



House of Representatives

General Assembly

File No. 142

February Session, 2016

Substitute House Bill No. 5299

House of Representatives, March 23, 2016

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TOXIC FLAME RETARDANT CHEMICALS IN CHILDREN'S PRODUCTS AND UPHOLSTERED RESIDENTIAL FURNITURE.

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

1 Section 1. (NEW) (*Effective July 1, 2018*) (a) For the purposes of this
2 section:

3 (1) "Children's product" means a product, or article used as a
4 component of a product, designed or intended primarily for use by or
5 for children twelve years of age or younger, including, but not limited
6 to, clothing, toys, nursing pillows, crib mattresses, changing pads and
7 strollers. "Children's products" does not include food, beverages,
8 dietary supplements, pharmaceutical products, biologics, consumer
9 electronics, off-highway motorcycles, all-terrain vehicles, children's
10 toys that are subject to the most recent version of the ASTM F963,
11 Standard Consumer Safety Specification for Toy Safety, devices as
12 defined by the federal Food, Drug and Cosmetic Act, 21 USC 321(h) or
13 products governed by federal motor vehicle standards contained in 49

14 CFR 571.213 and 49 CFR 571.302;

15 (2) "Upholstered residential furniture" means furniture with
16 padding, coverings and cushions intended and sold for use in the
17 home or places of lodging;

18 (3) "TDCPP" or "TDCP" means tris(1,3-dichloro-2-propyl)phosphate;

19 (4) "TCEP" means tris(2-chloroethyl)phosphate; and

20 (5) "TCPP" means tris(1-chloro-2-propyl)phosphate.

21 (b) On and after July 1, 2018, no person may manufacture for use in
22 this state a children's product or upholstered residential furniture
23 containing, in amounts greater than .01 per cent by weight, the flame
24 retardant chemicals decabromodiphenyl ether,
25 hexabromocyclododecane, TDCPP, TDCP, TCEP and TCPP.

26 (c) On and after July 1, 2019, no person may sell, offer for sale or use
27 in this state a children's product or upholstered residential furniture
28 containing, in amounts greater than .01 per cent by weight, the flame
29 retardant chemicals listed in subsection (b) of this section.

30 (d) The provisions of subsections (b) and (c) of this section shall not
31 apply to an individual who, for personal, family or household
32 purposes, uses, offers for resale, resells or distributes children's
33 products or upholstered residential furniture.

34 (e) A manufacturer shall not replace a flame retardant chemical
35 listed in subsection (b) of this section in a children's product or
36 upholstered residential furniture with a chemical that has been
37 identified, on the basis of credible scientific evidence published in
38 peer-reviewed scientific literature generally recognized by the relevant
39 scientific community, to harm the normal development of a fetus or
40 child, harm normal development, cause cancer, cause genetic damage
41 or reproductive harm, disrupt the endocrine system, damage the
42 nervous system, immune system or organs or cause other systemic
43 toxicity, be persistent, bioaccumulative and toxic or be very persistent

44 and very bioaccumulative.

45 (f) The Commissioner of Consumer Protection shall, within
46 available appropriations, enforce the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2018	New section

Statement of Legislative Commissioners:

In Section 1(c), "sell or offer for sale or for use" was changed to "sell, offer for sale or use" for accuracy, and in Section 1(e), "in a children's product or upholstered residential furniture" was added for conformity and accuracy.

KID *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:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$	FY 19 \$
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	None	None	11,583
Consumer Protection, Dept.	GF - Cost	None	None	62,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a cost to the state of \$73,583 in FY 19. This includes the cost of a part-time Product Safety Inspector (PSI) at the Department of Consumer Protection (\$29,000) with associated Other Expenses (\$5,000) and testing costs (\$28,000), along with a fringe benefit cost of \$11,583.

The PSI would be responsible for periodically monitoring manufacturing and retail establishments for compliance. The monitoring would include purchasing suspect items and having such items tested for toxic fire retardants. It is assumed that approximately 80 products per year would be tested at a cost of \$350 per item.

The Out Years

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

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 39.94% of payroll in FY 17, FY 18 and FY 19.

OLR Bill Analysis**sHB 5299*****AN ACT CONCERNING TOXIC FLAME RETARDANT CHEMICALS IN CHILDREN'S PRODUCTS AND UPHOLSTERED RESIDENTIAL FURNITURE.*****SUMMARY:**

This bill prohibits, starting July 1, 2018, anyone from manufacturing for use in Connecticut a children's product or upholstered residential furniture with more than .01% (by weight) of certain flame retardant chemicals. And starting July 1, 2019, the bill prohibits anyone from selling or offering for sale or use in Connecticut such children's products or furniture. The bans cover the following chemicals:

1. decabromodiphenyl ether (decaBDE),
2. hexabromocyclododecane (HBCD or HBCDD),
3. tris(1,3-dichloro-2-propyl)phosphate (TDCPP or TDCP),
4. tris(2-chloroethyl)phosphate (TCEP), and
5. tris(1-chloro-2-propyl)phosphate (TCPP) (see BACKGROUND).

