

E2SHB 1472 - H AMD 565

By Representative Fitzgibbon

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Alternatives assessment" means a process for identifying and
7 comparing chemical and nonchemical alternatives currently in
8 existence that can be practicably and economically used to replace
9 the use of a chemical or, if a safer alternative is not identified,
10 to reduce the amount of or exposure to that chemical.

11 (2) "Biomonitoring" means assessment of human exposures to
12 chemicals by measuring the chemicals or their metabolites in human
13 tissues or specimens, such as blood, breast milk, and urine.

14 (3) "Chemical" means a substance, including metals, with a
15 distinct molecular composition or a group of structurally related
16 substances, and includes the breakdown products of the substance or
17 substances that form through decomposition, degradation, or
18 metabolism.

19 (4) "Chemical action plan" means a report that identifies,
20 characterizes, and evaluates current and legacy uses and releases of
21 a specific chemical or group of chemicals and identifies actions
22 needed to protect human health and the environment.

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

24 (6) "Director" means the director of the department of ecology or
25 the director's designee.

26 (7) "Distributor" means:

27 (a) An importer or a domestic distributor of a product sold or
28 offered for sale in or into the state.

29 (b) "Distributor" does not include:

30 (i) Small businesses as defined in RCW 19.85.020; or

1 (ii) For purposes of section 5 of this act only, a person or
2 entity that demonstrates that it does not exercise control over the
3 process by which a product was formulated; or

4 (iii) For the purposes of section 3 of this act only, a person or
5 entity that provides documentation to the department that the person
6 or entity is unable to provide any of the information under section
7 3(2) of this act, consistent with section 3(7) of this act.

8 (8) "Documentation" means:

9 (a) Written or electronic communications between the distributor
10 and manufacturer demonstrating that the distributor has requested
11 information on the chemical used in products;

12 (b) A description of the efforts the distributor has undertaken
13 to respond to the information request made by the department under
14 section 3 of this act, including the reason that the distributor is
15 unable to provide the requested information; and

16 (c) A signature of an authorized representative of the
17 distributor and an accompanying dated statement that declares that
18 the information provided to the department under (b) of this
19 subsection is accurate.

20 (9) "Emerging chemicals" means chemicals that meet the criteria
21 of a high priority chemical as defined in RCW 70.240.010 and either:

22 (a) Meet the criteria for a high priority chemical of high
23 concern for children as described in RCW 70.240.030(1) (a) through
24 (c); or

25 (b) Have been shown through environmental monitoring studies to
26 be present in fish, wildlife, air, water, soil, or sediment.

27 (10) "Manufacturer" means:

28 (a) Any person who manufactures a product sold or offered for
29 sale in or into the state.

30 (b) "Manufacturer" does not include small businesses as defined
31 in RCW 19.85.020.

32 (11)(a) "Product" means any item sold in or into the state for
33 residential or commercial use, including any component or product
34 packaging.

35 (b) "Product" does not include the following items:

36 (i) Food or beverage and food or beverage packaging, regulated by
37 the United States food and drug administration or the United States
38 department of agriculture;

39 (ii) Tobacco products;

1 (iii) Drug or biological products and packaging regulated by the
2 United States food and drug administration;

3 (iv) Products and components produced under military
4 specifications;

5 (v) Products and components regulated by the federal aviation
6 administration;

7 (vi) Products registered for distribution in the state under
8 chapter 15.54 or 15.58 RCW;

9 (vii) Shipping pallets; and

10 (viii) Any previously owned product sold in casual or isolated
11 sales as defined in RCW 82.04.040 or products sold by nonprofit
12 organizations.

13 (12) "Product component" means a uniquely identifiable part,
14 material, or coating that is included as a part of a finished
15 product.

16 (13) "Safer alternative" means an alternative, demonstrated by an
17 alternatives assessment, that meets improved hazard and exposure
18 considerations, exhibits lower risk, and can be practicably and
19 economically substituted for the original chemical.

20 (14) "Unsuitable alternative" means an alternative identified
21 through the alternatives assessment process that does not meet the
22 hazard, exposure, cost, performance, and availability criteria of a
23 safer alternative.

24 (15) This section expires June 30, 2025.

25 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2016, and every
26 two years thereafter, the department, in consultation with the
27 department of health, must select up to two chemicals for the
28 development of chemical action plans, as provided in section 4 of
29 this act, from the following:

30 (a) Chemicals regulated by the department under human health
31 criteria for water quality standards in the proposed rule published
32 by the department on February 4, 2015, in the Washington State
33 Register, as WSR 15-03-015;

34 (b) Chemicals that affect water quality and are persistent
35 bioaccumulative toxins as defined in chapter 173-333 WAC, as of the
36 effective date of this section; or

37 (c) Emerging chemicals.

38 (2) The department may conduct environmental monitoring or,
39 subject to the availability of amounts appropriated for this specific

1 purpose, may request the department of health to conduct
2 biomonitoring of a chemical, to verify the chemical is present in the
3 state's environment or population or to better understand
4 environmental or human exposure in the state. Environmental
5 monitoring and biomonitoring conducted pursuant to this chapter must
6 be of a minimum scope necessary to adequately inform a chemical
7 action plan.

8 (3)(a) The first five chemicals selected for chemical action
9 plans must be chosen from the chemicals identified in subsection
10 (1)(a) or (b) of this section.

11 (b) The director shall notify the public of the selection of a
12 chemical for the development of a chemical action plan. The notice
13 must state the basis for the selection and include a draft schedule
14 for completing the chemical action plan. The notice must be published
15 in the Washington State Register. The department shall provide an
16 opportunity for public review and comment before finalizing the
17 schedule.

