



# House of Representatives

General Assembly

**File No. 670**

February Session, 2008

Substitute House Bill No. 5601

*House of Representatives, April 17, 2008*

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT BANNING CHILDREN'S PRODUCTS CONTAINING LEAD, PHTHALATES OR BISPHENOL-A.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 21a-335 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2009*):

4 (e) "Hazardous substance" means: (1) (A) Any substance or mixture  
5 of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is  
6 a strong sensitizer, (v) is flammable or combustible, or (vi) generates  
7 pressure through decomposition, heat or other means, if such  
8 substance or mixture of substances may cause substantial personal  
9 injury or substantial illness during or as a proximate result of any  
10 customary or reasonably foreseeable handling or use, including  
11 reasonably foreseeable ingestion by children; (B) any substances which  
12 the administrator by regulation finds meet the requirements of  
13 subdivision (1) (A) of this subsection pursuant to the provisions of  
14 subsections (b) and (c) of section 21a-336; (C) any substance classified

15 as a hazardous substance pursuant to federal regulations adopted  
16 under the authority of the federal Hazardous Substances Act (15 USC  
17 1261 et seq.); (D) any radioactive substance, if, with respect to such  
18 substance as used in a particular class of article or as packaged, the  
19 administrator determines by regulation that the substance is  
20 sufficiently hazardous to require labeling in accordance with this  
21 section and sections 21a-336 to 21a-346, inclusive, in order to protect  
22 the public health; (E) any toy or other article (i) intended for use by  
23 children which the administrator by regulation determines in  
24 accordance with subsection (a) or (b) of section 21a-336 presents an  
25 electrical, mechanical or thermal hazard, (ii) marketed for the use of  
26 children under the age of twelve years, containing lead in  
27 concentrations exceeding forty parts per million, or Di(2-ethylhexyl)  
28 phthalate (DEHP), dibutylphthalate (DBP) or butyl benzyl phthalate  
29 (BBP), in concentrations exceeding one-tenth of one per cent, or (iii)  
30 capable of being put in a child's mouth, containing Diisononyl  
31 phthalate (DINP), diisodecyl phthalate (DIDP) or di-n-octylphthalate  
32 (DnOP), in concentrations exceeding one-tenth of one per cent or  
33 containing bisphenol-A; (2) "hazardous substance" shall not apply to  
34 economic poisons subject to the federal Insecticide, Fungicide and  
35 Rodenticide Act or chapter 441 nor to foods, drugs and cosmetics  
36 subject to chapter 418, nor to substances intended for use as fuels when  
37 stored in containers and used in the heating, cooking or refrigeration  
38 system of a house, but such term shall apply to any article which is not  
39 itself an economic poison within the meaning of the federal Insecticide,  
40 Fungicide and Rodenticide Act or said chapter 441 but which is a  
41 hazardous substance within the meaning of subdivision (1) of this  
42 subsection by reason of bearing or containing such an economic  
43 poison; and (3) "hazardous substance" shall not include any source  
44 material, special nuclear material or by-product material as defined in  
45 the Atomic Energy Act of 1954, as amended, and regulations issued  
46 pursuant thereto by the Atomic Energy Commission.

47 Sec. 2. (NEW) (*Effective from passage*) The Commissioner of  
48 Environmental Protection may participate in an interstate  
49 clearinghouse to (1) classify chemicals existing in commercial goods

50 into one of four categories, those of: (A) High concern, (B) moderate  
51 concern, (C) low concern, or (D) unknown concern; (2) organize and  
52 manage available data on chemicals, including, but not limited to,  
53 information on uses, hazards and environmental concerns associated  
54 with chemicals; (3) produce and inventory information on safer  
55 alternatives to specific uses of chemicals and model policies and  
56 programs related to such alternatives; (4) provide technical assistance  
57 to businesses and consumers relating to safer chemicals; and (5) other  
58 activities related to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	21a-335(e)
Sec. 2	<i>from passage</i>	New section

**APP**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

## OFA Fiscal Note

### State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Consumer Protection, Dept.	GF - Cost	160,000	123,000
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	See Below	See Below
Department of Environmental Protection	GF - Cost	3,500	3,600

Note: GF=General Fund

**Municipal Impact:** None

### Explanation

The bill results in a cost to the Department of Consumer Protection of approximately \$160,000 in FY 09 and \$123,000 in FY 10. The cost in FY 09 includes two Consumer Protection Inspectors (\$109,000) plus other expenses (\$14,000) and one-time equipment (\$37,000). The cost of personnel and other expenses will continue into FY 10 and beyond. The additional personnel and related equipment is necessary due to the increased standards for lead safety contained within the bill. Additional fringe benefit costs of approximately \$63,000 per year are associated with the two positions.

