Testimony of

Andrew R. Hackman
Serlin Haley LLP

On Behalf of
Juvenile Products Manufacturers Association

Before the Senate Committee on Environment and Natural Resources
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In Support of Senate Bill 836
Related to High Priority Chemicals of Concern in Children's Products

Juvenile Products Manufacturers Association, Inc.
1120 Route 73, Suite 200 • Mt. Laurel, NJ 08054 • 856.638.0420 • 856.439.0525
E-mail: jpma@ahint.com • Website: www.jpma.org

Chair Dembrow, Vice-Chair Olsen, and members of the committee,

My name is Andrew Hackman and I am here on behalf of the Juvenile Products Manufacturers Association in support of Senate Bill 836– which amends the "Toxic-Free Kids Act" (TFKA) in order to ensure consistency with other states and address key issues that have developed during recent Oregon Health Authority (OHA) rulemakings. Thank you for the opportunity to testify today.

Background of the JPMA

The Juvenile Products Manufacturers Association (JPMA) is a national not-for-profit trade association representing 95% of the prenatal to preschool products industry including the producers, importers, and distributors of a broad range of childcare articles that provide protection to infants and assistance to their caregivers. These products are sold globally and nationally, and consistency of safety regulations is a critical aspect of product development.

JPMA and its members support the goal of children's safety through information sharing, product performance, certifications, and industry standards. JPMA not only represents the interests of the North American juvenile products industry, but also works as an advocate for product safety on behalf of consumers through active participation in voluntary standards setting processes to ensure product safety for juvenile products. In addition, the materials that are used in juvenile products must meet stringent internal product safety requirements and 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),
- The Consumer Product Safety Act (CPSA),
- The Child Safety Protection Act (CSPA),
- The Federal Hazardous Substances Act (FHSA), and
- The Toxic Substances Control Act (TSCA)

Under this network of requirements, it is illegal to sell children's products containing various substances known to be harmful to children and to which children might be exposed. On behalf of JPMA, I sincerely hope that the following comments will assist the Committee in its understanding of the necessity of Senate Bill 836 and these amendments to the TFKA - to ensure consistency between Oregon and other states that have children's chemical regulatory programs.

1. Inaccessible Components Should be Treated Consistently with Other States

Protecting health and safety is a critical element of any juvenile product's development. Juvenile products are specifically engineered to ensure that acute safety concerns such as choking, suffocation, entrapment, and other critical safety issues are addressed. Similarly, materials used in juvenile product components are evaluated and designed to mitigate health concerns, and under the FHSA, per above, it is illegal to sell a juvenile product that may potentially expose a child to a substance known to be harmful.

Inaccessible components, such as electronic components (which may contain thousands of subcomponents and elements) are specifically designed to never come in contact with a child through reasonable and foreseeable use and abuse. This is a high standard that takes into account real-world use of a product. As such, to eliminate the burden of over-reporting information that

does not address safety – **every other state that has adopted a children's chemical safety law has exempted inaccessible components.** Washington State[i], Vermont,[ii] and Maine[iii] all have consistent provisions that inaccessible components are not subject to reporting and potential restrictions unless, in some cases, specific data indicates that there is cause for concern (on a case-by-case basis).

Consistency with these other states on this issue is critical and OHA deferred to act on this issue during the rulemaking process, citing that the TFKA was not explicit enough on this issue to allow for these same provisions. Senate Bill 836 helps address that critical issue and provide clarity and consistency.

2. **Provide Equitable Consultant Fees Under the "Toxic-Free Kids Act"**

The OHA fee schedule for the TFKA establishes draconian fees that companies will be required to pay for reporting, as well as fees for exemption requests submitted to the OHA. These fees are authorized under the law and necessary, but must be fair and equitable. Given the complexity of many products and the automatic bans in the TFKA, for some companies the exemption process is not optional to comply with the statutory requirements of the TFKA.

The current fee schedule provides that outside consultants contracted by OHA be paid an exorbitant fee of $12,000 initially to review manufacturing control program (MCP) processes. SB 836 limits fees provided to outside consultants for these MCP reviews to $2,000. Once again, **every other state that has adopted a children's chemical safety law has not required the submission of MCP process documents in the first place.** Senate Bill 836 does not eliminate these fees entirely, however, this legislation seeks an equitable balance for review of a company's MCP.

Senate Bill 836 also does not modify fees paid to the OHA for reporting. JPMA only requests that there be a reasonable provision for those companies that must rely on this process under the law.

3. **Data for Chemical Restrictions Should be Reviewed by the Legislature**

It is expected that the TFKA will incur a higher cost to the state in the coming years than the estimates provided to the legislature by OHA in 2015. This has been supported by the fact that other states with similar programs have seen increased program costs as they evaluate how chemicals are already regulated and as they might implement restrictions. No other state has considered such broad-reaching restrictions as contemplated under the TFKA.

Senate Bill 836 requires the OHA to analyze the automatic chemical restrictions under the TFKA, and provide a report to Legislature prior to implementing the costliest phase of TFKA - which bans certain materials in certain children's products. This is reasonable and necessary considering the breadth, scope, and impact of this provision of the law.

Conclusion

Senate Bill 836 does not undermine the "Toxic-Free Kids Act". On the contrary, SB 836 looks to ensure that the program is to the extent possible, consistent with similar regulatory programs in Washington State, Maine, and Vermont. The TFKA will still go well beyond the authorities of

these other states with broad based reporting and restrictions on 66-chemicals in certain children's products.

JPMA and other stakeholders impacted by the TFKA are seeking provisions that provide consistency and appropriate equity and review of critical TFKA elements. Senate Bill 836 does not repeal or "water-down" the key elements that the Legislature passed in 2015.

Therefore, JPMA urges the Committee on Environment and Natural Resources to consider these important changes and recommend Senate Bill 836 for passage. Thank you to the Committee for calling this hearing and allowing JPMA to testify. I look forward to your questions.

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[i] Children's Safe Products Act, Chapter 70.240 RCW: http://www.ecy.wa.gov/programs/hwtr/RTT/cspa/

[ii] Act 188 Relating to the Regulation of Toxic Substances (2012): http://healthvermont.gov/environment/children

[iii] Maine Safer Chemicals in Children's Products Law – Title 38, Chapter 16-D: http://www.maine.gov/dep/safechem/