

# A-Engrossed Senate Bill 1569

Ordered by the Senate February 12  
Including Senate Amendments dated February 12

Sponsored by Senator EDWARDS, Representatives KENY-GUYER, CONGER, THOMPSON; Senator STEINER HAYWARD, Representatives BERGER, GOMBERG (Presession filed.)

## 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 establish and 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]* **chemicals on list**, 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 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.

**Allows authority to adopt rules to administer Act.**

**Requires authority to provide biennial report to Legislative Assembly.**

Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by authority.

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; limiting  
3 expenditures; and declaring 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 12 of this 2014 Act:**

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14  
15 (1) **"Children's cosmetics" includes cosmetics that are made for, marketed for use by or**  
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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 marketed to children under 12 years of age and that are:

2 (a) Represented in the packaging, display or advertising of the cosmetics as appropriate  
3 for use by children;

4 (b) Sold in conjunction with, attached to or packaged together with other products that  
5 are packaged, displayed or advertised as appropriate for use by children; or

6 (c) Sold in:

7 (A) A retail store, catalog or website that exclusively offers for sale products that are  
8 packaged, displayed or advertised as appropriate for use by children; or

9 (B) A discrete portion of a retail store, catalog or website that offers for sale products  
10 that are packaged, displayed or advertised as appropriate for use by children.

11 (2) "Children's jewelry" includes jewelry that is made for, marketed for use by or mar-  
12 keted to children under 12 years of age and that is:

13 (a) Represented in the packaging, display or advertising of the jewelry as appropriate for  
14 use by children;

15 (b) Sold in conjunction with, attached to or packaged together with other products that  
16 are packaged, displayed or advertised as appropriate for use by children;

17 (c) Sized for children and not intended by the manufacturer to be used by adults; or

18 (d) Sold in:

19 (A) A vending machine;

20 (B) A retail store, catalog or website that exclusively offers for sale products that are  
21 packaged, displayed or advertised as appropriate for use by children; or

22 (C) A discrete portion of a retail store, catalog or website that offers for sale products  
23 that are packaged, displayed or advertised as appropriate for use by children.

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

25 (A) A product designed or intended by the manufacturer to:

26 (i) Help a child with sucking or teething;

27 (ii) Facilitate the sleep, relaxation or feeding of a child; or

28 (iii) Be worn as clothing by children.

29 (B) Car seats.

30 (C) Children's cosmetics.

31 (D) Children's jewelry.

32 (E) Toys.

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

34 (A) Athletic shoes with cleats or spikes.

35 (B) Batteries.

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

37 (D) Bicycles and tricycles.

38 (E) Chemistry sets.

39 (F) Consumer electronic products, including personal computers, audio and video equip-  
40 ment, calculators, wireless telephones and game consoles, handheld devices that incorporate  
41 a video screen and are used to access interactive software, and the associated peripherals.

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

44 (H) Model rockets.

45 (I) Pocketknives and multitools.

1 (J) Roller skates.

2 (K) Scooters.

3 (L) Darts with metallic points.

4 (M) Slings and catapults.

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

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

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

10 (Q) Food and food packaging regulated by the United States Food and Drug Adminis-  
11 tration or the United States Department of Agriculture.

12 (4)(a) "Cosmetics" means products or components of products that are intended to be  
13 rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human  
14 body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the  
15 appearance.

16 (b) "Cosmetics" does not mean soap, dietary supplements or food and drugs approved by  
17 the United States Food and Drug Administration.

18 (5) "High priority chemical" means a chemical that has been identified by a state or  
19 federal agency or an accredited research university, or by scientific evidence deemed credible  
20 and authoritative by the Oregon Health Authority, as known to do one or more of the fol-  
21 lowing:

22 (a) Harm the normal development of a fetus or child or cause other developmental  
23 toxicity;

24 (b) Cause cancer, genetic damage or reproductive harm;

25 (c) Disrupt the endocrine system;

26 (d) Damage the nervous system, immune system or organs or cause other systemic  
27 toxicity;

28 (e) Be persistent, bioaccumulative and toxic; or

29 (f) Be very persistent and very bioaccumulative.

30 (6) "Manufacturer" means any person that produces a children's product or an importer  
31 or domestic distributor of a children's product. For the purposes of this subsection,  
32 "importer" means the owner of the children's product.

33 (7) "Trade association" means a membership organization of persons engaging in the  
34 same or a similar or related line of commerce, organized to promote and improve business  
35 conditions in that line of commerce and not to engage in regular business activities that  
36 ordinarily are carried on for profit.

