
Environment Committee

HB 1319

Brief Description: Regarding the safety of certain children's products.

Sponsors: Representatives Dickerson, Hudgins, Upthegrove, Appleton, Hunt, Eddy, Maxwell, Stanford, Fitzgibbon, Moscoso, Rolfes, Goodman, Green, Van De Wege, Frockt, Kenney and Reykdal; by request of Department of Ecology.

Brief Summary of Bill

- Requires the Department of Ecology to develop a draft list of children's products that should be considered for alternative assessments and requires the Department of Health to prioritize this list.
- Allows the Department of Ecology to issue administrative orders to require manufacturers of children's products identified as needing an alternatives assessment to conduct an assessment.
- Makes other changes to the Children's Safe Products Act, including adding definitions, creating exemptions, and modifying certain notice requirements.

Hearing Date: 1/27/11

Staff: Courtney Barnes (786-7194).

Background:

Children's Safe Products Act.

In 2008, the Legislature passed the Children's Safe Products Act (CSPA), which limits certain chemicals in children's products and requires the Department of Ecology (DOE) to identify chemicals of high concern for children.

Limitations on Lead, Cadmium, and Phthalates. The CSPA limits the amount of Lead, Cadmium, and Phthalates allowed in children's products sold in this state after July 1, 2009

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

[RCW 70.240.020]. These standards were substantially preempted when Congress passed the Consumer Product Safety Improvement Act (CPSIA) in July 2008.

Identifying Chemicals of High Concern. The CSPA requires the DOE, in consultation with the Department of Health (DOH), to develop a list of priority chemicals of high concern for children [RCW 70.240.030]. The DOE has identified 59 chemicals of high concern for children and is in the process of developing rules pursuant to its rule-making authority under the CSPA. Six months after the DOE adopts rules under the CSPA, a manufacturer of a children's product must provide an annual notice to the DOE that the manufacturer's product contains a high priority chemical [RCW 70.240.040]. Manufacturers who fail to comply with the requirements of the CSPA are subject to civil penalties.

Report to the Legislature. The CSPA required the DOE to report to the Legislature on chemicals of high concern for children and their presence in children's products or product categories. This report, submitted July 2009, identifies policy options for addressing children's products that contain chemicals of high concern for children.

Summary of Bill:

Draft List of Products for Alternatives Assessment.

The DOE is required to develop a draft list of products that should be considered for alternatives assessments after reviewing and evaluating the information provided by manufacturers of chemicals of high concern for children (chemical). The DOE must develop the list of products based on the following criteria:

- degree of toxicity of a chemical present in the product, product category, or product component;
- extent of individual and population exposure to chemicals;
- evidence of the availability of safer alternatives to the chemical for the product; and
- whether the sale of the product has been banned or limited by another state.

The DOE must repeat this review using additional information submitted by manufacturers of chemicals by April 2014 and no more frequently than every two years thereafter.

The DOH must prioritize the DOE's draft list of products to be considered for an alternatives assessment within 12 months of receiving the draft list from the DOE. The DOH must prioritize the list based on:

- the potential hazard from potential exposure to the chemical through direct or indirect contact with the product;
- the likelihood that a chemical will be released from the product into a child's environment; and
- the number of units of the product sold in the state or nationally.

If necessary, the DOH may request the DOE to order manufacturers to submit additional information for the DOH to complete the list prioritization process.

Alternatives Assessment.

The DOE may identify priority products (including product categories and product components) requiring an alternatives assessment consistent with the DOH's prioritization and in consideration of public comment. The DOE must develop guidelines for conducting alternative assessments with the assistance of the DOH, technical experts, and existing guidance from other jurisdictions.

The DOE may issue administrative orders to require manufacturers of products identified as needing an alternatives assessment to conduct an alternatives assessment. Manufacturers must submit alternatives assessment within the time frames established in the administrative order. Manufacturers may work with other manufacturers of similar products containing the same chemical to complete a single alternatives assessment.

At a minimum, an alternatives assessment must include the following elements:

- availability of alternatives to chemicals in priority products;
- information on the persistence of, and potential for, bioaccumulation of any alternatives;
- information relevant to determining the potential hazard to children's health;
- information on the environmental impacts of any alternatives; and
- any additional information the manufacturer deems relevant to the assessment.

The DOE must provide at least 60 days for public input on all alternatives assessments submitted to the DOE. In consultation with the DOH, the DOE must review alternatives assessments and other relevant information to determine if additional actions are required to protect children's health. The DOE must submit its findings to the Legislature.

Exemptions.

An exemption from reporting on chemicals or conducting alternatives assessments is available to: (1) manufacturers of children's products with annual gross sales of less than \$1 million; or (2) manufacturers of children's products that have a current label from the United States Environmental Protection Agency (EPA) Design for the Environment Program.

Other.

Civil orders and penalties issued under the CSPA are appealable to the Pollution Control Hearings Board.

A manufacturer of a children's product who is required to provide an annual notice to the DOE that the manufacturer's product contains a high priority chemical may provide this notice through a DOE-approved and certified third party.

The bill adds definitions to the CSPA for the following terms: children, priority product, product category, product component, and used product. Children's products do not include used products.

Appropriation: None.

Fiscal Note: Available.

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