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**SUBSTITUTE SENATE BILL 6540**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** Senate Energy, Environment & Telecommunications (originally sponsored by Senator Ericksen)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to banning tris(1,3-dichloro-2-propyl)phosphate and  
2 tris(2-chloroethyl)phosphate flame retardants in children's products  
3 and residential upholstered furniture; amending RCW 70.240.050; and  
4 adding new sections to chapter 70.240 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.240 RCW  
7 to read as follows:

8 Beginning July 1, 2015, no manufacturer, wholesaler, or retailer  
9 may manufacture, knowingly sell, offer for sale, distribute for sale,  
10 or distribute for use in this state children's products or residential  
11 upholstered furniture, as defined in RCW 70.76.010, containing TDCPP  
12 (tris(1,3-dichloro-2-propyl)phosphate), chemical abstracts service  
13 number 13674-87-8, as of the effective date of this section, or TCEP  
14 (tris(2-chloroethyl)phosphate), chemical abstracts service number 115-  
15 96-8, as of the effective date of this section, in amounts greater than  
16 one hundred parts per million in any product component.

17 **Sec. 2.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to read  
18 as follows:

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

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

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

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

18 (5) The sale or purchase of any previously owned product containing  
19 a chemical restricted under this chapter made in casual or isolated  
20 sales as defined in RCW 82.04.040, or by a nonprofit organization, is  
21 exempt from this chapter.

22 NEW SECTION. Sec. 3. A new section is added to chapter 70.240 RCW  
23 to read as follows:

24 (1) In order to carry out its duty under the children's safe  
25 products act, the department is authorized to promote the development  
26 of safer consumer products, through the use of sound, scientific  
27 principles and working in cooperation with other states, governmental  
28 and nongovernmental entities, industry, scientific experts, and the  
29 public through a recognized clearinghouse.

30 (2)(a) The department must participate with other states,  
31 governmental and nongovernmental entities, industry, and the public to:

32 (i) Increase its understanding and use of available credible scientific  
33 data on chemicals, including information on uses, exposures, hazards,  
34 risks, safety assessments, existing state and federal regulatory  
35 programs, and potential health and environmental concerns; (ii) produce  
36 and inventory information on safer alternatives to specific uses of  
37 chemicals of concern and to provide technical assistance to businesses

1 and consumers related to safer alternatives; and (iii) undertake other  
2 activities in support of state programs to promote the protection of  
3 human health and the environment.

4 (b) In order to achieve the goals of this section and the state's  
5 participation in a collaborative effort with other states, the process  
6 must include: (i) The collection and dissemination of information  
7 regarding chemical hazards and risks; (ii) the collection and  
8 dissemination of information regarding the use of chemicals in child  
9 care products; (iii) the assessment of alternatives to chemicals and  
10 their use in products; and (iv) public education.

11 (c) The clearinghouse must be the repository for information  
12 collected.

13 (3) In examining existing chemicals, producing inventories,  
14 providing technical assistance, or in promoting safer alternatives, the  
15 department must ensure the completion of exposure and risk assessments  
16 for each chemical considered. A failure to consider exposure and risk  
17 in addition to hazard will lead to an overly precautionary and false  
18 outcome in the development of any effort to categorize and promote  
19 safer chemicals.

20 (4) Any recommendations, developed through the state's  
21 participation in the process described in this section, must be  
22 reported to the appropriate committees of the senate and house of  
23 representatives for consideration.

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