

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3162 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Kim To
Reviewed by: Linda Ames
Date: 4/15/2013

Measure Description:

Requires Oregon Health Authority to maintain list of designated high priority chemicals of concern for children's health used in children's products.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Environmental Quality (DEQ), Oregon Judicial Department (OJD)

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Summary of Expenditure Impact - Oregon Health Authority		
	2013-15 Biennium	2015-17 Biennium
Other Funds	57,046	189,280
Total Funds	\$57,046	\$189,280
Positions	1	1
FTE	0.25	1.00
Summary of Revenue Impact - Oregon Health Authority		
	2013-15 Biennium	2015-17 Biennium
Other Funds - Fees	57,046	189,280
Total Funds	\$57,046	\$189,280

Analysis:

House Bill 3162 requires the Oregon Health Authority to maintain a list of high priority chemicals of concern for children's health used in children's products. This list (which must include information regarding the known health impacts associated with exposure to these chemicals) must be maintained on the agency's website. OHA must review and revise this list every three years, removing and adding chemicals as necessary. In addition, the bill requires manufacturers of children's products sold or offered for sale in Oregon to provide notice, every two years, to OHA if these products contain a chemical on this list. The first notice must be provided to OHA no later than July 1, 2015. The bill allows OHA to enter into data-sharing agreements with other states. The bill also authorizes OHA to conduct testing of children's products sold or offered for sale in Oregon to ensure manufacturer's compliance with the provisions of this bill. OHA may establish fees paid by manufacturers to administer this program. OHA may establish civil penalty for violation of any provisions of this bill. The bill allows OHA to participate in the Interstate Chemicals Clearinghouse in cooperation with other states and government entities to assist the agency in carrying out the provisions of this bill. The bill establishes the High Priority Chemicals of Concern for Children's Health Fund and continuously appropriated to OHA to carry out the provisions of this bill. OHA must report to a Legislative Assembly once every two years

regarding the implementation of this bill. The bill contains an emergency clause and takes effect on passage.

Oregon Health Authority (OHA)

If this bill passes, the Oregon Health Authority will implement this bill in stages. First, the agency will reprioritize the work of existing staff in the Public Health division and use existing resources to compile and post the list of high priority chemicals of concern. Then, OHA anticipates establishing one Program Analyst position starting January 2015 to manage manufacturer notices, assessments and waiver requests. The Personal Services, and related Services and Supplies costs is estimated at \$57,046 Other Funds [0.25 FTE] for six months of the 2013-15 biennium; and \$189,280 Other Funds [1.00 FTE] for the full 24 months of the 2015-17 biennium. These costs will be covered by the establishment of the schedule of fees for manufacturers appropriated through the High Priority Chemicals of Concern for Children's Health Fund.

Department of Environmental Quality (DEQ)

This bill is anticipated to have minimal impact on the Department of Environmental Quality. The bill requires the list of high priority chemicals of concern to include chemicals that are listed on the existing DEQ's Toxics Focus List. DEQ anticipates using existing staff and resources to coordinate with OHA regarding the Toxics Focus List and future changes to the list, as well as to consult with OHA on the required biennial report concerning the implementation of this bill.

Oregon Judicial Department (OJD)

Passage of this bill is anticipated to have minimal impact on the Oregon Judicial Department. The bill authorizes any person who contests the imposition of a civil penalty to seek judicial review by the Court of Appeals. The department anticipates passage of this bill will increase the number of cases filed with the Court of Appeals.