18 (c) When selecting chemicals for the development of chemical
19 action plans, the department must consider:

20 (i) Opportunities for reducing or phasing out uses, production,
21 or releases of a chemical;

22 (ii) Current scientific evidence on the extent and impact of the
23 chemical exposure to humans and biota;

24 (iii) Current scientific evidence on the combined effects of
25 exposure to a chemical and other substances commonly present in the
26 Washington environment;

27 (iv) Current scientific evidence on the susceptibility of
28 sensitive population groups and environmental media from exposure to
29 a chemical, as well as cumulative effects of multiple exposures;

30 (v) The relative ranking assigned to a chemical by the department
31 based on information applicable to Washington about a chemical's
32 properties, uses of a chemical, releases of a chemical, and levels of
33 a chemical present in the environment and in residents;

34 (vi) Whether a chemical has been determined to impact Washington
35 state waters through identification under section 303(d) of the
36 federal clean water act;

37 (vii) The potential for an emerging chemical to impair water
38 quality; and

39 (viii) Existing plans or regulatory requirements to reduce or
40 phase out the uses and releases of a chemical.

1 (d) The department must identify the sources of information it
2 relied upon in selecting chemicals for the development of chemical
3 action plans under this section, including peer-reviewed science.

4 (4) This section expires June 30, 2025.

5 NEW SECTION. **Sec. 3.** (1) The department may request information
6 from manufacturers and distributors about products or product
7 components that contain a chemical selected for a chemical action
8 plan under section 2 of this act. Prior to requesting information
9 from a manufacturer or a distributor under this subsection, the
10 department must consult with a chemical action plan external advisory
11 committee, if one has been formed, to evaluate the chemical that is
12 the subject of the information request. If a chemical action plan
13 external advisory committee has not yet been formed at the time of an
14 information request under this section, the department must seek
15 input from representatives of the organizations and entities
16 identified in section 4(1) of this act prior to making the
17 information request. Requests for information must be reasonable in
18 scope and frequency, and focused on:

19 (a) The most common and prevalent uses of the chemical or
20 products or product components that contain the chemical, based on
21 the department's existing knowledge about the chemical;

22 (b) Areas where there is an identified gap in public or
23 department knowledge about the chemical; or

24 (c) Uses of the chemical, products, or product components that
25 the department has reason to believe are likely to be responsible for
26 or associated with a significant portion of chemical releases into
27 the environment or public health exposures.

28 (2) Within twelve months of a request by the department,
29 manufacturers or distributors shall report the following:

30 (a) The name and address of the manufacturer or distributor and
31 the contact information of the person responsible for responding to
32 the department's requests on behalf of the manufacturer or
33 distributor;

34 (b) The chemical abstracts service registry number of the
35 chemical for which information is being requested;

36 (c) A brief description of the manufacturer's or distributor's
37 product or product component categories containing the chemical;

38 (d) A description of the function or functions of the chemical in
39 the manufacturer's or distributor's products or product components;

1 (e) The amount of the chemical used in each unit of the
2 manufacturer's or distributor's products or product components, which
3 may be reported in ranges, rather than the exact amount;

4 (f) An estimate of the average daily, weekly, or monthly
5 commercial consumption of the chemical by businesses or the public
6 that is associated with the commercial consumption of the
7 manufacturer's or distributor's product; and

8 (g) Any other information the manufacturer or distributor deems
9 relevant to the appropriate use of the chemical, products, or product
10 components.

11 (3) In response to an information request from the department
12 under this section, a manufacturer or distributor may extrapolate
13 amounts and estimates from data sources that are not specific to
14 Washington state. A manufacturer or distributor may also submit or
15 rely on sources of data compiled by federal agencies, other states,
16 nations, or other sources of data that meet the requirements of the
17 information request. In addition, multiple manufacturers,
18 distributors, or a business association, may collaborate and submit a
19 single response on behalf of multiple manufacturers or distributors
20 for a chemical found in similar products or product components in
21 response to the department's request for information. All submissions
22 in response to the department's information request must include the
23 information required in subsection (2)(a) of this section for each
24 manufacturer or distributor. However, if multiple manufacturers,
25 distributors, or a business association collaborate to submit a
26 single response on behalf of multiple manufacturers or distributors,
27 the information required in subsection (2)(b) through (f) of this
28 section is not required to be provided in a manner that attributes
29 product or chemical use data or information to individual
30 manufacturers or distributors.

31 (4) The department shall specify the required format for
32 submission of the information required under subsection (2) of this
33 section. The format should be generally consistent with the format
34 specified by other states or federal agencies with substantially
35 similar reporting requirements.

36 (5) Where information submitted by a manufacturer or distributor
37 under chapter 70.240 RCW is the same as the information required to
38 be submitted by the manufacturer or distributor in subsection (2) of
39 this section, the manufacturer or distributor is not required to
40 submit the same information more than once.

1 (6) The department may, by order, require a manufacturer or
2 distributor subject to the reporting requirement in subsection (2) of
3 this section to provide additional information that is relevant to
4 the development of a chemical action plan under section 4 of this
5 act. Prior to an order under this subsection, the department must
6 consult with the external advisory committee formed for the chemical
7 action plan, if one has been formed. If a chemical action plan
8 external advisory committee has not yet been formed at the time of an
9 order pursuant to this subsection, the department must seek input
10 from representatives of the organizations and entities identified in
11 section 4(1) of this act prior to making the information order. An
12 order by the department must also meet the reasonableness criteria of
13 subsection (1) of this section.