37 (8) "Very bioaccumulative" means having a bioconcentration factor or bioaccumulation  
38 factor greater than or equal to 5,000, or if neither are available, having a log  $K_{ow}$  value  
39 greater than 5.0.

40 (9) "Very persistent" means having a half-life greater than or equal to:

41 (a) In soil or sediment, 180 days; or

42 (b) In water or evidence of long-range transport, 60 days.

43  
44 **HIGH PRIORITY CHEMICALS OF CONCERN FOR CHILDREN'S**  
45 **HEALTH USED IN CHILDREN'S PRODUCTS**

1       **SECTION 2.** (1) The Oregon Health Authority shall establish and maintain a list of high  
2 priority chemicals of concern for children’s health when used in children’s products. The  
3 authority shall include on the list chemicals that are listed on the Washington State De-  
4 partment of Ecology’s Reporting List of Chemicals of High Concern to Children on the ef-  
5 fective date of this 2014 Act.

6       (2) The authority shall post the list of high priority chemicals on its website. For each  
7 high priority chemical on the list, the authority shall post:

8       (a) Information regarding the known health impacts associated with exposure to the  
9 chemical; and

10       (b) Data collected under section 4 of this 2014 Act in a format that is searchable and  
11 accessible to the public.

12       (3)(a) The authority shall review and revise the list of high priority chemicals every three  
13 years.

14       (b) In completing the revisions under this subsection, the authority shall consider adding  
15 or removing a chemical from the list of high priority chemicals if, after the effective date  
16 of this 2014 Act:

17       (A) The chemical is added to or removed from the Washington State Department of  
18 Ecology’s Reporting List of Chemicals of High Concern to Children or another list maintained  
19 by a state agency, another state or a federal agency that the authority has identified by rule  
20 as a list intended to identify high priority chemicals; or

21       (B) A person has petitioned the authority, as described in paragraph (c) of this sub-  
22 section, to consider adding or removing the chemical from the list of high priority chemicals.

23       (c) A person may petition the authority to consider adding or removing a chemical from  
24 the list of high priority chemicals by providing the following information about a chemical  
25 to the authority:

26       (A) The prime chemical name and the Chemical Abstracts Service Registry Number; and

27       (B) Credible peer-reviewed scientific information documenting why the chemical meets  
28 or fails to meet the criteria required for inclusion on the authority’s list of high priority  
29 chemicals.

30       (d) In completing the revisions under this subsection, the authority may remove a  
31 chemical from the list of high priority chemicals if the authority determines that the chem-  
32 ical is no longer being used in children’s products.

33       (4) The authority shall update the list of high priority chemicals on its website within one  
34 year of the date on which a chemical is added to or removed from the list.

35       **SECTION 3.** (1) Section 2 of this 2014 Act becomes operative on July 1, 2014.

36       (2) The Oregon Health Authority shall first post on its website the list of high priority  
37 chemicals established under section 2 of this 2014 Act not later than January 1, 2015.

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39                   **MANUFACTURER DISCLOSURE OF HIGH PRIORITY CHEMICALS**  
40                   **OF CONCERN FOR CHILDREN’S HEALTH USED IN**  
41                   **CHILDREN’S PRODUCTS**  
42                   **(Manufacturer Notice Requirements)**  
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44       **SECTION 4.** (1) A manufacturer of a children’s product sold or offered for sale in this  
45 state that contains a chemical included on the list established and maintained under section

1 **2 of this 2014 Act shall provide notice to the Oregon Health Authority that the**  
2 **manufacturer's product contains a high priority chemical. The notice must be filed annually**  
3 **with the authority and must contain:**

4 **(a) The prime chemical name and Chemical Abstracts Service Registry Number of the**  
5 **chemical contained in the children's product;**

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

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

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

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

12 **(f) Any other information that the manufacturer deems relevant to the appropriate use**  
13 **of the children's product.**

14 **(2)(a) The authority may enter into reciprocal data-sharing agreements with other states**  
15 **in which manufacturers of children's products are required to disclose information related**  
16 **to high priority chemicals. The authority must use the GS1 Global Product Classification**  
17 **system to identify and specify product categories subject to the data-sharing agreements. If**  
18 **the authority has entered into a data-sharing agreement with another state, and a man-**  
19 **ufacturer has reported the information required in the notice described in subsection (1) of**  
20 **this section to that state, the manufacturer may request that the other state provide the**  
21 **authority with the information in lieu of the manufacturer's direct reporting of the infor-**  
22 **mation to the authority.**

23 **(b) A manufacturer fulfills the notice requirement of subsection (1) of this section when**  
24 **the authority receives the information from the other state and the authority determines**  
25 **that the information received satisfies the requirements for the notice.**

