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Senate Bill 6530

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State of Washington

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By Senators Regala, Oemig, Tom, Eide, Rockefeller, Kauffman, Keiser, Fraser, McDermott, Jacobsen, Shin, Fairley, Weinstein, Rasmussen, Kline, McAuliffe, Franklin, Kastama, Kohl-Welles, and Kilmer

Read first time 01/17/08. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to the children's safe products act; amending RCW  
2 43.70.660; adding a new chapter to Title 70 RCW; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Research shows that many toys and other  
6 children's products contain toxic chemicals, such as lead, cadmium, and  
7 phthalates that have been shown to cause harm to children's health and  
8 the environment. These chemicals, and others like them, have been  
9 linked to long-term health impacts such as birth defects, reproductive  
10 harm, impaired learning, liver toxicity, and cancer. Because  
11 children's bodies are growing and developing, they are especially  
12 vulnerable to the effects of toxic chemicals. Regulation of toxic  
13 chemicals in children's toys and other products is woefully inadequate.  
14 To protect children's health, it is important to phase out the use of  
15 lead, cadmium, and phthalates in children's toys and other products and  
16 to begin collecting information on other chemicals that are present in  
17 toys and other products to determine whether further action is  
18 required.

1        NEW SECTION.    **Sec. 2.** The definitions in this section apply  
2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "Children's jewelry" means jewelry that is made for, marketed  
4 for use by, or marketed to children under the age of twelve.  
5 Children's jewelry includes jewelry that meets any of the following  
6 conditions:

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

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

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

13        (d) Sold in any of the following:

14        (i) A vending machine;

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

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

21        (2) "Children's product" includes any of the following:

22        (a) Toys;

23        (b) Cosmetics intended for children under the age of twelve;

24        (c) Children's jewelry;

25        (d) A product designed or intended by the manufacturer to help a  
26 child with sucking or teething, to facilitate sleep, relaxation, or the  
27 feeding of a child, or to be worn as clothing by children; or

28        (e) Child car seats.

29        (3) "Cosmetics" includes articles intended to be rubbed, poured,  
30 sprinkled, or sprayed on, introduced into, or otherwise applied to the  
31 human body or any part thereof for cleansing, beautifying, promoting  
32 attractiveness, or altering the appearance, and articles intended for  
33 use as a component of such an article. "Cosmetics" does not include  
34 soap.

35        (4) "Department" means the department of ecology.

36        (5) "High priority chemical" means a chemical identified by an  
37 authoritative governmental entity on the basis of credible scientific  
38 evidence as known to do one or more of the following:

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

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

4 (c) Disrupt the endocrine system;

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

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

8 (f) Be very persistent and very bioaccumulative.

9 (6) "Manufacturer" includes any person, firm, association,  
10 partnership, corporation, governmental entity, organization, or joint  
11 venture that produces a children's product or an importer or domestic  
12 distributor of a children's product.

13 (7) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl  
14 phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate  
15 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

16 (8) "Toy" means a product designed or intended by the manufacturer  
17 to be used by a child at play.

18 (9) "Trade association" means a membership organization of persons  
19 engaging in a similar or related line of commerce, organized to promote  
20 and improve business conditions in that line of commerce and not to  
21 engage in a regular business of a kind ordinarily carried on for  
22 profit.

23 NEW SECTION. **Sec. 3.** Beginning January 1, 2009, no person may  
24 manufacture, knowingly sell, offer for sale, distribute for sale, or  
25 distribute for use in this state a children's product or product  
26 component containing the following:

27 (1) Lead or cadmium at more than .004 percent by weight (forty  
28 parts per million);

29 (2) Phthalates, individually or in combination, at more than .01  
30 percent by weight (one hundred parts per million).

31 NEW SECTION. **Sec. 4.** (1) By January 1, 2009, the department shall  
32 identify high priority chemicals that are of high concern for children  
33 after considering a child's or developing fetus's potential for  
34 exposure to each chemical. In identifying the chemicals, the  
35 department shall include chemicals that meet one or more of the  
36 following criteria:

1 (a) The chemical has been found through biomonitoring studies that  
2 demonstrate the presence of the chemical in human umbilical cord blood,  
3 human breast milk, human urine, or other bodily tissues or fluids;

4 (b) The chemical has been found through sampling and analysis to be  
5 present in household dust, indoor air, drinking water, or elsewhere in  
6 the home environment; or

7 (c) The chemical has been added to or is present in a consumer  
8 product used or present in the home.

9 (2) By January 1, 2009, the department shall identify children's  
10 products or product categories that may contain chemicals identified  
11 under subsection (1) of this section.

12 (3) The department shall submit a report on the chemicals of high  
13 concern to children and the children's products or product categories  
14 they identify to the appropriate standing committees of the  
15 legislature. The report shall include policy options for addressing  
16 children's products that contain chemicals of high concern for  
17 children, including recommendations for additional ways to inform  
18 consumers about toxic chemicals in products, such as labeling.