Individuals who, for personal, family, or household purposes, use, offer for resale, or resell or distribute children's products or upholstered residential furniture are exempt from these bans.

The bill also prohibits manufacturers from replacing the banned flame retardant chemicals in children's products or upholstered residential furniture with other chemicals that are identified as:

1. harming normal development, including fetal development;
2. causing cancer, genetic damage, or reproductive harm;

3. disrupting the endocrine system;
4. damaging the nervous or immune system or organs;
5. causing other systemic toxicity; or
6. being (a) persistent, bioaccumulative, and toxic or (b) very persistent and very bioaccumulative.

The identification must be based on credible scientific evidence published in peer-reviewed scientific literature generally recognized by the relevant scientific community.

The Department of Consumer Protection must enforce the bill within available appropriations. The bill does not specify penalties for failing to comply with its provisions.

EFFECTIVE DATE: July 1, 2018

DEFINITIONS

Children's Product

Under the bill, a "children's product" is a product, or an article used as a product's component, designed or intended primarily for use by or for children age 12 or younger, including clothing, toys, nursing pillows, crib mattresses, changing pads, and strollers.

The products do not include food, beverages, dietary supplements, pharmaceutical products, biologics, consumer electronics, off-highway motorcycles, all-terrain vehicles, children's toys covered by the most recent version of ASTM F963, Standard Consumer Safety Specification for Toy Safety, "devices" as defined under the federal Food, Drug, and Cosmetic Act, or products governed by certain federal motor vehicle standards (see BACKGROUND).

Upholstered Residential Furniture

"Upholstered residential furniture" means furniture with padding, coverings, and cushions intended and sold for use in the home or places of lodging.

BACKGROUND

Flame Retardant Chemicals

Flame retardant chemicals are added to consumer and industrial products to make them more resistant to fire.

HBCD (or HBCDD) and decaBDE are brominated flame retardants (i.e., they contain compounds consisting of carbon bonded to bromine). The European Chemicals Agency (ECHA) identifies them as Substances of Very High Concern (SVHC) based on their persistence, bioaccumulativity, and toxicity. ECHA is the European Union's regulatory authority on the safe use of chemicals.

TDCP (or TDCPP), TCEP, and TCPP are chlorinated flame retardants (i.e., they contain compounds consisting of carbon bonded to chlorine). California's Environmental Protection Agency identifies TDCP and TCEP as carcinogens. ECHA identifies TCEP as an SVHC based on reproductive toxicity and is currently evaluating TCPP.

ASTM F963

ASTM International is a non-profit international organization that provides a forum for developing and publishing voluntary consensus standards for materials, products, systems, and services. The organization's standard ASTM F963 provides safety specifications for toy safety.

Under the standard, a "toy" is an object designed, manufactured, or marketed as a plaything for children under age 14 (ASTM F963 § 3.1.81). The standard excludes several articles from its provisions, such as:

1. bicycles, tricycles, non-powered scooters, recreational powered scooters, and pocket bikes;
2. sling shots, sharp-pointed darts, and non-powder guns;
3. playground equipment;
4. kites;

5. model kits and hobby and craft items in which the finished items are not primarily of play value;
6. crayons, paints, chinks, and other similar art materials;
7. toy chests; and
8. sporting and camping goods, athletic equipment, musical instruments, and furniture (but toy counterparts are covered) (ASTM F963 § 1.4).

The standard also exempts juvenile products, which are consumer products designed or intended primarily for use by children but not primarily for play. They include such items as bassinets and cradles, infant bath tubs, carriages and strollers, changing tables, cribs, gates and enclosures, high chairs, play yards, infant carriers, and toddler beds.

“Devices” under the Food, Drug, and Cosmetic Act

Under the Food, Drug and Cosmetic Act, a “device” is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article. It includes any component, part, or accessory that (1) does not achieve its primary purpose through chemical action within or on the body, and (2) is not dependent on metabolism to achieve its primary intended purposes. The component, part, or accessory must also be:

1. recognized in the official National Formulary or the United States Pharmacopeia or their supplements;
2. intended for use in disease or condition diagnosis or in disease cure, mitigation, treatment, or prevention; or
3. intended to affect body structure or function (21 U.S.C. § 321(h)).

Federal Motor Vehicle Regulations

Federal regulations specify burn resistance requirements for material used in motor vehicles' child restraint systems and passenger compartments (49 C.F.R. §§ 571.213 & 571.302).

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 13 Nay 0 (03/08/2016)