The bill could result in a cost to the Department of Environmental Protection (DEP) of about \$3,500 in FY 09 and \$3,600 in FY 10 since it allows the commissioner to participate in an interstate clearinghouse.

sHB 5021, the budget bill as favorably reported by the

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State

Appropriations Committee, includes \$250,000 in FY 09 for the purposes of the clearinghouse and \$160,000 for the purposes of additional staff and related other expenses within the Department of Consumer Protection.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

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**OLR Bill Analysis****sHB 5601*****AN ACT BANNING CHILDREN'S PRODUCTS CONTAINING LEAD, PHTHALATES OR BISPHENOL-A.*****SUMMARY:**

This bill (1) bans children's toys and articles that contain lead and certain other chemical compounds and (2) authorizes the Department of Environmental Protection (DEP) commissioner to take part in an interstate clearinghouse to classify chemicals according to the risks they pose.

EFFECTIVE DATE: July 1, 2009, except the interstate clearinghouse provision is effective upon passage.

**BAN ON CERTAIN TOYS AND OTHER CHILDREN'S PRODUCTS**

The law prohibits the introduction or delivery into commerce of a banned hazardous substance (CGS § 21a-337). By law, this includes a toy or other article intended for children's use that contains a hazardous substance (CGS § 21a-335(p)). The bill specifically defines as a hazardous substance in this context, a toy or other article:

1. marketed for children age 12 or younger containing more than (a) 40 parts per million (ppm) of lead, or (b) di(2-ethylhexyl) phthalate (DEHP), dibutylphthalate (DBP), or butyl benzyl phthalate (BBP) in concentrations greater than one-tenth of 1%; or
2. capable of being put in a child's mouth, containing (a) diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octylphthalate (DnOP), in concentrations greater than one-tenth of 1%; or (b) bisphenol-A.

By law, a first-time violation is a class C misdemeanor, punishable by up to three months in prison, a fine of up to \$500, or both. A subsequent offense or offense committed with intent to defraud or mislead is an unclassified misdemeanor punishable by up to one year in prison, a fine of up to \$3,000, or both.

## **INTERSTATE CLEARINGHOUSE**

The bill authorizes the commissioner to participate in an interstate clearinghouse to (1) classify chemicals used in commercial products according to whether they are of high, moderate, low, or unknown concern and (2) organize and manage available data on chemicals. The data must include information on their use, hazards, and environmental concerns. The commissioner, through the clearinghouse, may also (1) produce and inventory information on (a) safe alternatives to specific chemical uses and (b) model policies and programs related to these alternatives and (2) provide technical assistance to businesses and consumers regarding safer chemical alternatives. She may participate in other related activities.

## **BACKGROUND**

### ***Bisphenol-A***

Bisphenol-A is an industrial chemical used to make polycarbonate plastics found in such products as beverage containers, compact discs, protective food can linings, plastic dinnerware, and epoxy resins. In laboratory animal tests, it has been shown to have hormone-like effects on the reproductive system.

### ***Phthalates***

Phthalates are a group of chemicals used primarily to add flexibility to plastics. DEHP, for example, is used in polyvinyl chloride (PVC) plastics, including medical supplies and tubing. Tests of laboratory animals have shown that exposure to DEHP can cause adverse effects on development and reproduction. The European Parliament has banned the use of DEHP, DBP, and BBP in children's toys or childcare articles. It has restricted the use of DINP, DIDP, and DNOP to toys and childcare articles that cannot be placed in the mouth.

**Legislative History**

The House referred the bill (File 110) to the Appropriations Committee, which eliminated provisions requiring the (1) DEP commissioner to compile a list of harmful chemicals and (2) UConn Board of Trustees to establish an Innovation Institute to help Connecticut industries evaluate hazardous substances. It also (1) eliminated language restricting the ban on certain items capable of being placed in a child’s mouth to those items marketed for the use by children under age three, (2) postponed the effective date of the product ban by six months, (3) moved up the date that the commissioner may take part in the clearinghouse, and (4) made conforming changes.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable  
Yea 19 Nay 9 (03/07/2008)

Appropriations Committee

Joint Favorable Substitute  
Yea 36 Nay 14 (04/01/2008)