



TESTIMONY OF
TOY INDUSTRY ASSOCIATION (TIA)

SUBMITTED TO

SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

Senate Bill 478

MARCH 2, 2015

www.toyassociation.org

Chair Edwards and committee members, the Toy Industry Association (TIA) appreciates this opportunity to provide testimony on Senate Bill 478, legislation identifying and regulating chemicals in children's products.

TIA is the not-for-profit trade association for manufacturers, importers and retailers of toys and youth entertainment products sold in North America. The Association represents more than 700 companies – both large and small in size. There are approximately 146 toy industry companies (TIA members and non-members) located in Oregon.

TIA commends the Committee's interest in assuring that children's products are safe, and the Association and our members share this interest. TIA's mission is to bring fun and joy to children's lives and in that mission the safety of young consumers is paramount – it is our industry's number-one priority. As such, TIA and its members have long been leaders in the establishment of toy safety requirements at the federal level. In developing these requirements TIA works in partnership and collaborates with government, consumer organizations, and medical experts to develop stringent toy safety standards that have been mandated in the United States and are used in countries around the globe.

TIA supports appropriate and strong children's safety and chemical regulations, and we believe it is in the best interest of consumers and children that those regulations are maintained at the federal level. We have some serious concerns with unique state chemical and product regulations such as those in Senate Bill 478. These types of proposals do not consider the existing robust safety system for toys sold in this country, and will create an unnecessary burden on companies doing business in Oregon – with no measurable increase in safety. These proposals will also burden the State, which will be required to implement a chemical reporting and restriction system at a time when resources are scarce.

Toys are Already Highly Regulated and Reviewed for Safety

Safety is the number-one priority for toy manufacturers. TIA's members perform rigorous safety assessments prior to the marketing of any product and take into consideration potential impacts on a consumer or child. In addition to meeting stringent internal product safety requirements, 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.

Legislation Must Rely on a Scientific Approach

Legislation like SB 478 and other state-based chemical regulation efforts can be flawed because of a lack of appropriate in-state scientific resources and lack of a safety-based decision framework. Specifically, Senate Bill 478 would require the Oregon Health Authority (OHA) to identify “high priority chemicals of concern for children’s health” and to post a list, and information regarding possible health impacts associated with exposure to listed chemicals. The legislation charges OHA with enforcing a ban on these listed priority chemicals in certain children’s products after three years.

No clear recognition of safety or exposure is included in SB 478. Specifically, this measure would impose a chemical substitution mandate on manufacturers of children’s products based on the mere presence of an identified chemical in their products.

This approach to chemicals management is based on the premise that the mere presence of a chemical with certain hazardous traits creates a safety concern. Rather, safety assessments that consider exposure and harm are the key to ensuring that products are safe when used by children and consumers. Safety assessments are necessary to ensure that toys are safe for use and existing federal and international regulatory structures already ensure that toys are reviewed in this manner. Toy manufacturers have extensive knowledge of their products’ use patterns and physical requirements, allowing them to make safety and the protection of human health an essential element of product development.

Additionally, the creation of a list of chemicals in children’s products with information on corresponding health impacts may mislead the public. This list could lead consumers to believe a product is potentially harmful because it contains a particular chemical when the product is safe for use and in compliance with all state and federal laws.

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.

Immense Cost to Businesses and the State of Oregon

Legislation, like SB 478, that would regulate “chemicals of concern” in consumer products and toys places an immense burden on manufacturers and government agencies. In addition to the costs associated with testing and compliance, SB 478 would give OHA broad authority to establish fees on manufacturers.

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. 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 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

\$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 similar reporting program is estimated to **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.

Ensuring compliance with the new requirements of these types of proposals would mandate the creation of extensive data collection and submission systems, additional product testing, and extensive staff planning. 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 – no amount of money is too great to protect children, but increasing costs without increasing safety is a concern for the industry.

Conclusion

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. While we share your interest in safety, we must urge you to carefully evaluate this legislation given the compliance challenges of state-by-state requirements, and the lack of safety-based criteria in the proposed legislation.

On behalf of the over 700 members of Toy Industry Association, and the toy industry in Oregon, we thank you for your consideration of these concerns. TIA would be happy to address any questions that you and the members of the Committees might have with regard to our concerns on this topic and legislation. Please feel free to contact Jennifer Gibbons, TIA's Director of State Government Affairs, at jgibbons@toyassociation.org or 646-512-1320 for more information.

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.