
3 other scientific evidence deemed authoritative by the department on
4 the basis of credible scientific evidence as known to do one or more
5 of the following:

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

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

9 (c) Disrupt the endocrine system;

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

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

13 (f) Be very persistent and very bioaccumulative.

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

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

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

24 (10) "Trade association" means a membership organization of
25 persons engaging in a similar or related line of commerce, organized
26 to promote and improve business conditions in that line of commerce
27 and not to engage in a regular business of a kind ordinarily carried
28 on for profit.

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

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

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

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

5 (12) "TDCPP" means the chemical (tris(1,3-dichloro-2-
6 propyl)phosphate); chemical abstracts service number 13674-87-8, as
7 of the effective date of this section.

8 (13) "TCEP" means the chemical (tris(2-chloroethyl)phosphate);
9 chemical abstracts service number 115-96-8, as of the effective date
10 of this section."

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12 Correct the title.

EFFECT: Retains the prohibition on the use of TDCPP and TCEP in children's products or residential upholstered furniture in amounts greater than 100 parts per million beginning July 1, 2015. Restricts the use of flame retardants on the list of Chemicals of High Concern for Children in amounts greater than 100 parts per million, unless the manufacturer completes an alternative assessments under the methodology established by a Department of Ecology guidance document that is to be developed. Allows for the assessment of fines of up to \$5,000 for all violations by manufacturers, rather than \$1,000 for initial violations and \$5,000 for subsequent violations.

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