



PUBLIC HEALTH DIVISION

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TO: The Honorable Senator Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources

FROM: Gabriela Goldfarb, Manager
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SUBJECT: SB 836 and the Toxic-Free Kids Program

Chair Dembrow and members of the committee: I am Gabriela Goldfarb, Section Manager for the Oregon Health Authority (OHA) Environmental Public Health Section in OHA's Public Health Division. I am here to provide information on Senate Bill 836, which proposes a number of changes to the Toxic-Free Kids Program the legislature directed OHA to develop with the Toxic-Free Kids Act (SB 478, 2015).

I'll first speak to the bill's redefinition of *de minimis* level, or the level above which OHA must be notified of the presence of a chemical in certain children's products. The focus of the Toxic-Free Kids Act is a list of 66 "High Priority Chemicals of Concern for Children's Health" developed by the Washington State Department of Ecology, the Washington State Department of Health, and the University of Washington's Pediatric Environmental Health Specialty Unit (attached as Exhibit A). The list resulted from a multi-year, science-based effort to identify which chemicals were most likely to cause the most harm to the most children when found in children's products. The list also sets individual limits, known as Practical Quantitation Limits (PQLs) for each of these chemicals in those cases where the Environmental Protection Agency (EPA) has not developed a specific standard for a chemical.

The individual limits for chemicals intentionally added to the manufacturing process vary depending on the chemical, and are the minimum concentration of a given chemical that can be reliably detected in any laboratory on a “routine” basis, eliminating differences that can occur between laboratories. In other words, while some labs may be able to detect the chemical at a lower level, the individual limit, or “PQL” for a given chemical can be routinely detected in any laboratory doing the analysis. The individual limits are the enforcement limits for how much of a chemical can be in a children’s product before a manufacturer needs to report, and potentially eventually remove the chemical.

This is in contrast to chemicals that are not intentionally added for the purpose of manufacturing the product, but are instead present as byproducts of the manufacturing process. The Toxic Free Kids Act established a single, standard *de minimis* level of 100 parts per million for unintentional chemical contamination. This is likely because it is more difficult to control chemicals that are a manufacturing byproduct than to control the chemicals intentionally added to the production process.

SB 836 would eliminate the individual limits for chemicals intentionally added to manufactured children’s products, and would instead set a *de minimis* limit of 100 parts per million as the level at which reporting is required both for chemicals intentionally added, and for unintentional chemical contamination. This change would allow manufacturers to add chemicals of concern for children’s health up to 100 parts per million before being required to notify the state, even though there is science to support a finding of health risks at a lower level. The result would be fewer products listed in the state’s product database, because those chemicals in children’s products that fall between the Practical Quantification Limit, and 100 parts per million would not require notification. As mentioned earlier, Exhibit A lists the 66 high priority chemicals of concern to children’s health; 65 of the 66 chemicals currently on the list have individual PQLs or EPA-specified risk levels that are well below the proposed level of 100 parts per million. More specifically, of those 66 chemicals, over one third (39%) have a PQL of one part per million or less.

The second change in the Toxic-Free Kids Act proposed by SB 836 would exclude from notification to OHA any high priority chemicals of concern to children’s health found in an “inaccessible component” of the children’s products covered by the law. Some high priority chemicals of concern to children’s health that are present in child

products, such as flame retardants and epoxies, can migrate to the outside of the product or volatilize, and expose young users.

The third set of changes proposed by SB 836 requires OHA, in its reports to the Legislature, to provide analysis and data for each chemical subject to removal or substitution, which is mouthable or a children's cosmetic or is marketed to children less than 3 years-old. SB 836 requires that before OHA can require a chemical be removed or substituted, OHA must quantify the risk the chemical poses based on anticipated exposure, and find that it poses an unreasonable risk to children. For those chemicals that OHA does determine pose an unreasonable risk to children, SB 836 requires that OHA's determination be placed in a legislative measure and ratified by the Legislative Assembly and Governor before it can take effect.

The assessment required by SB 836 would duplicate the analysis conducted to develop the list of 66 high priority chemicals of concern to children's health. This list is the basis for child toxics programs in Washington and Vermont in addition to Oregon. The Toxic Free Kids Act currently provides a process for amending the list as new science becomes available, and limits the number of chemicals OHA may add to the list to 5 chemicals every 3 years, and requires that Oregon consider changing its list in accordance with changes to Washington's high priority chemicals of concern to children's health list or similar lists maintained by federal agencies.

For OHA to duplicate the analysis conducted to produce the existing list of 66 chemicals of concern would require significant additional staff to address gaps in expertise and workload.

Finally, SB 836 eliminates the timeline to phase out high priority chemicals of concern in children's products, and eliminates the \$250 per chemical fee currently in OAR 333-016-2080, thereby eliminating funding for OHA to implement the core chemical notification portion of the Toxic-Free Kids Program.

OHA appreciates this opportunity to provide testimony on SB 836 and the Toxic Free Kids Program.



