
Environment Committee

HB 2632

Brief Description: Limiting public exposure to certain dangerous chemicals through restrictions on chemicals in certain consumer products and improved public disclosure.

Sponsors: Representatives Doglio, Fitzgibbon, Senn, Appleton, Ortiz-Self, McBride, Macri, Tarleton, Hudgins, Ryu, Pollet, Goodman and Stanford.

Brief Summary of Bill

- Adds electronic products and children's electronic products to the scope of products for which annual reporting to the Department of Ecology is required if the product or a product component contains chemicals of high concern for children.
- Restricts the use of organohalogen flame retardants in children's products, residential upholstered furniture, mattresses, and electronics enclosures.

Hearing Date: 1/23/18

Staff: Jacob Lipson (786-7196).

Background:

Children's Safe Products Act.

In 2008 the Legislature passed the Children's Safe Products Act (CSPA), which limits levels of cadmium, lead, and phthalates in children's products that are manufactured, sold, or distributed in Washington. Children's products under the CSPA are defined to exclude consumer or children's electronic products, including personal computers, audio and video equipment, calculators, wireless phones, game consoles, and other electronic equipment.

The CSPA also requires the Department of Ecology (ECY), in consultation with the Department of Health, to identify high priority chemicals of high concern for children (CHCC) using several criteria. By rule, the ECY has adopted a list of 85 CHCCs. The ECY's administrative rules

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allow the addition or removal of a chemical from the CHCC list upon the ECY's adoption of a supplementary rule to add or remove the particular chemical from the CHCC list.

The CSPA requires manufacturers of children's products containing these identified CHCCs to annually report information about the use of the chemicals to the ECY. The annual notice filed with the ECY must include:

- the chemical number of the CHCC used;
- a description of the product or component containing the substance;
- a description of the chemical's function in the product; and
- the amount of the chemical used in each unit of the product.

Manufacturers in violation of restrictions on the use of chemicals regulated under the CSPA, or in violation of reporting requirements associated with the use of chemicals on the CHCC list, are subject to fines of up to \$5,000 for initial violations and up to \$10,000 for subsequent violations. The ECY has rulemaking authority for purposes of implementing, administering, and enforcing the provisions of the CSPA. Manufacturers of products restricted under the CSPA must notify persons that sell their products in Washington regarding the CSPA's requirements 90 days prior to the restrictions taking effect. Manufacturers of restricted products must recall and reimburse retailers and purchasers of restricted products. Retailers are not liable for unknowing sales of restricted products, and used products sold during casual and isolated sales or by nonprofit organizations are not subject to the restrictions on chemicals in products under the CSPA.

Flame Retardants.

Since 2007, certain polybrominated diphenyl ethers (PBDEs) have been restricted from manufacture, distribution, or sale in a variety of consumer products in Washington.

Since July 1, 2017, the CSPA has restricted the use of five flame retardant chemicals in children's products and residential upholstered furniture:

- additive tetrabromobisphenol A (TBBPA);
- hexabromocyclododecane (HBCD);
- tris(1,3-dichloro-2-propyl) phosphate (TDCPP);
- (tris(2-chloroethyl)phosphate) (TCEP); and
- decabromodiphenyl ether.

The five flame retardants restricted under the CSPA, along with PBDEs, share certain commonalities in their chemistry, including a bond between carbon atoms and one of the halogen elements (chlorine, bromine, fluorine, and others) and are part of a broader class of chemicals known as organohalogens.

Summary of Bill:

Beginning January 1, 2019, manufacturers, importers, and distributors of consumer or children's electronics products, including personal computers, audio and video equipment, calculators, wireless phones, game consoles, and other electronic equipment, are required to report annually to the Department of Ecology (ECY) if their products or components of their products contain chemicals of high concern for children (CHCC).

Beginning January 1, 2020, manufacturers, importers, distributors, wholesalers, and retailers may not sell the following products that contain any combination of organohalogen flame retardants in amounts totaling more than 1,000 parts per million:

- mattresses (including mattress pads);
- children's products (including toys, children's jewelry, children's cosmetics, teething or sucking products, and portable car seats);
- electronic enclosures (the plastic housing that encases televisions and computers); and
- residential upholstered furniture (seating products intended for use in a home that consist at least partly of contained cushioning materials).

The ECY rulemaking authority and the CSPA's enforcement and penalty provisions apply to both the disclosure requirements for CHCC in electronic products and the restrictions on organohalogen flame retardants. The following are also applicable to the restrictions on organohalogens in specified products:

- the CSPA's exemptions for casual and isolated sales and nonprofit organization sales of used products;
- the liability limitation for unknowing sales of restricted products by retailers;
- recall and reimbursement by manufacturers for any sales of restricted products; and
- the 90-day period for manufacturers of restricted products to notify retailers or purchasers about the CSPA's restrictions.

Organohalogens are defined as a class of chemicals that include one or more halogen elements bonded to carbon.

Appropriation: None.

Fiscal Note: Requested on January 16, 2018.

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