14 (7)(a) For purposes of making information requests and orders
15 under this section, the department must use the following hierarchy
16 to determine whether the department will hold the manufacturer or
17 distributor of a product primarily responsible for the response:

18 (i) The department must hold a manufacturer primarily responsible
19 for the response to the information request, unless the manufacturer
20 does not have a presence in the United States.

21 (ii) If the manufacturer of the product does not have a presence
22 in the United States, the department may hold the product's
23 distributor primarily responsible for responding to the information
24 request or order. If the distributor provides documentation to the
25 department that it does not reasonably have access to the full set of
26 information required to respond to the order, the department may only
27 require the distributor to submit information for the categories
28 under subsection (2) of this section for which it has information.
29 The department may not penalize a distributor that provides
30 documentation that it does not reasonably have access to the full set
31 of information required to respond to the order under this section,
32 as long as the distributor's response to the information request
33 includes all requested information that the distributor is reasonably
34 able to access.

35 (b) Nothing in this subsection (7) limits the authority of the
36 department to request information from a distributor of a product
37 about the persons or entities who are manufacturers of the product.

38 (8) A manufacturer or distributor may request information
39 submitted under this section be held confidential as provided under
40 section 7 of this act.

1 (9) Nothing in this section may be construed to make a
2 distributor or a manufacturer an agent of the state.

3 (10) This section expires June 30, 2025.

4 NEW SECTION. **Sec. 4.** (1) When developing a chemical action
5 plan, the department shall convene an external advisory committee to
6 hold meetings and provide input, expertise, and additional
7 information. All external advisory committee meetings must be open to
8 the public. The department must invite representatives from, at
9 minimum, the following organizations and entities to serve as
10 external advisory committee members: Large and small business
11 sectors; a statewide business association with over one thousand
12 total members and that represents multiple business sectors;
13 community, environmental, and public health advocacy groups; local
14 governments; affected and interested businesses; and public health
15 agencies. State agencies and technical experts may be requested to
16 participate.

17 (2) All chemical action plans must include the following:

18 (a) The chemical name and a description of its properties, uses,
19 and products or product components in which the chemical is found;

20 (b) An analysis of the available information on the production,
21 unintentional production, current and legacy uses, and disposal of
22 the chemical;

23 (c) Information on the known, potential, or proven impacts on
24 human health and the environment associated with the use and release
25 of the chemical;

26 (d) An evaluation of regulatory and nonregulatory activities that
27 influence production, uses, releases, and management of the chemical;

28 (e) Identification of actions that, if needed, would eliminate,
29 reduce, or manage exposures to the chemical;

30 (f) A prioritization of sources of exposures and releases of the
31 chemical into the environment. The prioritization must address
32 impacts to human health and the environment, potential to affect
33 water quality, and feasibility and cost of actions that could be
34 taken to address exposures or releases;

35 (g) A determination if an alternatives assessment is recommended,
36 which must address the prioritization required under (f) of this
37 subsection; and

38 (h) A determination of the persons or entities responsible for
39 completing the alternatives assessments, if recommended.

1 (3) All recommendations in a chemical action plan may be included
2 only after consideration of the following criteria:

3 (a) Opportunity for environmental and human health benefits in
4 the state of Washington;

5 (b) Economic and social impacts;

6 (c) Feasibility;

7 (d) Availability and effectiveness of safer alternatives, if
8 known; and

9 (e) Consistency with existing federal and state regulatory
10 requirements.

11 (4) The department must include in the chemical action plan a
12 summary of all views, including dissenting views, held by external
13 advisory committee members regarding the recommendations contained in
14 the plan.

15 (5) The department must identify the sources of information it
16 relied upon in completing a chemical action plan under this section,
17 including peer-reviewed science.

18 (6) This section expires June 30, 2025.

19 NEW SECTION. **Sec. 5.** (1) The department may require
20 manufacturers or distributors to conduct two alternatives
21 assessments, each of which must be consistent with recommendations
22 from chemical action plans completed for the chemicals that are the
23 subject of the alternatives assessments and their prioritization
24 under section 4 of this act. However, the department may not require
25 manufacturers to conduct more than one alternatives assessment for a
26 chemical under section 2(1)(b) of this act.

27 (a) If the department orders manufacturers or distributors to
28 conduct an alternatives assessment for a chemical under section 2(1)
29 (a) or (b) of this act, the department may not require the
30 alternatives assessment to be conducted for a greater breadth of
31 uses, products, or manufacturers or distributors than is necessary to
32 address sources of environmental or human exposure to the chemical.

33 (b) If the department orders manufacturers or distributors to
34 conduct an alternatives assessment for a chemical under section
35 2(1)(c) of this act, the alternatives assessment must be limited to a
36 single type of use of a chemical or a single type of product or
37 product component in which the chemical is found.

38 (2) In addition to the authority granted in subsection (1) of
39 this section, the department may require, by order, manufacturers or

1 distributors to conduct an alternatives assessment for
2 polychlorinated biphenyls in pigments and dyes.

3 (3)(a) When ordered by the department to conduct an alternatives
4 assessment, a manufacturer or distributor must submit:

5 (i) An alternatives assessment as required under subsection (6)
6 of this section to the department for each use of the chemical
7 specified by the department; or

8 (ii) A peer-reviewed alternatives assessment completed by an
9 authoritative entity, including the United States environmental
10 protection agency, the federal food and drug administration, or other
11 nations or states, that meets the requirements of subsection (6) of
12 this section.

13 (b) A manufacturer or distributor must submit the alternatives
14 assessment to the department within eighteen months from the date the
15 alternatives assessment is ordered. However, the department may grant
16 an extension on a case-by-case basis for good cause if the
17 manufacturer or distributor shows that additional time is necessary
18 to complete the alternatives assessment or to substantially improve
19 the quality of the alternatives assessment.