This bill requires budgetary action for Other Funds expenditure limitation and position establishment.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	7 - 2 - 0
Yeas:	Clem, Conger, Harker, Keny-Guyer, Lively, Thompson, Greenlick
Nays:	Kenemer, Weidner
Exc.:	0
Prepared By:	Tyler Larson, Administrator
Meeting Dates:	3/20, 4/15

WHAT THE MEASURE DOES: Requires Oregon Health Authority (OHA) maintain list of designated high priority chemicals of concern for children’s health used in children’s products and post list on website. Defines “mouthable” and “intentionally added chemical.” Requires manufacturers of specified children’s products provide notice to authority regarding intentionally added chemicals or chemicals at levels above 100 parts per million. Requires manufacturer seek waiver if manufacturer continues to sell mouthables, children’s cosmetics and products marketed for use by children under three years of age containing chemicals that have been on the list for more than 5 years. Allows OHA enter into data sharing agreements with other states and participate in Interstate Chemicals Clearinghouse. Allows OHA establish certain fees by rule, impose civil penalties and accept specified funding. Requires manufacturers submit certain hazard assessments to OHA. Establishes High Priority Chemicals of Concern for Children’s Health Fund. Continuously appropriates moneys to OHA and specifies uses of moneys. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Industry support and opposition for phase out requirement
- Existing federal regulations on toxics in children’s products
- Public health impact of child exposure to toxics
- Creation and maintenance of Washington toxics list

EFFECT OF COMMITTEE AMENDMENT: Defines “mouthable” and “intentionally added chemical.” Requires manufacturers of certain children’s products provide notice to authority regarding intentionally added chemicals or chemicals at levels above 100 parts per million. Clarifies parameters for civil penalties. Limits phase out requirements to mouthables, children’s cosmetics and products marketed for use by children under three years of age. Clarifies parameters for waivers.

BACKGROUND: Recalls of children’s toys and products containing dangerous chemicals recently has increased awareness and regulation around exposure to dangerous chemicals. These poisons cause damage to young and developing children because of their increased metabolic rate and developing organs.

House Bill 3162-A requires Oregon Health Authority to maintain a list of high-priority chemicals and manufacturers to remove those chemicals from certain specified products. Proponents assert that educating the public on the health impacts and known sources of these chemicals can help reduce exposure, and that the phase out requirement for manufacturers will encourage companies to create safer products and protect children.

4/17/2013 4:46:00 PM

This summary has not been adopted or officially endorsed by action of the committee.

A-Engrossed House Bill 3162

Ordered by the House April 18
Including House Amendments dated April 18

Sponsored by Representative KENY-GUYER, Senator BOQUIST, Representative CONGER, Senator STEINER HAYWARD; Representatives GOMBERG, HOLVEY, VEGA PEDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Oregon Health Authority to maintain list of designated high priority chemicals of concern for children's health used in children's products. Requires authority to post list, and information regarding health impacts associated with exposure to each chemical, on authority's website. Requires authority to periodically review and revise list.

Requires manufacturers of certain children's products to provide notice to authority regarding chemicals on list.

Provides that, five years after chemical is placed on list, manufacturer must seek waiver if manufacturer continues to sell **certain** children's [*product*] **products** containing chemical. **Establishes criteria for granting waivers.**

Allows authority to enter into certain data-sharing agreements with other states. Allows authority to participate in Interstate Chemicals Clearinghouse.

Allows authority to establish certain fees by rule. Allows authority to impose civil penalties. Allows authority to accept certain funding.

Requires manufacturers to submit certain hazard assessments to authority. **Allows authority to establish methodology and standards for hazard assessments by rule.**

Establishes High Priority Chemicals of Concern for Children's Health Fund. Continuously appropriates moneys in fund to authority. Specifies uses of moneys.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to high priority chemicals of concern for children's health; appropriating money; and de-
3 claring an emergency.

4 Whereas many children's products contain chemicals that may pose a risk to the health of
5 children; and

6 Whereas reducing the exposure of children to harmful chemicals in children's products contrib-
7 utes to the health of children and the long-term well-being of children; and

8 Whereas providing the public with information regarding the presence of certain chemicals in
9 children's products helps to ensure this state's commitment to the health of present and future
10 generations; now, therefore,

11 **Be It Enacted by the People of the State of Oregon:**

DEFINITIONS

SECTION 1. As used in sections 1 to 15 of this 2013 Act:

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13 (1) "Chemical" means:

14
15 (a) A substance with a distinct molecular composition.

