

**SB 5369 - H AMD 778**

By Representative Doglio

**ADOPTED 04/22/2023**

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that  
4 polychlorinated biphenyls, or PCBs, are a hazardous chemical class  
5 that have been identified as carcinogenic, a developmental toxicant,  
6 toxic to aquatic organisms, and persistent and bioaccumulative.  
7 According to the United States environmental protection agency, PCBs  
8 are probable human carcinogens and may have serious and potential  
9 effects on the immune system, reproductive system, nervous system,  
10 and endocrine system.

11 (2) Humans and other organisms can be exposed to PCBs in a number  
12 of ways. PCBs can be released into the environment from hazardous  
13 waste sites, illegal dumping, or disposal of PCB wastes or PCB-  
14 containing products in areas or landfills not designed to handle  
15 hazardous waste, leaks, or releases from electrical transformers  
16 containing PCBs, and wastewater discharges. Once PCBs are released,  
17 the chemicals do not readily break down in the environment and can  
18 cycle for long periods between air, water, and soil. PCBs can  
19 accumulate in leaves and above-ground parts of plants and food crops,  
20 and they are also taken up into the bodies of small organisms and  
21 fish, resulting in potential exposure for people and organisms that  
22 ingest the fish.

23 (3) In 1979, the United States banned the production of PCBs  
24 under the toxic substances control act. However, the United States  
25 environmental protection agency's regulations implementing the toxic  
26 substances control act for PCBs allow some inadvertent generation of  
27 PCBs to occur in excluded manufacturing processes. These  
28 manufacturing by-product PCBs have been identified in wastewater,  
29 sediments, and air in numerous locations and have been positively  
30 identified in the testing of new products.

31 (4) The legislature finds that the state has done much to address  
32 PCB contamination, including cleanup, permitting, stormwater

1 management, and fish advisories. In addition, the United States  
2 environmental protection agency, Washington state, and the Spokane  
3 tribe of Indians have established PCB water quality standards to  
4 protect human health and the environment. These standards are  
5 critical for addressing release and exposure from legacy and  
6 nonlegacy PCBs. However, the standards cannot be achieved with  
7 currently available water treatment technology if the waste stream  
8 continues to include new sources of PCBs allowable under the toxic  
9 substances control act at levels measured in products such as paints,  
10 inks, and pigments that are billions of times higher than applicable  
11 water quality standards. While the United States environmental  
12 protection agency has restored a human health criteria standard of  
13 seven parts per quadrillion in Washington waters, the toxic  
14 substances control act limit for PCBs in products is an annual  
15 average of 25 parts per million, with a maximum 50 parts per million  
16 adjusted total PCBs. Therefore, the legislature finds that nonlegacy  
17 PCB contamination may most effectively be managed upstream at the  
18 product and process source as opposed to downstream facilities at the  
19 end of the product life cycle. The toxic substances control act  
20 standard for inadvertent PCBs does not reflect current science on  
21 limits needed to protect human health and the environment and is  
22 overdue for revision.

23 (5) While previous industry analysis of toxic substances control  
24 act rule making has asserted negative impacts and infeasibility in  
25 disallowing by-product PCBs, the legislature finds that safer,  
26 feasible, and available alternatives to PCB-containing paints and  
27 printing inks now exist, as determined by the department in its June  
28 2022 *Safer Products for Washington* report. Moreover, since safer and  
29 available products and processes to produce paints and printing inks  
30 do exist, the legislature finds that use of manufacturing processes  
31 resulting in products with PCB by-products is not inadvertent, but  
32 intentional, and constitutes a use of the chemical within the  
33 product.

34 (6) Therefore, the legislature intends to direct the department  
35 of ecology to petition the United States environmental protection  
36 agency to reassess its PCB regulations under the toxic substances  
37 control act.

38 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.350  
39 RCW to read as follows:

1 (1) The department must petition the United States environmental  
2 protection agency to reassess its regulations on excluded  
3 manufacturing processes from prohibitions on manufacturing,  
4 processing, distribution in commerce, and use of PCBs and PCB items  
5 under 40 C.F.R. Sec. 761.3 for the purpose of eliminating or reducing  
6 the presence of PCBs in consumer products.

7 (2) In petitioning the United States environmental protection  
8 agency, the department must include legislative findings in section 1  
9 of this act and information on:

10 (a) Health effects of PCBs;

11 (b) Release and exposure of PCBs including, but not limited to,  
12 concentrations of PCBs measured in consumer products and in state  
13 waters, soils, and fish tissue;

14 (c) Safer alternatives for consumer products that contain PCBs,  
15 including the availability and feasibility of alternatives; and

16 (d) Other relevant data or findings as determined by the  
17 department.

18 (3) The department is not required to generate new data and may  
19 use previously compiled data and findings developed in the  
20 performance of duties under this section.

21 (4) The department may consult with the department of health and  
22 other relevant state agencies in developing the petition under this  
23 section.

24 (5) To the extent practicable, the department must seek  
25 completion of the petition review by January 1, 2025."

26 Correct the title.

EFFECT: Eliminates the requirement that the department of ecology  
adopt a rule under the safer products for Washington law pertaining  
to PCBs in paints and printing inks.

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