20 (c) A manufacturer or distributor may meet its obligation under
21 this section by collaborating with other manufacturers, distributors,
22 or business associations of similar products to conduct and complete
23 an alternatives assessment. A manufacturer or distributor complying
24 with subsection (3)(c) of this section is not in violation of this
25 chapter.

26 (4) A manufacturer or distributor may not be required to submit
27 an alternatives assessment when the manufacturer or distributor
28 provides to the department within thirty days of receipt of an order
29 to conduct an alternatives assessment a certificate of compliance.

30 (a) A certificate of compliance must include the following:

31 (i) Chemical names and chemical abstracts service registry
32 numbers for all chemicals that currently contribute to the specific
33 function previously served by the chemical that is subject to the
34 alternatives assessment order;

35 (ii) How the manufacturer is meeting the function of the chemical
36 that is subject to the alternatives assessment order with a safer
37 alternative;

38 (iii) Documents or other evidence demonstrating that the
39 manufacturer or distributor has: (A) Ceased using the chemical or
40 importing or distributing products containing the chemical for which

1 it would be required to conduct an alternatives assessment; or (B)
2 committed resources in pursuit of a plan to phase out, within a
3 reasonable time, the chemical for which the manufacturer or
4 distributor would be required to conduct an alternatives assessment;
5 and

6 (iv) The signature of an authorized official of the manufacturer
7 or distributor.

8 (b) A manufacturer or distributor that is not required to conduct
9 an alternatives assessment under subsection (3) of this section is
10 not in violation of this chapter.

11 (5)(a) The department, in consultation with the chemical action
12 plan external advisory committee, may contract with an independent
13 qualified third party to conduct an alternatives assessment when:

14 (i) A manufacturer or distributor is not required to conduct an
15 alternatives assessment under this section; or

16 (ii) The department determines that an alternatives assessment
17 submitted by a manufacturer or distributor does not meet the
18 definition or required objectives of an alternatives assessment.

19 (b) The department must ensure an alternatives assessment
20 completed by a qualified third party is peer-reviewed and meets the
21 requirements under subsection (6) of this section.

22 (c) The department may require a manufacturer or distributor,
23 consistent with recommendations in a chemical action plan, to provide
24 additional information that is relevant to the development of a
25 department-conducted alternatives assessment.

26 (6) An alternatives assessment must:

27 (a) Meet the objective of assessing less toxic chemicals and
28 nonchemical alternatives to replace the use of a chemical or, if a
29 safer alternative is not identified, to reduce the amount of or
30 exposure to chemicals in products and product components, and to
31 avoid the unintended consequence of switching to a substitute that
32 presents an equivalent or greater concern;

33 (b) Follow the guidelines issued by the interstate chemicals
34 clearinghouse, the national academy of sciences, or equivalent
35 methodology; and

36 (c) Include, at a minimum: (i) An evaluation of chemical hazard,
37 exposure, performance, consumer acceptance, cost, and availability;
38 (ii) equivalent information, as required under (c)(i) of this
39 subsection, for each alternative considered; and (iii) the
40 identification of alternatives and unsuitable alternatives.

1 (7) If the department determines, based on an alternatives
2 assessment, that a safer alternative exists, the department may
3 submit agency request legislation recommending the prohibition of
4 certain uses of a chemical or other actions determined appropriate,
5 including restrictions on the use of unsuitable alternatives.

6 (8) This section expires June 30, 2025.

7 NEW SECTION. **Sec. 6.** (1) A manufacturer or distributor
8 violating this chapter is subject to a civil penalty not to exceed
9 five thousand dollars for each violation in the case of a first
10 offense. Manufacturers or distributors who are repeat violators are
11 subject to a civil penalty not to exceed ten thousand dollars for
12 each repeat offense.

13 (2) Any penalty provided for in this section, and any order
14 issued by the department under this chapter, may be appealed to the
15 pollution control hearings board.

16 (3) All penalties collected under this chapter shall be deposited
17 in the state toxics control account created in RCW 70.105D.070.

18 (4) This section expires June 30, 2025.

19 NEW SECTION. **Sec. 7.** (1) Manufacturers or distributors
20 submitting information or records to the department may request that
21 the information or records be made available only for the
22 confidential use of the director, the department, or the appropriate
23 division of the department.

24 (2)(a) A manufacturer or distributor requesting confidentiality
25 for information submitted under this chapter must demonstrate to the
26 department how the records relate to processes of production unique
27 to the manufacturer or distributor or how releasing the records to
28 the public may adversely affect the competitive position of the
29 manufacturer or distributor.

30 (b)(i) The director shall give consideration to the request for
31 confidentiality and if such action would not be detrimental to the
32 public interest and is otherwise within accord with the policies and
33 purposes of chapter 43.21A RCW, the director must grant the request
34 for the information to remain confidential as authorized in RCW
35 43.21A.160.

36 (ii) The department must respond to a manufacturer's or
37 distributor's request within fourteen days of receipt of the request.
38 The department must inform the manufacturer or distributor regarding

1 its determination of whether the submitted information should be kept
2 confidential under this section and RCW 43.21A.160 and its reasons
3 for the determination.

4 (iii) The department must keep confidential any records furnished
5 by a manufacturer or distributor under this chapter that relate to
6 proprietary manufacturing processes or chemical formulations used in
7 products or manufacturing processes.

8 (3) If the director denies the request of a manufacturer or
9 distributor to keep submitted information or records confidential
10 under this section, the manufacturer or distributor may appeal the
11 denial to a court of competent jurisdiction. In a review of whether
12 the submitted information or records meet the criteria of RCW
13 43.21A.160 and this section, a court must examine submitted
14 information or records in camera.

