
MEMORANDUM

Legislative Fiscal Office
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To: Human Services Subcommittee of the Joint Committee on Ways and Means

From: Kim To, Legislative Fiscal Office, 503-986-1830

Date: June 5, 2013

Subject: HB 3162A Relating to high priority chemicals of concern for children's health
Work Session Recommendation

HB 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 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. OHA must report to a Legislative Assembly once every two years regarding the implementation of this bill.

The measure previously had hearings in the House Committee on Health Care on 3/20/2013, 4/15/2013, and 4/18/2013. A public hearing was held for the bill in this Subcommittee on 5/13/2013.

The staff measure summary and fiscal impact statements are attached to this memo, and available on the Oregon Legislative Information System (OLIS).

Fiscal impact

The fiscal impact of this bill on the Department of Environmental Quality and the Oregon Judicial Department is anticipated to be minimal.

The fiscal impact on the Oregon Health Authority 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. OHA anticipates establishing one Program Analyst position starting January 2015 to manage manufacturer notices, assessments and waiver requests. 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.

The amendments

The - A7 amendment clarifies that children’s products include items designed or intended by the manufacturer to facilitate the feeding of a child under three years of age, including dishes, cups, food utensils, reusable food storage containers and other feeding accessories; but does not include food and food packaging regulated by the United States Food and Drug Administration. The - A7 amendment does not change the fiscal determination.

Recommendation

LFO recommends moving the - A7 amendment into the bill.

Motion

Motion: Senator/Representative _____: I move the dash A7 amendment into HB 3162.

The - A8 amendment adds \$57,046 Other Funds expenditure limitation.

Recommendation

LFO recommends moving the -A8 amendment into the bill.

Motion

Motion: Senator/Representative _____: I move the dash A8 amendment into HB 3162.

Recommendation

LFO recommends the measure, as amended, be moved to the Full Committee.

Motion

Motion: Senator/Representative_____: I move HB 3162 as amended to the Full Committee with a "do pass" recommendation.

Assignment of Carriers

Full: _____

Senate: _____

House: _____

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3162**

1 On page 2 of the printed A-engrossed bill, after line 16, insert:

2 “(F) Items designed or intended by the manufacturer to facilitate the
3 feeding of a child under three years of age, including dishes, cups, food
4 utensils, reusable food storage containers and other feeding accessories.”.

5 In line 17, delete “(F)” and insert “(G)” and delete “(E)” and insert
6 “(F)”.

7 After line 40, insert:

8 “(Q) Food and food packaging regulated by the United States Food and
9 Drug Administration.”.

10

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3162**

1 On page 1 of the printed A-engrossed bill, line 2, after “money;” insert
2 “limiting expenditures;”.

3 On page 10, after line 16, insert:

4 **“SECTION 17. Notwithstanding any other law limiting expenditures,**
5 **the amount of \$57,046 is established for the biennium beginning July**
6 **1, 2013, as the maximum limit for payment of expenses from fees,**
7 **moneys or other revenues, including Miscellaneous Receipts, but ex-**
8 **cluding lottery funds and federal funds, collected or received by the**
9 **Oregon Health Authority for carrying out the duties of the authority**
10 **under sections 1 to 15 of this 2013 Act.”.**

11 In line 17, delete “17” and insert “18”.

12 In line 23, delete “18” and insert “19”.

13

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 ¹	189,280
Total Funds	\$57,046¹	\$189,280
Positions	1	1
FTE	0.25 ¹	1.00
Summary of Revenue Impact - Oregon Health Authority		
	2013-15 Biennium	2015-17 Biennium
Other Funds - Fees	57,046 ¹	189,280
Total Funds	\$57,046¹	\$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.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3162 - B

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: 6/5/2013

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 B-Engrossed 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. The bill specifies that children's products include items designed or intended by the manufacturer to facilitate the feeding of a child under three years of age, including

dishes, cups, food utensils, reusable food storage containers and other feeding accessories; but does not include food and food packaging regulated by the United States Food and Drug Administration. 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.

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.

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.

The measure appropriates \$57,046 Other Funds to the Oregon Health Authority for the 2013-15 biennium to carry out the provisions of this bill.

Joint Committee on Ways and Means

Carrier – House: Rep.
Carrier – Senate: Sen.

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Kim To, Legislative Fiscal Office

Meeting Date: 6/6/2013

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:

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EFFECT OF COMMITTEE AMENDMENT: The – A9 combines the – A7 and – A8. The – A7 clarifies the definition of “children’s products.” The – A8 amendment adds Other Funds expenditure limitation and position authority.

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.