16
17 (b) A group of structurally related substances and the breakdown products of the sub-
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 stance or substances that form through decomposition, degradation or metabolism.

2 (2)(a) "Children's cosmetics" means products that are made for, marketed for use by or
3 marketed to children under 12 years of age and are intended to be rubbed, poured, sprinkled
4 or sprayed on, introduced into or otherwise applied to the human body or any part thereof
5 for cleansing, moisturizing, beautifying, promoting attractiveness or altering the appearance.

6 (b) "Children's cosmetics" does not mean soap, dietary supplements or food and drugs
7 approved by the United States Food and Drug Administration.

8 (3)(a) "Children's product" means:

9 (A) A product designed or intended by the manufacturer to help a child with sucking or
10 teething to facilitate sleep, relaxation or feeding of a child or to be worn as clothing by a
11 child.

12 (B) Car seats for children.

13 (C) Children's cosmetics.

14 (D) Children's jewelry made for, marketed for use by or marketed to children under 12
15 years of age.

16 (E) Toys designed, or intended by the manufacturer, to be used by a child at play.

17 (F) Any component part of a product specified in subparagraphs (A) to (E) of this para-
18 graph.

19 (b) "Children's product" does not mean:

20 (A) Athletic shoes with cleats or spikes.

21 (B) Batteries.

22 (C) BB guns, pellet guns and air rifles.

23 (D) Bicycles and tricycles.

24 (E) Chemistry sets.

25 (F) Consumer electronic products, including personal computers, audio and video equip-
26 ment, calculators, wireless telephones and game consoles and handheld devices incorporating
27 a video screen and used to access interactive software and the associated peripherals.

28 (G) Interactive software intended for leisure and entertainment, such as computer
29 games, and their storage media, such as compact discs.

30 (H) Model rockets.

31 (I) Pocketknives and multitools.

32 (J) Roller skates.

33 (K) Scooters.

34 (L) Sets of darts with metallic points.

35 (M) Slings and catapults.

36 (N) Snow sporting equipment, including skis, poles, boots, snowboards, sleds and
37 bindings.

38 (O) Sporting equipment, including bats, balls, gloves, sticks, pucks and pads.

39 (P) Video toys that can be connected to a video screen and are operated at a nominal
40 voltage exceeding 24 volts.

41 (4) "Intentionally added chemical" means a chemical that was added during the manu-
42 facture of a product or product component to provide a specific characteristic, appearance
43 or quality or to perform a specific function.

44 (5) "Manufacturer" means:

45 (a) Any person that manufactures a final consumer product sold at retail or whose brand

1 name is affixed to the consumer product.

2 (b) The importer or domestic distributor of a consumer product imported into the United
3 States if the person that manufactured or assembled the consumer product or whose brand
4 name is affixed to the consumer product does not have a presence in the United States.

5 (6)(a) "Mouthable" means a children's product, or any part of a children's product, that
6 may be brought to the mouth and kept in the mouth by a child so that the product or part
7 can be sucked and chewed.

8 (b) "Mouthable" does not mean a children's product or part of a children's product that
9 may only be licked, but not placed in the mouth. If a children's product or part of a
10 children's product in one dimension is smaller than five centimeters, the product or part can
11 be placed in the mouth.

12 (7) "Trade association" means a membership organization of persons engaging in a simi-
13 lar or related line of commerce, organized to promote and improve business conditions in
14 that line of commerce and not to engage in a regular business of a kind ordinarily carried
15 on for profit.