15 (4) This section expires June 30, 2025.

16 NEW SECTION. **Sec. 8.** (1) The department may adopt rules as
17 necessary for the purpose of implementing, administering, and
18 enforcing this chapter. Rules adopted to require manufacturers or
19 distributors to conduct alternatives assessments must be consistent
20 with section 5 of this act.

21 (2) This section expires June 30, 2025.

22 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.26
23 RCW to read as follows:

24 (1) The department shall establish purchasing and procurement
25 policies that provide a preference for products and products in
26 packaging that do not contain:

27 (a) Persistent bioaccumulative toxins, as identified by the
28 department of ecology by rule; and

29 (b) Chemicals that have been addressed by a completed chemical
30 action plan that has included a recommendation that the state adopt a
31 purchasing and procurement policy for products and products in
32 packaging that do not contain the chemical.

33 (2) No agency may knowingly purchase products or products in
34 packaging containing chemicals identified in subsection (1) of this
35 section unless there is no cost-effective and technologically
36 feasible alternative. When all available products contain a chemical
37 identified in subsection (1) of this section, a preference must be

1 given to alternative products that contain lesser amounts of
2 chemicals identified in subsection (1) of this section.

3 (3) Nothing in this section requires the department or any other
4 state agency to breach an existing contract or dispose of stock that
5 has been ordered or is in the possession of the department or other
6 state agency as of the effective date of this section.

7 (4) This section does not require the department or any other
8 agency to test every product procured.

9 (5) The department or any other agency may request suppliers of
10 products to provide testing data from an accredited laboratory or
11 testing facility documenting levels of a chemical identified in
12 subsection (1) of this section in products or product packaging.
13 Requested or voluntarily received testing data from businesses,
14 manufacturers, distributors, organizations, and individuals must be
15 submitted for review to the department of ecology.

16 **Sec. 10.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
17 read as follows:

18 (1) The hearings board shall only have jurisdiction to hear and
19 decide appeals from the following decisions of the department, the
20 director, local conservation districts, the air pollution control
21 boards or authorities as established pursuant to chapter 70.94 RCW,
22 local health departments, the department of natural resources, the
23 department of fish and wildlife, the parks and recreation commission,
24 and authorized public entities described in chapter 79.100 RCW:

25 (a) Civil penalties imposed pursuant to RCW 18.104.155,
26 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,
27 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
28 90.64.102.

29 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
30 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
31 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

32 (c) A final decision by the department or director made under
33 chapter 183, Laws of 2009.

34 (d) Except as provided in RCW 90.03.210(2), the issuance,
35 modification, or termination of any permit, certificate, or license
36 by the department or any air authority in the exercise of its
37 jurisdiction, including the issuance or termination of a waste
38 disposal permit, the denial of an application for a waste disposal
39 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for
2 a solid waste permit exemption under RCW 70.95.300.

3 (e) Decisions of local health departments regarding the grant or
4 denial of solid waste permits pursuant to chapter 70.95 RCW.

5 (f) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70.95J.080.

8 (g) Decisions of the department regarding waste-derived
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
10 decisions of the department regarding waste-derived soil amendments
11 under RCW 70.95.205.

12 (h) Decisions of local conservation districts related to the
13 denial of approval or denial of certification of a dairy nutrient
14 management plan; conditions contained in a plan; application of any
15 dairy nutrient management practices, standards, methods, and
16 technologies to a particular dairy farm; and failure to adhere to the
17 plan review and approval timelines in RCW 90.64.026.

18 (i) Any other decision by the department or an air authority
19 which pursuant to law must be decided as an adjudicative proceeding
20 under chapter 34.05 RCW.

21 (j) Decisions of the department of natural resources, the
22 department of fish and wildlife, and the department that are
23 reviewable under chapter 76.09 RCW, and the department of natural
24 resources' appeals of county, city, or town objections under RCW
25 76.09.050(7).

26 (k) Forest health hazard orders issued by the commissioner of
27 public lands under RCW 76.06.180.

28 (l) Decisions of the department of fish and wildlife to issue,
29 deny, condition, or modify a hydraulic project approval permit under
30 chapter 77.55 RCW.

31 (m) Decisions of the department of natural resources that are
32 reviewable under RCW 78.44.270.

33 (n) Decisions of an authorized public entity under RCW 79.100.010
34 to take temporary possession or custody of a vessel or to contest the
35 amount of reimbursement owed that are reviewable by the hearings
36 board under RCW 79.100.120.

37 (o) Decisions regarding a restriction, order, or penalty issued
38 under chapter 70.--- RCW (the new chapter created in section 18 of
39 this act).

1 (2) The following hearings shall not be conducted by the hearings
2 board:

3 (a) Hearings required by law to be conducted by the shorelines
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW
6 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
7 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110
9 and 90.44.220.

10 (d) Hearings conducted by the department to adopt, modify, or
11 repeal rules.

12 (3) Review of rules and regulations adopted by the hearings board
13 shall be subject to review in accordance with the provisions of the
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 11.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
16 read as follows:

17 (1) The hearings board shall only have jurisdiction to hear and
18 decide appeals from the following decisions of the department, the
19 director, local conservation districts, the air pollution control
20 boards or authorities as established pursuant to chapter 70.94 RCW,
21 local health departments, the department of natural resources, the
22 department of fish and wildlife, the parks and recreation commission,
23 and authorized public entities described in chapter 79.100 RCW:

24 (a) Civil penalties imposed pursuant to RCW 18.104.155,
25 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,
26 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
27 90.64.102.