OAR 333-016-2035

Exhibit A: Projected PQLs for the 66 high priority chemicals of concern in children's products

	Chemical	CAS	PQL (ppm)	Method
1	Formaldehyde	50-00-0	5.0	8315
2	Aniline	62-53-3	1.0	8270
3	N-Nitrosodimethylamine	62-75-9	1.0	8270
4	Benzene	71-43-2	1.0	8260
5	Vinyl chloride	75-01-4	1.0	8260
6	Acetaldehyde	75-07-0	1.0	8315
7	Methylene chloride	75-09-2	1.0	8260
8	Carbon disulfide	75-15-0	10.0	8260
9	Methyl ethyl ketone	78-93-3	1.0	8260
10	1,1,2,2-Tetrachloroethane	79-34-5	1.0	8260
11	Tetrabromobisphenol A	75-94-7	20.0	3540/GCMS
12	Bisphenol A	80-05-7	20.0	8720
13	Diethyl phthalate	84-66-2	5.0	8720
14	DBP (Dibutyl phthalates); di-n-butyl phthalate	84-74-2	5.0	8720
15	Di-n-Hexyl Phthalate	84-75-3	5.0	8720
16	Phthalic anhydride	85-44-9	100.0	8091
17	Benzyl butyl phthalate; Butyl benzyl phthalate	85-68-7	5.0	8720
18	N-Nitrosodiphenylamine	86-30-6	1.0	8720
19	Hexachlorobutadiene	87-68-3	30.0	8720
20	Propyl paraben	94-13-3	30.0	HPLC
21	Butyl paraben	94-26-8	30.0	HPLC
22	2-Aminotoluene	95-53-4	1.0	8720
23	2,4-Diaminotoluene	95-80-7	10.0	GC/MS
24	Methyl paraben	99-76-3	30.0	HPLC
25	p-Hydroxybenzoic acid	99-96-7	10.0	HPLC
26	Ethylbenzene	100-41-4	1.0	8260
27	Styrene	100-42-5	1.0	8260
28	4-Nonylphenol; 4-NP and its isomer	104-40-5	10.0	USGS 5-B2
29	para-Chloroaniline	106-47-8	60.0	8720
30	Acrylonitrile	107-13-1	1.0	8260
31	Ethylene glycol	107-21-1	5.0	8015
32	Toluene	108-88-3	1.0	8260

33	Phenol	108-95-2	60.0	8270
34	2-Methoxyethanol	109-86-4	10.0	8015
35	Ethylene glycol monoethyl ester	110-80-5	10.0	8015
36	Tris(2-chloroethyl) phosphate	115-96-8	50.0	8270
37	DEHP; bis(2-ethylhexyl) phthalate	117-81-7	20.0	8270
38	DOP (Di-n-octyl phthalate)	117-84-0	5.0	8270
39	Hexachlorobenzene	118-74-1	30.0	8270
40	3,3'-Dimethylbenzidine & Dyes Metabolized to same	119-93-7	10.0	8270
41	Ethyl paraben	120-47-8	30.0	HPLC
42	1,4-Dioxane	123-91-1	1.0	8720/many
43	Perchloroethylene; tetrachloroethylene	127-18-4	0.5	8260/many
44	Benzophenone-2	131-55-5	20.0	GC-FID
45	4-tert-Octylphenol	140-66-9	10.0	USGS 5-B2
46	Estragole	140-67-0	10.0	IFRA GCMS
47	2-Ethylhexanoic Acid	149-57-5	1.0	Not given
48	Octamethylcyclotetrasiloxane	556-67-2	10.0	8260/8015
49	Pentachlorobenzene	608-93-5	1.0	8270
50	C.I. Solvent Yellow 14	842-07-9	1.0	LC/MS ¹
51	N-Methylpyrrolidone	872-50-4	50.0	8015/8270
52	2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether	1163-19-5	10.0	8270
53	Perfluorooctanyl sulphonic acid and its salts; PFOS	1763-23-1	1.0	EPA PFOA
54	4-octyl phenol	1806-26-4	10.0	USGS 5-B2
55	2-Ethyl-hexyl-4-methoxycinnamate	5466-77-3	5.0	HPLC
56	Mercury & mercury compounds	7439-97-6	0.5	EPA ²
57	Molybdenum & molybdenum compounds	7439-98-7	1.0	EPA ³
58	Antimony & Antimony compounds	7440-36-0	1.0	EPA ³
59	Arsenic & Arsenic compounds	7440-38-2	1.0	EPA ³
60	Cadmium & cadmium compounds	7440-43-9	1.0	EPA ³
61	Cobalt & Cobalt compounds	7440-48-4	1.0	EPA ³
62	Tris(1,3-dichloro-2-propyl)phosphate	13674-87-8	50.0	8270
63	Butylated hydroxyanisole	25013-16-5	10.0	USGS 5-B2
64	Hexabromocyclododecane	25637-99-4	10.0	3540/GCMS
65	DIDP; Diisodecyl Phthalate	26761-40-0	50.0	8270
66	DiNP (Di-iso-nonyl phthalate)	28553-12-0	50.0	8270