



House of Representatives

General Assembly

File No. 612

February Session, 2010

Substitute House Bill No. 5130

House of Representatives, April 21, 2010

The Committee on General Law reported through REP. SHAPIRO of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHILD SAFE PRODUCTS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section
2 and section 2 of this act:

3 (1) "Priority chemicals" means chemicals identified by a state
4 agency, federal agency, accredited research university or through
5 scientific evidence deemed authoritative by the Commissioner of
6 Public Health known to have one or more of the following
7 characteristics: (A) Causes cancer, genetic damage or reproductive
8 harm; (B) disrupts the endocrine system; (C) is persistent,
9 bioaccumulative and toxic; or (D) is very persistent and very
10 bioaccumulative;

11 (2) "Persistent" means a substance, including, but not limited to, a
12 heavy metal, that remains unaffected in the environment;

13 (3) "Bioaccumulative" means a substance that travels up the food

14 chain due to its tendency to be soluble in fat but not in water;

15 (4) "Toxic" means poisonous to animals, including humans;

16 (5) "Very persistent" means a substance, including, but not limited
17 to, a heavy metal, that has: (A) A half-life in soil or sediment of greater
18 than one hundred eighty days; or (B) a half-life greater than sixty days
19 in water;

20 (6) "Very bioaccumulative" means having a bioconcentration factor
21 or bioaccumulation factor greater than or equal to five thousand, or if
22 neither are available, having a log Kow greater than 5.0;

23 (7) "Background contamination" means the total of the extraneous
24 particles of a priority chemical which are introduced in the process of
25 obtaining, storing, moving, transferring and analyzing a children's
26 product sample.

27 (b) The Commissioner of Public Health, in consultation with the
28 Commissioners of Environmental Protection and Consumer
29 Protection, may adopt regulations, in accordance with the provisions
30 of chapter 54 of the general statutes, to: (1) Establish a list of not more
31 than five priority chemicals; and (2) to prohibit any manufacturer,
32 distributor, wholesaler or retailer from manufacturing, knowingly
33 selling, distributing for sale or distributing for use in this state any
34 children's product, as defined in section 21a-335 of the general statutes,
35 or component of a children's product that contains any chemical that is
36 listed for a period of three years or longer on the priority chemical list
37 developed pursuant to subdivision (1) of this subsection.

38 (c) In determining which chemicals to list as priority chemicals
39 pursuant to subdivision (1) of subsection (b) of this section, the
40 Commissioner of Public Health shall consider inclusion of those
41 chemicals designated as chemicals of high concern by an interstate
42 clearinghouse concerning chemicals, as described in section 22a-902 of
43 the general statutes. The Commissioner of Public Health, in
44 consultation with the Commissioners of Environmental Protection and

45 Consumer Protection, may amend such regulations, annually, to add
46 not more than one additional chemical in such year to such priority
47 chemical list as necessary.

48 (d) Regulations adopted pursuant to subdivision (2) of subsection
49 (b) of this section may authorize the commissioner to require a
50 manufacturer, distributor, wholesaler or retailer, as applicable, to
51 provide upon request a certificate of independent, third-party testing
52 to determine whether such children's product contains any such
53 priority chemical. Such regulations shall not prohibit the manufacture,
54 sale, distribution for sale or distribution for use of a children's product
55 on the sole basis that such children's product contains a priority
56 chemical in: (1) A de minimis amount that cannot be avoided due to
57 background contamination; or (2) a component of such children's
58 product, provided such component is not accessible to children
59 because such component is covered or contained in a casing and will
60 not become physically exposed through the normal and reasonably
61 foreseeable use of such children's product. No regulation adopted
62 pursuant to subdivision (2) of subsection (b) of this section shall
63 prohibit the manufacture, sale, distribution for sale or distribution for
64 use of any drug or packaging for such drug intended for use in
65 humans or animals, as defined in 21 USC 321, that is manufactured or
66 distributed in a manner consistent with the requirements of the federal
67 Food, Drug and Cosmetic Act or the Public Health Service Act.

68 Sec. 2. (NEW) (*Effective from passage*) (a) On or before July 1, 2011,
69 and annually thereafter, the Commissioner of Public Health shall,
70 within existing budgetary resources, provide a written report to the
71 joint standing committees of the General Assembly having cognizance
72 of matters relating to public health, the environment and consumer
73 protection, in accordance with the provisions of section 11-4a of the
74 general statutes. Such report shall contain: (1) A description of the
75 progress made towards the adoption of the regulations authorized
76 pursuant to subsection (b) of section 1 of this act; (2) a detailed list of
77 chemicals on the priority chemicals list specified in subdivision (1) of
78 subsection (b) of section 1 of this act, if any; (3) a detailed list of all

79 chemicals being considered for placement on such list; (4) any scientific
 80 data or other information supporting or not supporting the inclusion
 81 of such chemicals on such list; and (5) possible alternative chemicals or
 82 substances that may be substituted in lieu of any chemicals included or
 83 considered for placement on such list.

