



Toy Industry Association, Inc.

www.toyassociation.org

May 13, 2013

Sen. Alan Bates, Co-Chair
Sen. Nancy Nathanson, Co-Chair
Joint Committee on Ways & Means
Human Services Subcommittee

RE: HOUSE BILL 3162 – OPPOSE

Dear Senator Bates & Senator Nathanson:

On behalf of the Toy Industry Association (TIA) and our members we respectfully write to inform you of our **opposition to House Bill 3162**, which proposes to identify and regulate chemicals in children's products. **This bill would create a costly bureaucratic regulatory program that would not result in a measurable improvement to public health.**

TIA is a not-for-profit trade association composed of six hundred (600) members, both large and small in size, located throughout North America. TIA and its members have long been leaders in toy safety. In this role, we develop safety standards for toys, working with industry, government, consumer organizations, and medical experts. TIA commends the bill sponsors for their keen interest in the safety of children. We share that interest, and our industry is founded on the mission of bringing fun and joy to children's lives – and in that pursuit protecting the safety of our young consumers is our top priority.

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 requirements such as those in House Bill 3162. This bill would create a costly bureaucratic regulatory program to collect data which is largely already available to the Oregon Health Authority, and members of the public, via a database on the Washington State Department of Ecology's website. It would place immense testing and compliance costs on companies doing business in Oregon, and burden the State – which will be required to implement a chemical assessment, reporting and restriction program, and create a complex enforcement system – at a time when resources are limited.

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 Oregon. Ensuring compliance with the new requirements of this bill would mandate the creation of extensive data collection and submission systems, additional product testing, and extensive staff planning.

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** annually². In Maryland, the estimated cost of similar legislation considered this year would be more than **\$500,000** per year³ in addition to proposed fees on industry.

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-years⁴ 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.”

The resource burden of this program would also escalate over time to continually review and certify products for sale in Oregon and could jeopardize the viability of many businesses in Oregon and around the country. For product manufacturers – especially small and medium sized companies – this type of state-based program is extremely costly, and *will not* result in measurable improvements to public health.

In addition to the cost burdens associated with this bill, HB 3162 is critically flawed and would impose a chemical substitution mandate on manufacturers of children’s products based on the mere presence of an identified chemical in their products with no consideration of exposure or risk.

Policies that seek to provide public information and/or 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.

Existing federal and international regulatory structures ensure that toys are reviewed in this manner, and all 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.

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>

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

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. 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 Oregon, and burden the State with new program costs without a measurable increase to product safety. **We respectfully request that you oppose the passage of House Bill 3162, and refrain from passing state-specific chemical reporting and regulation programs.**

Thank you for consideration of these concerns. If you have any further questions please do not hesitate to contact Jennifer Gibbons, Director of State Government Affairs directly at 646.512.1320 or jgibbons@toyassociation.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'JGibbons', with a long horizontal flourish extending to the right.

Jennifer Gibbons
Director, State Government Affairs
Toy Industry Association (TIA)