28 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
29 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
30 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

31 (c) Except as provided in RCW 90.03.210(2), the issuance,
32 modification, or termination of any permit, certificate, or license
33 by the department or any air authority in the exercise of its
34 jurisdiction, including the issuance or termination of a waste
35 disposal permit, the denial of an application for a waste disposal
36 permit, the modification of the conditions or the terms of a waste
37 disposal permit, or a decision to approve or deny an application for
38 a solid waste permit exemption under RCW 70.95.300.

1 (d) Decisions of local health departments regarding the grant or
2 denial of solid waste permits pursuant to chapter 70.95 RCW.

3 (e) Decisions of local health departments regarding the issuance
4 and enforcement of permits to use or dispose of biosolids under RCW
5 70.95J.080.

6 (f) Decisions of the department regarding waste-derived
7 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
8 decisions of the department regarding waste-derived soil amendments
9 under RCW 70.95.205.

10 (g) Decisions of local conservation districts related to the
11 denial of approval or denial of certification of a dairy nutrient
12 management plan; conditions contained in a plan; application of any
13 dairy nutrient management practices, standards, methods, and
14 technologies to a particular dairy farm; and failure to adhere to the
15 plan review and approval timelines in RCW 90.64.026.

16 (h) Any other decision by the department or an air authority
17 which pursuant to law must be decided as an adjudicative proceeding
18 under chapter 34.05 RCW.

19 (i) Decisions of the department of natural resources, the
20 department of fish and wildlife, and the department that are
21 reviewable under chapter 76.09 RCW, and the department of natural
22 resources' appeals of county, city, or town objections under RCW
23 76.09.050(7).

24 (j) Forest health hazard orders issued by the commissioner of
25 public lands under RCW 76.06.180.

26 (k) Decisions of the department of fish and wildlife to issue,
27 deny, condition, or modify a hydraulic project approval permit under
28 chapter 77.55 RCW.

29 (l) Decisions of the department of natural resources that are
30 reviewable under RCW 78.44.270.

31 (m) Decisions of an authorized public entity under RCW 79.100.010
32 to take temporary possession or custody of a vessel or to contest the
33 amount of reimbursement owed that are reviewable by the hearings
34 board under RCW 79.100.120.

35 (n) Decisions regarding a restriction, order, or penalty issued
36 under chapter 70.--- RCW (the new chapter created in section 18 of
37 this act).

38 (2) The following hearings shall not be conducted by the hearings
39 board:

1 (a) Hearings required by law to be conducted by the shorelines
2 hearings board pursuant to chapter 90.58 RCW.

3 (b) Hearings conducted by the department pursuant to RCW
4 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
5 90.44.180.

6 (c) Appeals of decisions by the department under RCW 90.03.110
7 and 90.44.220.

8 (d) Hearings conducted by the department to adopt, modify, or
9 repeal rules.

10 (3) Review of rules and regulations adopted by the hearings board
11 shall be subject to review in accordance with the provisions of the
12 administrative procedure act, chapter 34.05 RCW.

13 NEW SECTION. **Sec. 12.** (1) By June 30, 2024, the department must
14 provide a report to the appropriate committees of the legislature to
15 review and evaluate the processes for chemical action plans and
16 alternatives assessments provided in this act.

17 (2) The report must include recommendations for changes to
18 developing chemical action plans and alternatives assessments;
19 necessary legislative actions to improve the processes; and whether
20 the department should continue developing chemical actions plans and
21 alternatives assessments.

22 (3) This section expires June 30, 2025.

23 NEW SECTION. **Sec. 13.** The legislature finds that:

24 (1) The restrictions on the use of flame retardants in sections
25 14 and 15 of this act represent a logical outcome of the types of
26 evaluative processes that are to be newly formally codified in
27 chapter 70.--- RCW (the new chapter created in section 18 of this
28 act).

29 (2) In 2006, the department of ecology completed a chemical
30 action plan on the class of flame retardants known as polybrominated
31 diphenyl ethers, or PDBEs. This 2006 chemical action plan on the use
32 of flame retardant PBDEs led to a 2007 act, now codified in chapter
33 70.76 RCW, that restricted the use of PBDEs in many types of consumer
34 products, and also motivated an assessment by the departments of
35 health and ecology to evaluate whether safer alternatives existed
36 that could be used to replace the function of PBDE chemicals in
37 certain commercial products, including residential upholstered
38 furniture.

1 (3) A subsequent report, completed in 2015 by the department of
2 ecology at the direction of the legislature, further evaluated
3 publicly available completed assessments of uses of chlorinated and
4 brominated flame retardants. This report included a recommendation
5 that the use of many of these flame retardants should be restricted
6 in certain commercial products.

7 (4) The public health and environmental risks associated with the
8 types of flame retardants restricted in sections 14 and 15 of this
9 act have been, and continue to be, thoroughly evaluated by the
10 departments of health and ecology and considered by the legislature
11 in processes that began with the 2006 chemical action plan on PBDEs.
12 The restrictions of certain uses of these flame retardants in
13 sections 14 and 15 of this act, therefore, represent an appropriate
14 and carefully tailored outcome of the conjoined evaluations that have
15 been undertaken by the legislative and executive branches of
16 Washington state government.

17 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.240
18 RCW to read as follows:

19 Beginning July 1, 2016, no manufacturer, wholesaler, or retailer
20 may manufacture, knowingly sell, offer for sale, distribute for sale,
21 or distribute for use in this state children's products or
22 residential upholstered furniture, as defined in RCW 70.76.010,
23 containing any of the following flame retardants in amounts greater
24 than one thousand parts per million in any product component:

- 25 (1) TDCPP;
- 26 (2) TCEP;
- 27 (3) Decabromodiphenyl ether;
- 28 (4) HBCD;
- 29 (5) Additive TBBPA.

