

SENATE BILL REPORT

SB 6540

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 6, 2014

Title: An act relating to banning tris(1,3-dichloro-2-propyl)phosphate and tris(2-chloroethyl)phosphate flame retardants in children's products and residential upholstered furniture.

Brief Description: Banning tris(1,3-dichloro-2-propyl)phosphate and tris(2-chloroethyl)phosphate flame retardants in children's products and residential upholstered furniture.

Sponsors: Senator Ericksen.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/05/14, 2/06/14 [DPS, DNP].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6540 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Brown, Honeyford and Litzow.

Minority Report: Do not pass.

Signed by Senators McCoy, Ranking Member; Billig and Chase.

Staff: Jan Odano (786-7486)

Background: Flame-retardant chemicals are added to many consumer products to delay combustion and to meet fire safety standards. The flame retardants polybrominated diphenyl ether (PBDE) were added to a wide variety of household products; however, because of concerns for human health and the environment, the Legislature banned the use of certain PBDEs for use in residential upholstered furniture. The chemicals tris(1,3-dichloro-2-propyl)phosphate (TDCPP) and tris(2-chloroethyl)phosphate, (TCEP), known collectively as TRIS, are used as a replacement for certain PBDE flame retardants that were banned or voluntarily phased out of use.

TRIS is added to plastics, foams, and textiles. It is found in children's products such as car seats, baby changing pads, and baby carriers. Concerns have been raised about TRIS because of its widespread use, human exposure, and potential health risks. The use of TCEP in

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children's products is prohibited in New York and Maryland. Other states have proposed bans of TCEP and TDCPP in children's products and residential upholstered furniture.

The Children's Safe Products Act (CSPA), in part, requires manufacturers of children's products containing chemicals of high concern for children (CHCC) to annually report product information to the Department of Ecology (Ecology). There are 66 CHCCs on the list. In October 2013, Ecology adopted amendments to the CSPA reporting rule in response to a petition to include TDCPP to the list of CHCCs. The revised rule phases in reporting requirements for TDCPP with the first reports due in February 2015.

Summary of Bill (Recommended Substitute): Beginning July 1, 2015, the manufacture, sale, and distribution of residential upholstered furniture and children's products of which any component contains more than 100 parts per million of TDCPP or TCEP are prohibited.

Nonprofit organizations and private parties making sales or purchases of used products are exempt from the prohibitions on chemicals restricted under CSPA.

Ecology must participate with other states and organizations to:

- increase its understanding of available credible scientific data on chemical, uses, exposures, etc.;
- produce an inventory of information on safer alternatives for chemicals of concern and technical assistance to businesses; and
- undertake other activities to support state programs to protect the environment and human health.

The collaborative effort process with other states must include collecting and disseminating information on chemical risks and hazards, the use of chemicals in child care products, and an assessment of alternatives to chemicals and their use in products.

Ecology must ensure the completion of exposure and risk assessments for each chemical considered when examining existing chemicals, producing inventories, providing technical assistance, or promoting safer alternatives. Ecology must report to the Legislature any recommendations developed through participation in the collaborative process.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TELECOMMUNICATIONS COMMITTEE (Recommended Substitute): Requires Ecology to work with other states, industry, and scientific experts through a recognized clearinghouse.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The process to review safer alternatives is important. Industry does alternatives assessments and looks at all aspects of safety and other concerns that must be addressed as part of the research and development process. An alternatives assessment should not force a change to substitute chemicals. Risk and exposure are other important considerations. This eliminates two forms of flame retardants that impact the health of our kids and our environment.

CON: This bill does not go far enough. These chemicals will be replaced with other toxic chemicals unless the Legislature broadens the process to include other chemicals. This is a public health issue and it disproportionately affects firefighters.

OTHER: These flame retardants are toxic and have the potential to build up in our environment and in us. The bill needs to add the other four flame retardants and give Ecology the authority to restrict flame retardants that are found to be chemicals of high concern. We need to do more to protect our kids and firefighters. This bill should be amended to ban the other flame retardants and ensure that other flame retardants on the chemicals of high concern list are banned as well. We should not allow the use of toxic chemicals for the profits of industry. Environmental toxins are a trigger for autism. The two flame retardants being banned are not being used. This needs to be broadened to include other flame retardants.

Persons Testifying: PRO: Carol Kraege, Ecology; Brandon Houskeeper, Assn. of WA Business; Jennifer Gibbons, Toy Industry Assn.; John Hewitt, Grocery Manufactures Assn.

CON: Geoff Simpson, WA State Council of Fire Fighters.

OTHER: Erika Schreder, Karen Stone, Evan Hirsch, WA Toxics Coalition; Diana Stadden, The Arc of WA State.