

House Bill 3162

Sponsored by Representative KENY-GUYER, Senator BOQUIST, Representative CONGER, Senator STEINER HAYWARD

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 **as introduced**.

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 children's product containing chemical.

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.

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 pose a risk to the health of children;
5 and

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

8 Whereas providing the public with information regarding the known health impacts associated
9 with exposure to chemicals in children's products helps to ensure this state's commitment to the
10 health of present and future 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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16 (1) **"Chemical" means:**

17 (a) **A substance with a distinct molecular composition.**

18 (b) **A group of structurally related substances and the breakdown products of the sub-**
19 **stance or substances that form through decomposition, degradation or metabolism.**

20 (2)(a) **"Children's cosmetics" means products that are made for, marketed for use by or**
21 **marketed to children under 12 years of age and are intended to be rubbed, poured, sprinkled**
22 **or sprayed on, introduced into or otherwise applied to the human body or any part thereof**

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 for cleansing, beautifying, promoting attractiveness or altering the appearance.

2 (b) “Children’s cosmetics” does not mean soap, dietary supplements or food and drugs
3 approved by the United States Food and Drug Administration.

4 (3)(a) “Children’s product” means:

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

8 (B) Car seats for children.

9 (C) Children’s cosmetics.

10 (D) Children’s jewelry made for, marketed for use by or marketed to children under 12
11 years of age.

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

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

15 (b) “Children’s product” does not mean:

16 (A) Athletic shoes with cleats or spikes.

17 (B) Batteries.

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

19 (D) Bicycles and tricycles.

20 (E) Chemistry sets.

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

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

26 (H) Model rockets.

27 (I) Pocketknives and multitools.

28 (J) Roller skates.

29 (K) Scooters.

30 (L) Sets of darts with metallic points.

31 (M) Slings and catapults.

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

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

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

37 (4) “Manufacturer” means:

38 (a) Any person that manufactures a final consumer product sold at retail or whose brand
39 name is affixed to the consumer product.

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

43 (5) “Trade association” means a membership organization of persons engaging in a simi-
44 lar or related line of commerce, organized to promote and improve business conditions in
45 that line of commerce and not to engage in a regular business of a kind ordinarily carried

1 on for profit.

2
3 HIGH PRIORITY CHEMICALS OF CONCERN FOR CHILDREN'S
4 HEALTH USED IN CHILDREN'S PRODUCTS
5

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

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

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

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

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

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

21 (2) The authority by rule shall add chemicals to the list that are listed on both:

22 (a) The Department of Environmental Quality's Toxics Focus List after the effective date
23 of this 2013 Act; and

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

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

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

30 SECTION 6. Section 5 of this 2013 Act becomes operative on January 1, 2016.

31
32 MANUFACTURER DISCLOSURE OF HIGH PRIORITY CHEMICALS
33 OF CONCERN FOR CHILDREN'S HEALTH USED IN
34 CHILDREN'S PRODUCTS
35

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

39 (A) The manufacturer intentionally adds a chemical included in the list of high priority
40 chemicals of concern for children's health used in children's products established under
41 section 2 of this 2013 Act to a children's product; or

42 (B) A children's product contains a chemical listed as a high priority chemical of concern
43 for children's health used in children's products at levels above 100 parts per million.

44 (b) In addition to the notice required by paragraph (a) of this subsection, within one year
45 of the date the authority adds a chemical to the list under section 5 of this 2013 Act, a

1 manufacturer of children's products sold or offered for sale in this state shall provide the
2 notice described in subsection (2) of this section if a children's product contains a chemical
3 added to the list of high priority chemicals of concern for children's health used in children's
4 products at levels above 100 parts per million.

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

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

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

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

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

12 (e) The name and address of the manufacturer, and the name, address and telephone
13 number of a contact person for the manufacturer; and

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

16 (3)(a) In order for the authority to obtain the information required in the notice de-
17 scribed in subsection (2) of this section, the authority may enter into reciprocal data-sharing
18 agreements with other states in which a manufacturer of children's products is also required
19 to disclose information related to high priority chemicals of concern for children's health
20 used in children's products. If the authority has entered into a data-sharing agreement with
21 another state, and a manufacturer has reported the information required in the notice de-
22 scribed in subsection (2) of this section to that state, the manufacturer may request that the
23 other state provide the authority with the information in lieu of the manufacturer directly
24 reporting the information to the authority.

