



# OLR RESEARCH REPORT

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## **2013 BILL ON CHILDREN'S PRODUCTS AND CHEMICALS OF HIGH CONCERN**

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You asked several questions about [HB 6526](#), An Act Concerning Children's Products and Chemicals of High Concern, from the 2013 legislative session, which required, among other things, creating and maintaining a list of priority chemicals of high concern to children. Specifically, you requested a summary of the bill and asked:

1. the types of chemicals that would be included in the list,
2. the administrative cost to create and maintain it, and
3. whether other states maintain such lists.

### **SUMMARY**

[HB 6526](#) required the Department of Public Health (DPH) commissioner, in consultation with the Department of Energy and Environmental Protection (DEEP) and Department of Consumer Protection (DCP) commissioners, to create and maintain a list of priority chemicals of high concern to children. It required the commissioners to identify at least two chemicals for inclusion on the list by January 1, 2014, with at least two more identified every two years afterward. They could include chemicals on similar lists from Maine and Washington or that are present in human tissues or fluids, the home environment, or consumer products used in the home.

The bill also required children's products manufacturers, or trade organizations on their behalf, to (1) report to DPH when any of their products contain a priority chemical and (2) submit a plan for removing the chemicals. The reporting requirement applied to any priority chemical added during the manufacturing process to give a specific characteristic, appearance, or quality, or to perform a specific function (an "intentionally added chemical"). The bill allowed the DPH commissioner to assess a fee on manufacturers or the trade associations to pay for processing the report and plan information.

Among other things, the bill (1) required the DPH commissioner to report to the Public Health Committee on the list's status and the manufacturers reporting to DPH and (2) allowed her to participate in an interstate chemical clearinghouse.

The bill did not specify the chemicals to be included, but set criteria for the commissioners to consider when deciding whether to include a chemical on the list. For example, it allowed them to consider chemicals on similar lists from Maine or Washington. (Thirty-three chemicals are on both states' lists.)

According to the bill's Fiscal Note prepared by the legislature's Office of Fiscal Analysis (OFA), creating and maintaining the list of chemicals would require (1) hiring a toxicologist in DPH to create and update the list and (2) purchasing equipment and supplies, requirements that would have cost \$119,600 and \$118,850 in FYs 14 and 15, respectively.

We identified three states — Maine, Minnesota, and Washington — with laws requiring the development of a list of chemicals similar to the list described in [HB 6526](#). Each state sets criteria for putting chemicals on their list. Although the criteria vary, each state requires the chemicals to have been found in human tissues or fluids or the household environment to be included on the list.

Maine's list contains 49 chemicals, and the law limits the number of chemicals on the list to 70. To be included on Minnesota's priority chemical list, a chemical must be a high-production volume chemical, and only 9 chemicals are included on this list. Washington's list contains 66 chemicals, and manufacturers of children's products using these chemicals must annually report to the state's ecology department. Attachment 1 compares [HB 6526](#) and each state's law.

## **HB 6526: AAC CHILDREN'S PRODUCTS AND CHEMICALS OF HIGH CONCERN**

### ***Priority Chemical List***

[HB 6526](#) required the DPH commissioner, in consultation with the DEEP and DCP commissioners, to create and maintain a list of priority chemicals that are of high concern to children, taking into account a child's or developing fetus' potential for exposure to each chemical.

Under the bill, "priority chemicals" are those identified by the DPH commissioner that, based on credible scientific evidence, are known to:

1. harm normal fetal or child development or cause other developmental toxicity;
2. cause cancer, genetic damage, or reproductive harm;
3. disrupt the endocrine system;
4. damage the nervous or immune systems, organs, or cause other systemic toxicity;
5. be persistent, bioaccumulative, and toxic; or
6. be very persistent and very bioaccumulative.

(Persistence refers to the ability of a chemical to resist degradation. Bioaccumulation refers to the accrual of substances or other organic chemicals in an organism.)