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17 **HIGH PRIORITY CHEMICALS OF CONCERN FOR CHILDREN'S**
18 **HEALTH USED IN CHILDREN'S PRODUCTS**
19

20 **SECTION 2.** The Oregon Health Authority shall maintain a list of high priority chemicals
21 of concern for children's health used in children's products. The authority shall include on
22 the list chemicals that are listed on both:

23 (1) The Department of Environmental Quality's Toxics Focus List on the effective date
24 of this 2013 Act; and

25 (2) The Washington State Department of Ecology's Reporting List of Chemicals of High
26 Concern to Children on the effective date of this 2013 Act.

27 **SECTION 3.** The Oregon Health Authority shall post the list of high priority chemicals
28 of concern for children's health used in children's products established under section 2 of
29 this 2013 Act on its website. For each chemical on the list, the authority shall post infor-
30 mation regarding the known health impacts associated with exposure to the chemical.

31 **SECTION 4.** Section 3 of this 2013 Act becomes operative on January 1, 2014.

32 **SECTION 5.** (1) The Oregon Health Authority shall review and revise the list of high
33 priority chemicals of concern for children's health used in children's products established
34 under section 2 of this 2013 Act every three years.

35 (2) In completing the revisions under subsection (1) of this section, the authority shall
36 consider and take into account the addition or removal of a chemical that has been added
37 to or removed from both the Department of Environmental Quality's Toxics Focus List and
38 the Washington State Department of Ecology's Reporting List of Chemicals of High Concern
39 to Children after the effective date of this 2013 Act.

40 (3) The authority by rule may remove a chemical from the list if the authority deter-
41 mines that the chemical is no longer being used in children's products.

42 (4) The authority shall update the list on its website within one year of the date on which
43 a chemical is added to, or a chemical is removed from, the list under this section.

44 **SECTION 6.** Section 5 of this 2013 Act becomes operative on January 1, 2016.
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1 **MANUFACTURER DISCLOSURE OF HIGH PRIORITY CHEMICALS**
2 **OF CONCERN FOR CHILDREN'S HEALTH USED IN**
3 **CHILDREN'S PRODUCTS**

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5 **SECTION 7. (1)(a) A manufacturer of children's products sold or offered for sale in this**
6 **state shall provide the notice described in subsection (2) of this section every two years to**
7 **the Oregon Health Authority if:**

8 **(A) A children's product contains an intentionally added chemical that is included in the**
9 **list of high priority chemicals of concern for children's health used in children's products**
10 **established under section 2 of this 2013 Act; or**

11 **(B) A children's product contains a chemical at levels above 100 parts per million that is**
12 **not an intentionally added chemical but that is a chemical included in the list of high priority**
13 **chemicals of concern for children's health used in children's products.**

14 **(b) In addition to the notice required by paragraph (a) of this subsection, within one year**
15 **of the date the authority adds a chemical to the list under section 5 of this 2013 Act, a**
16 **manufacturer of children's products sold or offered for sale in this state shall provide the**
17 **notice described in subsection (2) of this section if:**

18 **(A) A children's product contains an intentionally added chemical that is added to the list**
19 **of high priority chemicals of concern for children's health used in children's products es-**
20 **tablished under section 2 of this 2013 Act; or**

21 **(B) A children's product contains a chemical at levels above 100 parts per million that is**
22 **not an intentionally added chemical but that is a chemical added to the list of high priority**
23 **chemicals of concern for children's health used in children's products.**

24 **(2) The notice required by subsection (1) of this section must contain:**

25 **(a) The name of the chemical contained in the children's product and the Chemical Ab-**
26 **stracts Service number;**

27 **(b) A brief description of the children's product that contains the chemical;**

28 **(c) A description of the function of the chemical in the children's product;**

29 **(d) The amount of the chemical used in each unit of the children's product reported in**
30 **ranges rather than exact amounts;**

31 **(e) The name and address of the manufacturer, and the name, address and telephone**
32 **number of a contact person for the manufacturer; and**

33 **(f) Any other information that is relevant to the appropriate use of the children's prod-**
34 **uct.**