30 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.240
31 RCW to read as follows:

32 (1)(a) By rule, the secretary of the department of health may
33 prohibit the manufacture, sale, distribution for sale, or
34 distribution for use in this state of residential upholstered
35 furniture, as defined in RCW 70.76.010, or children's products
36 containing a flame retardant in any product component in amounts
37 greater than one thousand parts per million that the department has

1 identified as a high priority chemical of high concern for children
2 pursuant to this chapter.

3 (b) After January 1, 2015, a rule that identifies a flame
4 retardant as a high priority chemical of high concern for children
5 must be adopted prior to December 1st of any year, and the
6 restrictions under (a) of this subsection do not take effect before
7 the end of the regular legislative session in the next year.

8 (2) Before the department of health may adopt a rule to restrict
9 a flame retardant that is a high priority chemical of high concern
10 for children, the department of health must submit a report to the
11 legislature no later than at the time of publication of the notice of
12 a rule-making hearing required under RCW 34.05.320. The report to the
13 legislature must contain:

14 (a) A determination whether children or vulnerable populations
15 are likely to be exposed to the chemical directly or indirectly from
16 its use in products. The determination of the department must be made
17 after an evaluation of available information on:

- 18 (i) Levels of the flame retardants in consumer products;
19 (ii) Migration of the flame retardants out of products during and
20 after use; and
21 (iii) Levels of the flame retardants in humans and the
22 environment, including but not limited to the home environment;

23 (b) A review of available toxicity data to evaluate the health
24 concerns for children or vulnerable populations; and

25 (c) A determination of whether a safer alternative, as defined in
26 section 1 of this act, has been identified to meet applicable fire
27 safety standards for residential furniture and children's products by
28 evaluating existing chemical action plans and assessments of safer
29 alternatives that have been completed for flame retardant chemicals.

30 (3) The department of health must identify the sources of
31 information it relied upon in making the determination required in
32 subsection (2) of this section, including peer-reviewed science.

33 (4) This section expires December 31, 2021.

34 **Sec. 16.** RCW 70.240.010 and 2008 c 288 s 2 are each amended to
35 read as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

38 (1) "Children's cosmetics" means cosmetics that are made for,
39 marketed for use by, or marketed to children under the age of twelve.

1 "Children's cosmetics" includes cosmetics that meet any of the
2 following conditions:

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

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

8 (c) Sold in any of the following:

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

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

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

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

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

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

26 (d) Sold in any of the following:

27 (i) A vending machine;

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

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

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

36 (i) Toys;

37 (ii) Children's cosmetics;

38 (iii) Children's jewelry;

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

4 (v) (~~Child car seats~~) A portable infant or child safety seat
5 designed to attach to an automobile seat.

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

7 (i) Batteries;

8 (ii) Slings and catapults;

9 (iii) Sets of darts with metallic points;

10 (iv) Toy steam engines;

11 (v) Bicycles and tricycles;

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

14 (vii) Chemistry sets;

15 (viii) Consumer electronic products, including but not limited to
16 personal computers, audio and video equipment, calculators, wireless
17 phones, game consoles, and hand-held devices incorporating a video
18 screen, used to access interactive software and their associated
19 peripherals;

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

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

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

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

28 (xiii) Roller skates;

29 (xiv) Scooters;

30 (xv) Model rockets;

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

32 (xvii) Pocket knives and multitools.

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

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

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
7 other 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
17 domestic distributor of a ((children's)) product. For the purposes of
18 this subsection, "importer" means the owner of the ((children's))
19 product.

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

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

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

31 (11) "Very bioaccumulative" means having a bioconcentration
32 factor or bioaccumulation factor greater than or equal to five
33 thousand, or if neither are available, having a log Kow greater than
34 5.0.

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

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

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

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

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

7 (15) "Decabromodiphenyl ether" means the chemical
8 decabromodiphenyl ether, chemical abstracts service number 1163-19-5,
9 as of the effective date of this section.

10 (16) "HBCD" means the chemical hexabromocyclododecane, chemical
11 abstracts service number 25637-99-4, as of the effective date of this
12 section.

13 (17) "Additive TBBPA" means the chemical tetrabromobisphenol A,
14 chemical abstracts service number 79-94-7 as of the effective date of
15 the section, in a form that has not undergone a reactive process and
16 is not covalently bonded to a polymer in a product or product
17 component.

18 **Sec. 17.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to
19 read as follows:

20 (1) A manufacturer of products that are restricted under this
21 chapter must notify persons that sell the manufacturer's products in
22 this state about the provisions of this chapter no less than ninety
23 days prior to the effective date of the restrictions.

24 (2) A manufacturer that produces, sells, or distributes a product
25 prohibited from manufacture, sale, or distribution in this state
26 under this chapter shall recall the product and reimburse the
27 retailer or any other purchaser for the product.

28 (3) A manufacturer of (~~children's~~) products in violation of
29 this chapter is subject to a civil penalty not to exceed five
30 thousand dollars for each violation in the case of a first offense.
31 Manufacturers who are repeat violators are subject to a civil penalty
32 not to exceed ten thousand dollars for each repeat offense. Penalties
33 collected under this section must be deposited in the state toxics
34 control account created in RCW 70.105D.070.

35 (4) Retailers who unknowingly sell products that are restricted
36 from sale under this chapter are not liable under this chapter.

37 (5) The sale or purchase of any previously owned products
38 containing a chemical restricted under this chapter made in casual or

1 isolated sales as defined in RCW 82.04.040, or by a nonprofit
2 organization, is exempt from this chapter.