The bill required the DCP, DEEP, and DPH commissioners to identify the first two chemicals for inclusion on the list by January 1, 2014. Afterward, at least two more chemicals had to be identified every two years. The bill allowed the commissioners to include chemicals that (1) are on similar lists in Maine and Washington; (2) have been found, through certain studies, to be present in human bodily tissues or fluids or in the home environment; or (3) are added to or present in a consumer product used in the home. It required the list to be reviewed and revised at least biennially and have other chemicals considered for inclusion.

## ***Disclosure Notification Reports and Product Innovation Plans***

The bill required children's product manufacturers, or trade organizations on their behalf, to provide a Disclosure Notification Report to DPH if any of its children's products contain an intentionally added priority chemical within one year after a chemical was placed on the priority chemical list, and biennially after that. These reports had to include information about the (1) chemical, (2) product or component containing the chemical, and (3) manufacturer. The bill gave the DPH commissioner the authority to allow manufacturers to submit reports to the Interstate Chemicals Clearinghouse (IC2), an association of governments that promotes a clean environment, healthy communities, and a vital economy through the development and use of safer chemicals and products.

Under the bill, these manufacturers also had to submit a plan to remove chemicals on the list from their children's products within two years after the chemicals were placed on the list. The plan had to include (1) a timeframe for removing the chemical, (2) an affidavit stating that any replacement chemical is less hazardous to children's health, or (3) a plan and acceptable timeline to research and identify less hazardous substitute chemicals if none exist at that time. The bill allowed the DPH commissioner to authorize IC2 to review plans and determine their adequacy.

Under the bill, the DPH commissioner had to approve a plan if it satisfied the criteria described above and met a three-year deadline to phase out the chemical. If a plan failed to meet the criteria, the commissioner had to recommend legislation (1) requiring product labeling, (2) forfeiting sales of the manufacturer's children's products in the state, or (3) imposing civil penalties.

The bill allowed manufacturers selling children's products with a priority chemical to consult with the Chemical Innovation's Institute (CII) or another green chemistry research institution in Connecticut to identify a less hazardous replacement chemical. (The legislature established CII at the UConn Health Center in 2010 to, in part, help businesses seeking alternatives to chemicals that are harmful to public health and the environment ([PA 10-164](#), codified in [CGS § 22a-903](#)).

Among other things, the bill allowed the DPH commissioner to impose a fee on manufacturers or their trade associations to cover the costs of processing the report and plan information, except those that submit the plan within a certain timeframe and certify in the plan that the priority chemical was removed and no other chemical was substituted for it. The commissioner also had to report biennially on the list's status and manufacturers' reports and plans.

## **CHEMICAL LIST COMPOSITION**

The bill did not specify what chemicals would be included in the list of priority chemicals, but, as described above, required the DCP, DEEP, and DPH commissioners to identify the chemicals and provided direction for doing so. Specifically, they could include chemicals that (1) were on similar lists in Maine and Washington or (2) met certain criteria on the chemicals' presence in the human body or home environment.

Maine's list contains 49 chemicals and Washington's list contains 66 (see below). Thirty-three chemicals are included on both lists, including Formaldehyde, Benzene, Vinyl chloride, Tetrabromobisphenol A, Styrene, Tris(2-chloroethyl) phosphate, Phenol, Mercury and Mercury compounds, Arsenic and Arsenic compounds, and Cadmium.

## **RESOURCES TO CREATE AND MAINTAIN THE LIST**

The bill's Fiscal Note identified the resources needed to create and maintain a list of priority chemicals of high concern to children's or fetal health and the associated costs.

According to the note, creating and maintaining a list requires adding a toxicologist position in DPH, at a cost of \$119,600 and \$118,850 for FYs 14 and 15, respectively. These costs increase in subsequent years, reflecting inflation and normal annual pension costs. The Fiscal Note anticipates the per year salary for the position in FYs 14 and 15 to be \$87,594, with fringe benefits anticipated at \$31,131 per year. It estimates one-time equipment costs (computer, \$750) for the new position and ongoing general office supply costs (\$125 per year).