25 (b) A manufacturer fulfills the notice requirement of subsection (1) of this section when
26 the authority receives the information from the other state and the authority determines
27 that the information received meets the description specified in subsection (2) of this section.

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

33 (5) Manufacturers of children's products with annual worldwide gross sales of less than
34 \$5 million, as reported on the most recent tax returns filed before the notice required by this
35 section, are exempt from the requirements of this section.

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

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

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

2
3 ASSESSMENTS

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

10 (2)(a) When a manufacturer of children’s products sold or offered for sale in this state
11 removes a high priority chemical of concern for children’s health used in children’s products
12 from a children’s product by substituting another chemical, the manufacturer must submit
13 a hazard assessment to the Oregon Health Authority that explains how the children’s prod-
14 uct, and any substitute chemical the children’s product contains, is inherently less hazardous
15 with the substitute chemical.

16 (b) If the manufacturer has removed a high priority chemical of concern for children’s
17 health used in children’s products from the children’s product and not replaced the chemical
18 with a substitute chemical, the manufacturer must submit a hazard assessment to the au-
19 thority detailing any changes in the children’s product that result from the elimination of
20 the chemical from that children’s product.

21 (3) If the manufacturer of children’s products sold or offered for sale in this state fails
22 to remove a high priority chemical of concern for children’s health used in children’s pro-
23 ducts from a children’s product within the period specified in subsection (1) of this section,
24 the manufacture must apply to the Oregon Health Authority for a waiver. The waiver appli-
25 cation must:

26 (a) Demonstrate that removal of the high priority chemical of concern for children’s
27 health used in children’s products is not financially or technically feasible.

28 (b) Provide data that demonstrates that the high priority chemical of concern for
29 children’s health used in children’s products is not reasonably anticipated to result in expo-
30 sure based upon an analysis of leachability and bioavailability of the high priority chemical
31 of concern for children’s health used in children’s products.

32 (c)(A) Include an alternatives assessment that identifies and compares potential chemical
33 and nonchemical alternatives that may be used as substitutes to replace the high priority
34 chemicals of concern for children’s health used in children’s products; or

35 (B) Include an quantitative exposure assessment that evaluates the exposure potential
36 of the high priority chemical of concern for children’s health used in children products.

37 (4) If the authority determines that the alternatives assessment described in subsection
38 (3)(c) of this section is incomplete, the authority may obtain the assessment from another
39 party, and the manufacturer that submitted the assessment that was determined to be in-
40 complete must pay for the assessment performed by the other party.

41 (5) The authority shall approve or disapprove a hazard assessment or waiver application
42 within 180 days of its submittal. If the authority fails to act within 180 days, the hazard
43 assessment or waiver application is deemed approved, and the manufacturer may continue
44 to sell or offer for sale in this state the children’s products for which the manufacturer
45 submitted a hazard assessment or waiver application. If the authority disapproves a hazard

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

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4 **REPORTS TO LEGISLATIVE ASSEMBLY**

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

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

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

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

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

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

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

25 (3)(a) The implementation of section 14 of this 2013 Act regarding hazard assessments
26 and waivers. In cases where the authority grants waivers for the continued use of high pri-
27 ority chemicals of concern for children's health used in children's products in which the ap-
28 plication includes an alternatives assessment, the authority may develop recommendations
29 on opportunities to provide technical assistance, provide grants, promote public-private
30 partnerships and other options to encourage manufacturers to produce products through
31 green chemistry that do not contain high priority chemicals of concern for children's health.

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

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

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

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39 **MISCELLANEOUS**

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

44
45 **EMERGENCY CLAUSE**

1 **SECTION 18.** This 2013 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
3 on its passage.
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