35 **(3)(a) In order for the authority to obtain the information required in the notice de-**
36 **scribed in subsection (2) of this section, the authority may enter into reciprocal data-sharing**
37 **agreements with other states in which a manufacturer of children's products is also required**
38 **to disclose information related to high priority chemicals of concern for children's health**
39 **used in children's products. If the authority has entered into a data-sharing agreement with**
40 **another state, and a manufacturer has reported the information required in the notice de-**
41 **scribed in subsection (2) of this section to that state, the manufacturer may request that the**
42 **other state provide the authority with the information in lieu of the manufacturer directly**
43 **reporting the information to the authority.**

44 **(b) A manufacturer fulfills the notice requirement of subsection (1) of this section when**
45 **the authority receives the information from the other state and the authority determines**

1 that the information received meets the description specified in subsection (2) of this section.

2 (4) In lieu of the manufacturer's providing notice to the authority under subsection (1)
3 or (3) of this section, the authority may require that the notice described in subsection (2)
4 of this section be given to the Interstate Chemicals Clearinghouse. The authority by rule
5 shall specify procedures for the provisions of such notice by manufacturers to the Interstate
6 Chemicals Clearinghouse.

7 (5) Manufacturers of children's products with annual worldwide gross sales of less than
8 \$5 million, as reported on the most recent tax returns filed before the notice required by this
9 section, are exempt from the requirements of this section.

10 (6) A trade association may provide notice on behalf of its member manufacturers under
11 the provisions of this section.

12 (7) When a manufacturer provides notice to the authority under the provisions of this
13 section, the manufacturer may submit recommendations to the authority regarding techni-
14 cal, financial or logistical support deemed necessary for innovation and green chemistry
15 solutions related to high priority chemicals of concern for children's health used in children's
16 products.

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18 **OREGON HEALTH AUTHORITY**

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20 **SECTION 8.** (1) The Oregon Health Authority may conduct testing of children's products
21 sold or offered for sale in this state in order to determine compliance with section 7 of this
22 2013 Act.

23 (2) The authority may establish by rule a schedule of fees for manufacturers that are
24 based on the costs of the authority for administering sections 1 to 15 of this 2013 Act. Fees
25 collected by the authority under this subsection shall be deposited in the High Priority
26 Chemicals of Concern for Children's Health Fund established under section 13 of this 2013
27 Act.

28 **SECTION 9.** (1) Sections 7 and 8 of this 2013 Act become operative on January 1, 2015.

29 (2) The first notice under section 7 of this 2013 Act must be provided to the Oregon
30 Health Authority not later than July 1, 2015.

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32 **INTERSTATE CHEMICALS CLEARINGHOUSE**

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34 **SECTION 10.** The Oregon Health Authority is authorized to participate in the Interstate
35 Chemicals Clearinghouse in cooperation with other states and government entities to assist
36 the authority in carrying out sections 1 to 15 of this 2013 Act.

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38 **CIVIL PENALTIES**

39
40 **SECTION 11.** (1) Except as provided in subsection (5) of this section, the Oregon Health
41 Authority may impose a civil penalty on a person for a violation of any provision of sections
42 1 to 15 of this 2013 Act.

43 (2) For purposes of assessing civil penalties under this section, a violation consists of a
44 single course of conduct with regard to an entire children's product line that is sold or of-
45 fered for sale in this state.

1 **(3) The authority shall adopt by rule a schedule of civil penalties for violations of sections**
2 **1 to 15 of this 2013 Act. A civil penalty may not exceed \$5,000 for the first violation. A civil**
3 **penalty may not exceed \$10,000 for the second and each subsequent violation.**

4 **(4) In imposing a penalty under subsection (1) or (5) of this section, the authority shall**
5 **consider the following factors:**

6 **(a) The past history of the person incurring a penalty in taking all feasible steps or pro-**
7 **cedures necessary or appropriate to correct any violation.**

8 **(b) Any prior violations of statutes, rules, orders or permits pertaining to high priority**
9 **chemicals of concern for children's health used in children's products.**