84 (b) The most current version of the report required pursuant to
 85 subsection (a) of this section shall be posted on the Department of
 86 Public Health's Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires the Department of Public Health to provide a written report to the General Assembly regarding its progress in regulating priority chemicals in child products, does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5130*****AN ACT CONCERNING CHILD SAFE PRODUCTS.*****SUMMARY:**

This bill phases out the use of certain chemicals in children's products. It authorizes the Department of Public Health (DPH) commissioner, in consultation with other agencies, to adopt regulations establishing a list of priority chemicals that are of high concern to children's health and development. The chemicals must meet certain criteria for inclusion on the list, which the commissioner may expand over time.

Under the bill, manufacturers, distributors, wholesalers, and retailers are prohibited from manufacturing, knowingly selling or distributing children's products that have been on the list for at least three years. The regulations may allow DPH to require independent, third-party testing in certain situations.

EFFECTIVE DATE: Upon passage

PRIORITY CHEMICALS LIST***Definitions***

The bill defines "priority chemicals" as those identified by a state or federal agency, accredited research university, or through scientific research considered authoritative by the DPH commissioner as known to have one or more of the following characteristics: (1) causes cancer, genetic damage, or reproductive harm; (2) disrupts the endocrine system; (3) is persistent, bioaccumulative, and toxic; or (4) is very persistent and very bioaccumulative.

"Persistent" means a substance, including heavy metal that remains unaffected in the environment. "Bioaccumulative" means a substance

that travels up the food chain due to its tendency to be soluble in fat but not in water.

“Very persistent” means a substance, including a heavy metal, that has a half-life (1) greater than 180 days in soil or sediment or (2) greater than 60 days in water. “Very bioaccumulative” means having a bioconcentration factor or bioaccumulation factor greater than or equal to 5,000 or, if neither are available, having a log Kow greater than 5.0. (For some substances, bioaccumulation potential can be predicted based on its relative solubility in octanol (representing fatty tissue) and water. This is expressed as the logarithm of the octanol-water partition coefficient, i.e., log Kow. A substance with a log Kow higher than three has a greater preference for fatty tissue and therefore a high bioaccumulation potential.)

“Background contamination” means the total of the extraneous particles introduced in the process of obtaining, storing, moving, transferring, and analyzing a children’s product sample.

Regulations

Under the bill, the DPH commissioner, in consultation with the departments of Environmental Protection (DEP) and Consumer Protection (DCP) commissioners, may adopt regulations to (1) establish a list of up to five priority chemicals and (2) prohibit any manufacturer, distributor, wholesaler, or retailer from manufacturing, knowingly selling, or distributing for sale or use, in this state, any children’s product or a component of such product that contains a chemical listed for at least three years on the priority list.

The DPH commissioner must consider including on the list those chemicals designated as chemicals of high concern by an interstate clearinghouse concerning chemicals. The DPH commissioner, in consultation with the DEP and DCP commissioners, may annually amend the regulations to add not more than one additional chemical to the priority list each year.

Independent Third-Party Testing

Under the bill, the required regulations may authorize the DPH commissioner to require the manufacturer, distributor, wholesaler, or retailer to provide, upon request, a certificate of independent, third-party testing to determine if the children's product contains any listed priority chemical. The regulations must not prohibit the manufacture, sale, or distribution for sale or use of a children's product solely because the product contains a priority chemical (1) in a de minimus amount that cannot be avoided due to background contamination or (2) in a component of the product, if the component is not accessible to a child because it is covered or contained in a casing and will not become physically exposed through the product's normal and reasonably foreseeable use.

The regulations cannot prohibit the manufacture, sale, or distribution for sale or use of any chemical present in or used in producing or packaging any drug intended for human or animal use if its manufacture or distribution is consistent with the federal Food, Drug and Cosmetic Act or the Public Health Service Act.

Report

By July 1, 2011 and annually afterward, the bill requires the DPH commissioner, within existing budgetary resources, to provide a written report to the Public Health, Environment, and General Law committees. It must include (1) information on the progress in adopting the priority chemicals regulations; (2) a detailed list of the chemicals on the list, if any; (3) a detailed list of chemicals being considered for the list; (4) any scientific data or other information supporting or not supporting a list inclusion; and (5) possible alternative chemicals or substances that may be substituted for those included in or considered for the list.

The most recent report must be posted on DPH's website.

BACKGROUND

Legislative History

The House referred the bill (File 214) to the General Law Committee

on Aril 5. On April 12, that committee favorably reported a substitute bill that (1) defines “priority chemicals” and a number of related terms; (2) authorizes, rather than requires, DPH to adopt regulations establishing a priority chemical list and annual updating; (3) adds the reporting requirement; and (4) specifies that that the certificate of third-party testing is provided “upon request.”

Children’s Product

The law defines “children’s product” as a consumer product designed or intended primarily for children under age 12, including clothing, accessories, jewelry, decorative objects, candy, food, dietary supplements or other edible or chewable items, toys, furniture, or other articles used by or intended to be used by children (CGS § 21a-335(v)).

Interstate Clearinghouse Concerning Chemicals

The law authorizes the DEP commissioner, within available appropriations, 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 (PA 08-106; CGS § 22a-902).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 27 Nay 2 (03/15/2010)

General Law Committee

Joint Favorable Substitute
Yea 9 Nay 8 (04/12/2010)