The note also provides information on the costs and potential revenue gains from the bill's other requirements (e.g., related to report and plan processing).

## OTHER STATES' LISTS

### *Maine*

By law, the Maine Department of Environmental Protection (MEDEP) was required to publish a “list of chemicals of high concern” by July 1, 2012. The law requires the [list](#) to be developed by the Maine Center for Disease Control and Prevention (MECDC), in consultation with MEDEP. It limits the list to 70 chemicals.

Under the law, these chemicals may include those included in Maine’s “list of chemicals of concern” if MECDC and MEDEP determine, based on strong, credible scientific evidence, that the chemical:

1. is a reproductive or developmental toxicant, endocrine disruptor, or human carcinogen and
2. has been (a) found, through biomonitoring studies, in human tissues or fluids; (b) found, through sampling and analysis, in the home environment (e.g., household dust, indoor air, or drinking water); or (c) added to or present in a consumer product used in the home.

(Maine law required MEDEP, in concurrence with MECDC, to publish the “list of chemicals of concern” by January 1, 2010. It specifies that chemicals on the list must be identified by an authoritative governmental entity, through credible scientific evidence, as (1) a carcinogen, reproductive or developmental toxicant, or endocrine disruptor; (2) persistent, bioaccumulative, and toxic; or (3) very persistent and very bioaccumulative.)

The “list of chemicals of high concern” includes 49 chemicals, eight of which are of concern when ingested by children. It includes each chemical’s toxicity and exposure information. In developing the list, MECDC used Washington’s list of “Chemicals of High Concern for Children” as a starting point and relied on many of the same toxicity databases as Washington.

The law allows MEDEP to designate chemicals of high concern as “priority chemicals” and required it to designate two such chemicals by January 1, 2011. Among other things, the law generally requires manufacturers or distributors of children’s products that contain a priority chemical to report to MEDEP and provide information about the priority chemical’s use ([Me. Rev. Stat. Ann. tit 38 § 1691 et seq.](#)).

## **Minnesota**

Under the 2009 Toxic Free Kids Act, Minnesota's Department of Health (MDH), in consultation with the Pollution Control Agency (PCA), had to develop a list of chemicals of high concern by July 1, 2010. These chemicals are those identified through credible scientific evidence by a state, federal, or international agency as known or likely to (1) harm normal fetal or child development or cause other developmental toxicity; (2) cause cancer, genetic damage, or reproductive harm; (3) disrupt the endocrine or hormone system; (4) damage the nervous or immune system, organs, or cause other systemic toxicity; (5) be persistent, bioaccumulative, and toxic; or (6) be very persistent and very bioaccumulative. By law, the list must be reviewed and revised at least every three years. There are fewer than 1400 chemicals on this list.

MDH subsequently had to publish a [list](#) of priority chemicals by February 1, 2011. By law, MDH may designate a chemical of high concern as a priority chemical if it finds that the chemical (1) is designated by the U.S. Environmental Protection Agency as a high-production volume chemical (i.e., produced or imported into the U.S. in amounts of at least one million pounds per year) and (2) has been found, through certain studies, to be present in human tissue or fluids; the home environment; or in fish, wildlife, or the natural environment ([Minn. Stat. § 116.9401 et seq.](#)).

There are nine chemicals on Minnesota's priority chemicals list, three of which are phthalates. The list is updated when a new priority chemical is named but the process for naming a new one has not yet been determined.

## **Washington**

Washington's Children's Safe Product Act (CSPA) required the state's Department of Ecology (WDE), in consultation with the Department of Health (WDOH), to identify a list of high priority chemicals of high concern for children by January 1, 2009. (The [list](#) is referred to as "the reporting list of chemicals of high concern to children" (i.e., the CHCC list)). Manufacturers of children's products containing chemicals on the list must annually report on their use to WDE.