19 NEW SECTION. **Sec. 5.** (1) Beginning six months after a chemical  
20 has been identified as a chemical of high concern for children under  
21 section 4 of this act, a manufacturer of a children's product, or a  
22 trade organization on behalf of its member manufacturers, shall provide  
23 notice to the department that the manufacturer's product contains a  
24 high priority chemical. The notice must be filed annually with the  
25 department and must include the following information:

26 (a) The name of the chemical used or produced and its chemical  
27 abstracts service registry number;

28 (b) A brief description of the product or product component  
29 containing the substance;

30 (c) A description of the function of the chemical in the product;

31 (d) The amount of the chemical used in each unit of the product or  
32 product component. The amount may be reported in ranges, rather than  
33 the exact amount; and

34 (e) The name and address of the manufacturer and the name, address,  
35 and phone number of a contact person for the manufacturer.

36 (2) The requirements of this section do not apply to drugs approved

1 by the United States food and drug administration or to products or  
2 product components for which federal law governs notice in a manner  
3 that preempts state authority.

4 **Sec. 6.** RCW 43.70.660 and 2001 c 257 s 2 are each amended to read  
5 as follows:

6 (1) The legislature authorizes the secretary to establish and  
7 maintain a product safety education campaign to promote greater  
8 awareness of products designed to be used by infants and children(~~(~~  
9 ~~excluding toys~~~~)~~) that:

10 (a) Are recalled by the United States consumer products safety  
11 commission;

12 (b) Do not meet federal safety regulations and voluntary safety  
13 standards; (~~(or)~~)

14 (c) Are unsafe or illegal to place into the stream of commerce  
15 under the infant crib safety act, chapter 70.111 RCW; or

16 (d) Contain chemicals of high concern for children as identified  
17 under section 4 of this act.

18 (2) The department shall make reasonable efforts to ensure that  
19 this infant and children product safety education campaign reaches the  
20 target population. The target population for this campaign includes,  
21 but is not limited to, parents, foster parents and other caregivers,  
22 child care providers, consignment and resale stores selling infant and  
23 child products, and charitable and governmental entities serving  
24 infants, children, and families.

25 (3) The secretary may utilize a combination of methods to achieve  
26 this outreach and education goal, including but not limited to print  
27 and electronic media. The secretary may operate the campaign or may  
28 contract with a vendor.

29 (4) The department shall coordinate this infant and children  
30 product safety education campaign with child-serving entities  
31 including, but not limited to, hospitals, birthing centers, midwives,  
32 pediatricians, obstetricians, family practice physicians, governmental  
33 and private entities serving infants, children, and families, and  
34 relevant manufacturers.

35 (5) The department shall coordinate with other agencies and  
36 entities to eliminate duplication of effort in disseminating infant and  
37 children consumer product safety information.

1 (6) The department may receive funding for this infant and children  
2 product safety education effort from federal, state, and local  
3 governmental entities, child-serving foundations, or other private  
4 sources.

5 NEW SECTION. **Sec. 7.** (1) A manufacturer of products that are  
6 restricted under this chapter must notify persons that sell the  
7 manufacturer's products in this state about the provisions of this  
8 chapter no less than ninety days prior to the effective date of the  
9 restrictions.

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

14 (3) A manufacturer of children's products in violation of this  
15 chapter is subject to a civil penalty not to exceed five thousand  
16 dollars for each violation in the case of a first offense.  
17 Manufacturers who are repeat violators are subject to a civil penalty  
18 not to exceed ten thousand dollars for each repeat offense. Penalties  
19 collected under this section must be deposited in the state toxics  
20 control account created in RCW 70.105D.070.

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

23 NEW SECTION. **Sec. 8.** (1) Before the prohibitions under section 3  
24 of this act take effect, the department shall prepare and distribute  
25 information to in-state and out-of-state manufacturers, to the maximum  
26 extent practicable, to assist them in identifying products prohibited  
27 for manufacture, sale, or distribution under this chapter.

28 (2) The department must assist in-state retailers in identifying  
29 products restricted under this chapter.

30 (3) The department may require manufacturers to electronically file  
31 the notice required under section 5 of this act to the department that  
32 the manufacturer's product contains a high priority chemical.

33 (4) The department shall develop and publish a web site that  
34 provides consumers with information on the chemicals used in children's  
35 products, the reason the chemical has been identified as a high  
36 priority chemical, and any safer alternatives to the chemical.

1        NEW SECTION.   **Sec. 9.**   The department may adopt rules as necessary  
2   for the purpose of implementing, administering, and enforcing this  
3   chapter.

4        NEW SECTION.   **Sec. 10.**   Sections 1 through 5 and 7 through 9 of  
5   this act constitute a new chapter in Title 70 RCW.

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