Toy Industry Association, Inc.

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TESTIMONY OF

TOY INDUSTRY ASSOCIATION (TIA)

SUBMITTED TO

JOINT COMMITTEE ON CHILDREN

"AN ACT CONCERNING CHILDREN'S PRODUCTS AND CHEMICALS OF HIGH CONCERN"
HOUSE BILL 5036
&
"AN ACT CONCERNING CHEMICALS OF HIGH CONCERN TO CHILDREN"
HOUSE BILL 5354

MARCH 6, 2014

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Chairwoman Urban and Chairwoman Bartolomeo and members of the Joint Committee on Children, the Toy Industry Association (TIA) appreciates this opportunity to provide testimony on House Bill 5036 & House Bill 5354, regulating chemicals in children's products.

TIA is the not-for-profit trade association for producers and importers of toys and youth entertainment products sold in North America. The Association represents more than 600 companies – both large and small in size – that account for approximately 85% of domestic toy sales. TIA has more than 90 toy companies located in Connecticut, like Lego, Melissa & Doug, and The Original Toy Company, and overall the toy industry directly supports nearly 4,000 Connecticut jobs.

TIA commends the Committee's interest in assuring that children's products are safe ... the Association and its members share this interest. TIA's mission is to bring fun and joy to children's lives and in that mission the safety of young consumers is our industry's number-one priority. As such, TIA and its members have long been leaders in the establishment of toy safety requirements at the federal level. In developing these requirements TIA works in partnership with government, consumer organizations, and medical experts to develop stringent toy safety standards that have been mandated in the United States and are used in countries around the globe.

TIA supports appropriate and strong children's safety and chemical regulations at the federal level. However, we have some serious concerns with unique state chemical and product regulations such as House Bill 5036 & House Bill 5354. These types of proposals do not consider the existing robust safety system for toys sold in this country and will create an unnecessary burden on companies doing business in Connecticut – with no measurable increase in safety. These proposals will also burden the State, which will be required to implement a chemical assessment, reporting, and restriction system at a time when resources are scarce.

Toys are Already Highly Regulated and Reviewed for Safety

Safety is the number-one priority for toy manufacturers. TIA's members perform rigorous safety assessments prior to the marketing of any product and take into consideration potential impacts on a consumer or child. In addition to meeting stringent internal product safety requirements, toys sold in the U.S. must also comply with numerous federal safety and environmental regulations under a variety of laws and regulations including:

- The Consumer Product Safety Improvement Act (CPSIA) signed into law in 2008,
- The Consumer Product Safety Act (CPSA),
- The Child Safety Protection Act (CSPA),
- The Federal Hazardous Substances Act (FHSA),
- The ASTM Safety Specification on Toys (which was adopted as a mandatory federal standard on February 10, 2009), and
- The Toxic Substances Control Act.

Under this network of requirements, it is illegal to sell toys or children's products containing various substances known to be harmful to children and to which children might be exposed. TIA continues to support strong regulations for toys but they must be safety-based and national in scope to allow for consistently safe products across the nation.

Legislation Must Rely on a Scientific Approach

Legislation like House Bill 5036 & House Bill 5354 and other state-based chemical regulation efforts can be flawed because of a lack of appropriate in-state scientific resources and lack of a safety-based decision framework. Specifically, House Bill 5036 & House Bill 5354 would require the Department of Public Health to identify "priority chemicals" via flawed hazard-based criteria and develop a list of children's products that "might" contain a priority chemical. Then the Department of Health would need to recommend ways to address, require warning labels, and ban priority chemicals in children's products.

This approach to chemicals management is based on the premise that the mere presence of a chemical with certain hazardous traits creates a safety concern. Rather, safety assessments that consider exposure and harm are the key to ensuring that products are safe when used by children and consumers. Safety assessments are necessary to ensure that toys are safe for use and existing federal and international regulatory structures already ensure that toys are reviewed in this manner. Additionally, toy manufacturers have extensive knowledge of their products' use patterns and physical requirements, allowing them to make safety and the protection of human health an essential element of product development.