10 **(c) The gravity and magnitude of the violation.**

11 **(d) Whether the violation was a sole event, repeated or continuous.**

12 **(e) Whether the violation was as a result of an unavoidable accident, negligence or an**
13 **intentional act.**

14 **(f) The violator's cooperativeness and efforts to correct the violation.**

15 **(g) The economic and financial conditions of the person incurring a penalty.**

16 **(5)(a) If a person violates the notice requirements under section 7 of this 2013 Act, the**
17 **authority shall provide the person with written notice informing the person of the violation**
18 **and stating that the person may avoid a civil penalty for the violation by providing the proper**
19 **notice required under section 7 of this 2013 Act within 90 days.**

20 **(b) If the person fails to cure the violation within 90 days, the authority may impose a**
21 **civil penalty not to exceed \$2,500. For a continuing violation, each 90-day period that the vi-**
22 **olation continues after the preceding imposition of a civil penalty is a separate offense sub-**
23 **ject to a separate civil penalty not to exceed \$5,000. The authority is not required to provide**
24 **the person with an opportunity to cure the continuing violation before imposing a civil pen-**
25 **alty for the continuing violation.**

26 **(6) If the authority has reason to believe that a children's product that contains a high**
27 **priority chemical of concern for children's health used in children's products is being sold**
28 **or offered for sale in this state in violation of sections 1 to 15 of this 2013 Act, the authority**
29 **may request that the manufacturer provide a statement of compliance on a form provided**
30 **by the authority. The manufacturer must submit the statement of compliance within ten**
31 **days of receipt of a request. To prove compliance with sections 1 to 15 of this 2013 Act, the**
32 **manufacturer must:**

33 **(a) Show that the children's product does not contain the high priority chemical of con-**
34 **cern for children's health used in children's products;**

35 **(b) Show that the manufacturer has previously provided the authority with notice as re-**
36 **quired by section 7 of this 2013 Act;**

37 **(c) Provide the authority with notice as required by section 7 of this 2013 Act; or**

38 **(d) Provide the authority with documentation that the manufacturer has previously**
39 **complied with section 14 or 14a of this 2013 Act.**

40 **(7) Civil penalties described in this section shall be imposed in the manner provided in**
41 **ORS 183.745.**

42 **(8) All civil penalties recovered under this section shall be paid into the High Priority**
43 **Chemicals of Concern for Children's Health Fund established under section 13 of this 2013**
44 **Act.**

45 **SECTION 12. Section 11 of this 2013 Act becomes operative on January 1, 2015.**

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**HIGH PRIORITY CHEMICALS OF CONCERN FOR
CHILDREN'S HEALTH FUND**

SECTION 13. (1) The High Priority Chemicals of Concern for Children's Health Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the High Priority Chemicals of Concern for Children's Health Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority to administer sections 1 to 15 of this 2013 Act.

(2) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out sections 1 to 15 of this 2013 Act.

(3) The High Priority Chemicals of Concern for Children's Health Fund shall consist of:

(a) Moneys accepted by the authority pursuant to subsection (2) of this section.

(b) Fees and charges collected under sections 8 and 14a of this 2013 Act.

(c) Civil penalties imposed under section 11 of this 2013 Act.

ASSESSMENTS

SECTION 14. (1) Within five years after the date that a high priority chemical of concern for children's health used in children's products is included on the list maintained pursuant to sections 2 and 5 of this 2013 Act, a manufacturer of children's products sold or offered for sale in this state must remove or substitute the chemical, or seek a waiver under section 14a of this 2013 Act, if the chemical is present in a children's product that is:

(a) Mouthable;

(b) A children's cosmetic; or

(c) A children's product made for, marketed for use by or marketed to children under three years of age.