3 NEW SECTION. **Sec. 18.** Sections 1 through 8 and 12 of this act
4 constitute a new chapter in Title 70 RCW.

5 NEW SECTION. **Sec. 19.** This act may be known and cited as the
6 toxics reduction act.

7 NEW SECTION. **Sec. 20.** (1) Section 10 of this act expires June
8 30, 2019.

9 (2) Section 11 of this act expires June 30, 2025.

10 NEW SECTION. **Sec. 21.** Section 11 of this act takes effect June
11 30, 2019.

12 NEW SECTION. **Sec. 22.** If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 2015, in the omnibus appropriations act, this
15 act is null and void.

16 NEW SECTION. **Sec. 23.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

20 Correct the title.

EFFECT: Makes the following changes to the Engrossed Second Substitute House Bill:

(1) Distinguishes between product "distributors" and "manufacturers" by defining "distributors" as entities that import or distribute a product and by defining "manufacturers" as entities that manufacture a product, that control the manufacturing process, or that specify chemical composition of a product;

(2) Exempts product distributors that do not control product formulation from department of ecology orders requiring distributors and manufacturers to assess alternatives to the use of a chemical in a product;

(3) Exempts federally regulated food and beverage packaging, drug and biological product packaging, components of FAA-regulated products, products produced under military specifications, and shipping pallets from the types of products that require a product manufacturer or distributor to respond to information requests and complete an alternatives assessment at the direction of the department of ecology;

(4) Limits the number of chemicals that the department of ecology may select for chemical action plans to up to two every two years;

(5) Requires that the first five chemicals for which the department of ecology initiates chemical action plans must be: (a) Chemicals regulated under the clean water act as human health criteria chemicals; or (b) chemicals that are currently identified by department rule as persistent, bioaccumulative toxics (PBTs);

(6) Requires the department of ecology, when selecting chemicals for a chemical action plan, to consider the water quality impacts of the chemical, the impacts and extent of exposure to a chemical by humans and environmental biota, and to rank chemicals relative to one another based on information about the use, release, and exposure to the chemical;

(7) Extends the period of time from six months to one year for manufacturers and distributors to respond to requests from the department of ecology for information about the use of targeted chemicals in their products;

(8) Requires the department of ecology to consult with stakeholders if a chemical action plan external advisory committee has not yet been formed at the time of a request for information about chemical use to a manufacturer or distributor;

(9) Authorizes manufacturers and distributors to use information that is not specific to Washington state and third-party data in responding to a request for information about a chemical by the department of ecology;

(10) Requires the department of ecology to hold a product's manufacturer primarily responsible for responding to information requests if the manufacturer has a presence in the United States, and authorizes the department of ecology to hold a product distributor responsible for responding to the information request if the manufacturer does not have a presence in the United States;

(11) Prohibits the department of ecology from penalizing a distributor of a product for failing to fulfill an information request if the distributor provides documentation that the distributor does not reasonably have access to the full set of information requested;

(12) Specifies that a distributor's documentation that it does not reasonably have access to requested information must include copies of documents or written communications that demonstrate the distributor has requested relevant information from a manufacturer, a description of steps undertaken by the distributor to respond to the information request, and the signature of a representative attesting to the accuracy of the response;

(13) Requires the department of ecology include in chemical action plans a prioritization of chemical exposure sources and releases based on human health, water quality, environmental impacts, and the cost and feasibility of actions to address sources and releases, and directs the department of ecology to consider this prioritization in making alternative assessment recommendations;

(14) Limits the alternatives assessment authority of the department of ecology to two alternatives assessments recommended in chemical action plans, only one of which may be an alternatives assessment on a PBT chemical, plus an alternatives assessment for the use of polychlorinated biphenyls (PCBs) in pigments and dyes;

(15) Limits the scope of the department of ecology's authority to require alternatives assessments on emerging chemicals that impact human health and the environment to an alternatives assessment for a single type of use of a chemical or a single type of product or product component containing the chemical, while limiting the scope of alternatives assessments on PBTs and water quality chemicals to no

greater breadth of uses, products, or manufacturers or distributors than is necessary to address sources of environmental or human exposures to the chemical;

(16) Eliminates the requirement that the department of ecology complete a summary report at the end of the alternatives assessment process for a chemical;

(17) Authorizes, rather than requires, the department of ecology to submit agency request legislation if an alternatives assessment identifies safer alternatives to the use of a chemical;

(18) Expands the scope of the state purchasing preference for chemicals that do not contain PBTs to encompass any chemicals that the department of ecology identifies by rule as PBTs, rather than chemicals that the department of ecology has identified as PBTs by rule as of the act's 2015 effective date;

(19) Restricts the use of the following five flame retardant chemicals in children's products and residential upholstered furniture in amounts greater than 1,000 parts per million, beginning July 1, 2016: TDCPP, TCEP, Decabromodiphenyl ether, HBCD, and additive TBBPA that has not covalently bonded with a polymer;

(20) Authorizes the department of health to restrict, by rule, flame retardants that the department of ecology identifies as a chemical of high concern for children, in amounts greater than 1,000 parts per million in children's products and residential upholstered furniture;

(21) Requires the department of ecology to complete the adoption of a rule to identify a flame retardant as a high priority chemical of high concern for children by December 1st of a given year, and makes the effective date of any department of health rule to restrict the flame retardant effective no sooner than the end of the regular legislative session the following year;

(22) Requires the department of health, prior to adopting a rule to restrict a flame retardant, to submit a report to the legislature regarding the human health impacts and exposure pathways for the flame retardant; and

(23) Adds an intent section noting the previous evaluations and legislative actions that the state has taken with respect to certain flame retardant chemicals.

--- END ---