The CSPA defines "high priority chemical" similarly to how Connecticut defined "priority chemical" in HB 6526, except that a high priority chemical can be identified by any state or federal agency, accredited research university, or other scientific evidence that WDE considers authoritative. Under the CSPA, a chemical of high concern to

children must be (1) a high priority chemical and (2) found in humans or have a potential exposure route to children (i.e., through certain studies, found to be in human tissues or fluids, or present in the home environment or in consumer products used in the home) ([Wash. Rev. Code § 70.240.010 et seq.](#)).

Washington's CHCC list contains 66 chemicals. For each chemical, WDOH maintains information on toxicity and exposure.

## **HYPERLINKS**

Maine Department of Environmental Protection, "Chemicals of High Concern List," available online at:

<http://www.maine.gov/dep/safechem/highconcern/>, last accessed October 18, 2013.

Minnesota Department of Health, "Priority Chemicals Table," available online at:

<http://www.health.state.mn.us/divs/eh/hazardous/topics/toxfreekids/pclist/pctable.pdf>, last accessed October 29, 2013.

Washington Department of Ecology, "The Reporting List of Chemicals of High Concern to Children," available online at:

<http://www.ecy.wa.gov/programs/swfa/cspa/chcc.html>, last accessed October 28, 2013.

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### Attachment 1: States' Lists of Chemicals of High Concern

	<i>Connecticut</i>	<i>Maine</i>	<i>Minnesota</i>	<i>Washington</i>
<b>Statute or Bill</b>	<a href="#">HB 6526</a> , An Act Concerning Children's Products and Chemicals of High Concern	Toxic Chemicals in Children's Products Law, <a href="#">Me. Rev. Stat. Ann. tit. 38 § 1691 et seq.</a>	Toxic Free Kids Act, <a href="#">Minn. Stat. § 116.9401 et seq.</a>	Children's Safe Products Act, <a href="#">Wash. Rev. Code § 70.240.010 et seq.</a>
<b>Date Enacted or Proposed</b>	2013	2007, 2011	2009	2008
<b>List Name</b>	List of Priority Chemicals that are of High Concern to Children	List of Chemicals of High Concern	List of Priority Chemicals	Reporting List of Chemicals of High Concern to Children
<b>Criteria for Inclusion on List</b>	<p>Must be a "priority chemical" of high concern to children, considering a child's or fetus' potential exposure.</p> <p>The list may include chemicals (1) on the Maine and Washington lists of high concern or (2) present in human tissues or fluids, the household environment, or consumer products used in the home.</p>	<p>Must be (1) on the list of "chemicals of concern";</p> <p>(2) a reproductive or developmental toxicant, endocrine disruptor, or carcinogen; and</p> <p>(3) present in human tissues or fluids, the household environment, or consumer products used in the home.</p>	<p>Must be (1) on the list of "chemicals of high concern";</p> <p>(2) a high-production volume chemical; and</p> <p>(3) present in human tissues or fluids; the home environment; or in fish, wildlife, or the natural environment.</p>	<p>Must be (1) a "high priority chemical" and</p> <p>(2) present in human tissues or fluids, the household environment, or consumer products used in the home.</p>
<b>Number of Chemicals on List</b>	DPH had to identify at least two chemicals by 1/1/14, and at least two more every two years	49	9	66

**Attachment 1 (continued)**

<b>Frequency of Revision</b>	At least every two years	At least every three years	Whenever a new priority chemical is designated	None, but revisions to the list must be done according to the Administrative Procedure Act
<b>Agency Responsible for Developing List</b>	Department of Public Health, with Department of Energy and Environmental Protection and Department of Consumer Protection	Center for Disease Control and Prevention, with Department of Environmental Protection	Department of Health, with Pollution Control Agency	Department of Ecology, with Department of Health