(2)(a) When a manufacturer of children's products sold or offered for sale in this state removes a high priority chemical of concern for children's health used in children's products from a children's product described in subsection (1) of this section by substituting another chemical, the manufacturer must submit a hazard assessment to the Oregon Health Authority that explains how the children's product, and any substitute chemical the children's product contains, is inherently less hazardous with the substitute chemical.

(b) If the manufacturer has removed a high priority chemical of concern for children's health used in children's products from a children's product described in subsection (1) of this section and has not replaced the chemical with a substitute chemical, the manufacturer must submit notice to the authority that the manufacturer is no longer using the chemical and that the manufacturer has not replaced the chemical with a substitute chemical.

(3) The authority shall establish by rule the methodology that a manufacturer must use and the standards that a children's product must meet in order to comply with the hazard assessment requirements under subsection (2)(a) of this section.

(4) The authority shall approve or disapprove a hazard assessment within 180 days of its submittal. If the authority fails to act within 180 days, the hazard assessment is deemed approved, and the manufacturer may continue to sell or offer for sale in this state the children's product described in subsection (1) of this section for which the manufacturer submitted a hazard assessment. If the authority disapproves a hazard assessment, the man-

1 manufacturer may submit a revised hazard assessment for consideration within 180 days of the
2 authority's disapproval.

3 (5) A manufacturer with 25 or fewer employees may apply for a two-year extension of the
4 time period specified in subsection (1) of this section to meet the requirements of this sec-
5 tion.

6 (6) Manufacturers are exempt from meeting the requirements of this section for
7 children's products described in subsection (1) of this section that contain high priority
8 chemicals of concern for children's health used in children's products at levels that are at
9 or below allowable levels for children's products as established by the Consumer Product
10 Safety Improvement Act of 2008, P.L. 110-314, 122 Stat. 3016, as in effect on the effective date
11 of this 2013 Act.

12 (7)(a) The authority shall adopt rules (7) providing for additional exemptions from the re-
13 quirements of this section.

14 (b) For purposes of this subsection, any consumer product safety standard adopted under
15 federal law that establishes allowable levels for children's products of a high priority chemi-
16 cal of concern for children's health used in children's products is presumed to establish the
17 maximum allowable level of the chemical that may be used in children's products that are
18 sold or offered for sale in this state. The authority may not require a manufacturer in
19 compliance with the federal standard to also comply with the provisions of this section un-
20 less the authority establishes in the rulemaking process that a lower maximum allowable
21 level for children's products of a high priority chemical of concern for children's health used
22 in children's products than the allowable level set by the federal standard is necessary to
23 protect human health and welfare.

24
25 **WAIVERS**

26
27 **SECTION 14a.** (1) If a manufacturer of children's products sold or offered for sale in this
28 state that is subject to section 14 of this 2013 Act fails to remove a high priority chemical
29 of concern for children's health used in children's products from a children's product de-
30 scribed in section 14 (1) of this 2013 Act within the period specified in section 14 (1) of this
31 2013 Act, the manufacturer must apply to the Oregon Health Authority for a waiver. The
32 authority shall grant a waiver if the application:

33 (a) Includes an alternatives assessment demonstrating that removal of the high priority
34 chemical of concern for children's health used in children's products is not financially or
35 technically feasible; or

36 (b) Includes a quantitative exposure assessment demonstrating that the high priority
37 chemical of concern for children's health used in children's products is not reasonably an-
38 ticipated to result in exposure based upon an analysis of leachability and bioavailability of the
39 high priority chemical of concern for children's health used in children's products.

40 (2) To meet the requirements of subsection (1)(a) of this section, an alternatives assess-
41 ment must:

42 (a) Identify and compare potential chemical and nonchemical alternatives that may be
43 used as substitutes to replace the high priority chemical of concern for children's health
44 used in children's products; and

45 (b) Include elements that are consistent with guidance and frameworks established by

1 the United States Environmental Protection Agency and by other states and nongovern-
2 mental organizations with the applicable expertise, as those guidances and frameworks are
3 in effect on the effective date of this 2013 Act.