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

31 **(4) Manufacturers of children's products with annual worldwide gross sales of less than**  
32 **\$5 million, as reported on the most recent tax return filed by the manufacturer before the**  
33 **notice required by this section, are exempt from the requirements of this section but may**  
34 **provide notice voluntarily.**

35 **(5) A trade association may provide required notices on behalf of its member manufac-**  
36 **turers under the provisions of this section.**

37  
38 **(Oregon Health Authority Compliance Testing)**  
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40 **SECTION 5. The Oregon Health Authority may conduct testing of children's products**  
41 **sold or offered for sale in this state in order to determine compliance with section 4 of this**  
42 **2014 Act.**  
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44 **(Operative Date for Sections 4 and 5 of this 2014 Act)**  
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1       **SECTION 9.** Section 8 of this 2014 Act becomes operative on January 1, 2016.

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

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6       **SECTION 10.** (1) The High Priority Chemicals of Concern for Children's Health Fund is  
7 established in the State Treasury, separate and distinct from the General Fund. Interest  
8 earned by the High Priority Chemicals of Concern for Children's Health Fund shall be cred-  
9 ited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health  
10 Authority to administer sections 1 to 12 of this 2014 Act.

11       (2) The authority may accept gifts, grants or contributions from any public or private  
12 source for the purpose of carrying out sections 1 to 12 of this 2014 Act.

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

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

15       (b) Civil penalties imposed under section 8 of this 2014 Act.

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17                                   **RULES**

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19       **SECTION 11.** In accordance with applicable provisions of ORS chapter 183, the Oregon  
20 Health Authority may adopt rules necessary for the administration of sections 1 to 12 of this  
21 2014 Act.

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23                                   **REPORTS TO LEGISLATIVE ASSEMBLY**

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25       **SECTION 12.** Not later than the first day of each odd-numbered year regular session, the  
26 Oregon Health Authority shall submit to the Legislative Assembly in the manner provided  
27 in ORS 192.245 a report that details:

28       (1) Any revisions made to the list of high priority chemicals established and maintained  
29 under section 2 of this 2014 Act.

30       (2) The number of manufacturers in compliance with section 4 of this 2014 Act.

31       (3) An analysis of the information collected pursuant to section 4 of this 2014 Act, spec-  
32 ifying:

33       (a) The number and types of children's products sold or offered for sale in this state that  
34 contain one or more high priority chemicals on the list established and maintained under  
35 section 2 of this 2014 Act.

36       (b) The range of amounts of listed high priority chemicals, and an analysis of the levels  
37 of the listed high priority chemicals, present in various categories of children's products.

38       (c) Information on the potential for exposure to high priority chemicals based on the  
39 number of children's products sold or offered for sale in this state that contain one or more  
40 chemicals on the list established and maintained under section 2 of this 2014 Act, the likely  
41 exposure routes of those chemicals and the typical use patterns for the children's products  
42 that contain the chemicals.

43       (4)(a) Recommendations on:

44       (A) Limiting, reducing or preventing exposure to listed high priority chemicals based on  
45 an analysis of the information collected;

1 (B) Opportunities to provide technical assistance, award grants, promote public-private  
2 partnerships and take other actions to encourage manufacturers to produce children's pro-  
3 ducts that do not contain high priority chemicals;

4 (C) Policy options to promote and provide incentives for the use of chemical alternatives  
5 assessments and principles of green chemistry; and

6 (D) Additional or improved methods for informing consumers about high priority chemi-  
7 cals in children's products.

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 **SECTION 13.** The Oregon Health Authority shall submit the first biennial report required  
12 under section 12 of this 2014 Act no later than February 1, 2017.

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14 **EXPENDITURE LIMITATION**

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16 **SECTION 14.** Notwithstanding any other law limiting expenditures, the amount of \$57,046  
17 is established for the biennium beginning July 1, 2013, as the maximum limit for payment of  
18 expenses from, moneys or other revenues, including Miscellaneous Receipts, but excluding  
19 lottery funds and federal funds, collected or received by the Oregon Health Authority for  
20 carrying out the duties of the authority under sections 1 to 12 of this 2014 Act.

21  
22 **MISCELLANEOUS**

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24 **SECTION 15.** The unit captions used in this 2014 Act are provided only for the conven-  
25 ience of the reader and do not become part of the statutory law of this state or express any  
26 legislative intent in the enactment of this 2014 Act.

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28 **EMERGENCY CLAUSE**

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30 **SECTION 16.** This 2014 Act being necessary for the immediate preservation of the public  
31 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect  
32 on its passage.

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