Policies that seek to restrict the use of certain chemicals or products must be based on credible, safety-based science and should include full consideration of the level of exposure and harm.

No clear recognition of safety or exposure is included in these bills and specifically, there is no allowance for situations where there is little or no route of exposure to a "priority chemical" and the risks from a substance are adequately controlled. Without establishing a clear criterion that prioritizes action to exposure and safety concerns from a substance in a product, decisions under this program are likely to result in inflexible chemical bans and create the potential for regrettable substitutions.

Immense Cost to Businesses and the State of Connecticut

Legislation to regulate "chemicals of concern" in consumer products and toys places an immense burden on manufacturers and government agencies. State-based standards that are inconsistent with international, federal or other state requirements make compliance difficult and costly, threatening the viability of toy manufacturers, distributors and retailers in Connecticut. In other states that are attempting to implement legislation addressing similar issues, there have been significant costs for both the government and businesses

In California, where similar legislation passed in 2008, it is estimated that **it will cost the State $7.3 million over the first five years to implement a similar program**[1]. In Maine, estimates show that the hidden fiscal burden associated with the implementation of an identical program would be **$900,000 to $1.6 million** in initial start-up costs and an additional **$900,000 to $2.2 million** annually[2]. In Maryland, the estimated cost of similar legislation considered this year would be more than **$500,000** per year[3] in addition to proposed fees on industry.

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[1] California State House Appropriations Committee Fiscal Summary, AB 283. Available at: http://info.sen.ca.gov/pub/07-08/bill/asm/ab_1851-1900/ab_1879_cfa_20080807_131956_sen_comm.html

[2] *Considerations and Potential Costs Associated with Implementing Maine LD 2048.* Prepared by ICF International, March 31, 2008 for American Chemistry Council.

[3] Maryland Department of Legislative Services, *Fiscal and Policy Note – SB 637. See: http://mlis.state.md.us/2011rs/billfile/sb0637.htm*

Finally, in Washington State, a recently adopted reporting program will **cost businesses up to $27.6 million** in the first year and **up to $69.5 million** over the first 20-years[4] just for testing data needed to comply with the program. Additionally, Washington State notes that over the course of the program it would only equate to "three (3) avoided cases of CHCC content resulting in recalls, litigation, or children's health impacts of a minor degree."

Ensuring compliance with the new requirements of these types of proposals would mandate the creation of extensive data collection and submission systems, additional product testing, and extensive staff planning. The resource burden of this program would also escalate over time to continually review and certify products for sale in Connecticut and could jeopardize the viability of many businesses in Connecticut and around the country.

For product manufacturers – especially small and medium sized companies – this state-based data and compliance burden is simply too costly to bear in the current economy, *or* any economic condition, and *will not* result in measurable improvements to public health.

Lack of Adequate Stakeholder Input

House Bill 5036 & House Bill 5354 do not provide for adequate stakeholder input into the designation of priority chemicals, what products might actually be a concern or the development of this program in general. The lack of such processes undermines an adequate dialogue and sharing of relevant scientific data, likely resulting in arbitrary and misguided chemical lists, potential for chemical-use bans and consumer confusion.

Conclusion

The Toy Industry Association and its members have always recognized the special relationship we have with children ... their safety and well-being is always our top priority. As an industry devoted to bringing joy through safe and fun play to children, we share your interest in the safety of toys and urge you to carefully consider the unintended consequences of the provisions proposed in this legislation.

Please consider how this bill will hurt those doing business in Connecticut and force Connecticut consumers to source products through other means at no measurable increase to product safety. **We respectfully request that you oppose the passage of House Bill 5036 & House Bill 5354 and refrain from recommending similar state-specific chemical regulation programs.**

On behalf of the over 600 members of Toy Industry Association, including the more than 90 toy companies in Connecticut, we thank you for your consideration of these concerns.

TIA would be happy to address any questions that you and the members of the Committees might have with regard to our concerns on this topic and legislation.

[4] Washington Council of Ecology, *Preliminary Cost-Benefit and Least Burdensome Alternative Analysis*, Pages 8-11. 10-01-035.