4 (3) To meet the requirements of subsection (1)(b) of this section, a quantitative exposure
5 assessment must:

6 (a) Evaluate the exposure potential of the high priority chemical of concern for children's
7 health used in children products; and

8 (b) Include elements that are consistent with guidance and frameworks established by
9 the United States Environmental Protection Agency and by other states and nongovern-
10 mental organizations with the applicable expertise, as those guidances and frameworks are
11 in effect on the effective date of this 2013 Act.

12 (4) If the authority determines that an alternatives assessment or a quantitative expo-
13 sure assessment as described in this section is incomplete, the authority may obtain the
14 assessment from another party. The manufacturer that submitted the assessment that was
15 determined to be incomplete must pay for the assessment performed by the other party.

16 (5) The authority shall approve or disapprove a waiver application within 180 days of its
17 submittal. If the authority fails to act within 180 days, the waiver application is deemed ap-
18 proved, and the manufacturer may continue to sell or offer for sale in this state the
19 children's product described in section 14 (1) of this 2013 Act for which the manufacturer
20 submitted a waiver application. If the authority disapproves a waiver application, the man-
21 ufacturer may submit a revised waiver application for consideration within 180 days of the
22 authority's disapproval.

23
24 **REPORTS TO LEGISLATIVE ASSEMBLY**

25
26 **SECTION 15.** The Oregon Health Authority shall provide a report to the Legislative As-
27 sembly once every two years regarding the implementation of sections 1 to 15 of this 2013
28 Act, including:

29 (1) Any updates made under section 5 of this 2013 Act to the list of high priority chemi-
30 cals of concern for children's health used in children's products.

31 (2) The number of manufacturers in compliance with section 7 of this 2013 Act and an
32 analysis of the information collected pursuant to section 7 of this 2013 Act specifying:

33 (a) The number and types of children's products sold or offered for sale in this state that
34 contain high priority chemicals of concern for children's health used in children's products.

35 (b) The range of amounts of high priority chemicals of concern for children's health used
36 in children's products, and an analysis of the levels of the high priority chemicals of concern
37 for children's health used in children's products for various categories of children's products.

38 (c) The potential for exposure to high priority chemicals of concern for children's health
39 used in children's products based on the number of children's products sold or offered for
40 sale in this state, likely exposure routes and the typical use patterns for the children's pro-
41 ducts.

42 (d) Recommendations to limit, reduce or prevent exposure to high priority chemicals of
43 concern for children's health used in children's products based on an analysis of the infor-
44 mation collected.

45 (3)(a) The implementation of sections 14 and 14a of this 2013 Act regarding hazard as-

1 assessments and waivers. In cases where the authority grants waivers for the continued use
2 of high priority chemicals of concern for children's health used in children's products in
3 which the application includes an alternatives assessment, the authority may develop rec-
4 ommendations on opportunities to provide technical assistance, provide grants, promote
5 public-private partnerships and other options to encourage manufacturers to produce pro-
6 ducts through green chemistry that do not contain high priority chemicals of concern for
7 children's health.

8 (b) In developing the recommendations described in paragraph (a) of this subsection, the
9 authority may consult with the Department of Environmental Quality, the Oregon Business
10 Development Department and other state agencies.

11 (4) Any recommendations submitted to the authority by manufacturers under section 7
12 (7) of this 2013 Act.

13 SECTION 16. Section 15 of this 2013 Act becomes operative on January 1, 2015.

14
15 MISCELLANEOUS

16
17 SECTION 17. The unit captions used in this 2013 Act are provided only for the conven-
18 ience of the reader and do not become part of the statutory law of this state or express any
19 legislative intent in the enactment of this 2013 Act.

20
21 EMERGENCY CLAUSE

22
23 SECTION 18. This 2013 Act being necessary for the immediate preservation of the public
24 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
25 on its passage.
26