

# Senate Bill 754

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT (at the request of Oregon Business and Industry)

## 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**.

Modifies provisions relating to regulation of chemicals in children's products.

Delays implementation of requirement that manufacturer of children's product remove or make substitution for high priority chemical of concern.

## A BILL FOR AN ACT

1  
2 Relating to chemicals in children's products; amending ORS 431A.253, 431A.258 and 431A.260.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 431A.253 is amended to read:

5 431A.253. As used in ORS 431A.253 to 431A.280:

6 (1) "Chemical" means:

7 (a) A substance with a distinct molecular composition and the breakdown products of the sub-  
8 stance that form through decomposition, degradation or metabolism.

9 (b) A group of structurally related substances and the breakdown products of the substances  
10 that form through decomposition, degradation or metabolism.

11 (2)(a) "Children's cosmetics" means products that are intended to be rubbed, poured, sprinkled  
12 or sprayed on, introduced into or otherwise applied to the human body or any part thereof for  
13 cleansing, moisturizing, beautifying, promoting attractiveness or altering the appearance.

14 (b) "Children's cosmetics" does not mean soap, dietary supplements or food and drugs approved  
15 by the United States Food and Drug Administration.

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

17 (A) Any of the following products that are made for, marketed for use by or marketed to chil-  
18 dren under 12 years of age:

19 (i) A product designed or intended by the manufacturer to facilitate sucking, teething, sleep,  
20 relaxation, feeding or drinking.

21 (ii) Children's clothing and footwear.

22 (iii) Car seats.

23 (iv) Children's cosmetics.

24 (v) Children's jewelry.

25 (vi) Toys.

26 (B) Any component part of a product specified in subparagraph (A) of this paragraph **that is**  
27 **accessible to the consumer**.

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

29 (A) Athletic shoes with cleats or spikes.

30 (B) Batteries.

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

**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 (D) Bicycles and tricycles.
- 2 (E) Chemistry sets.
- 3 (F) Consumer electronic products, including personal computers, audio and video equipment,  
4 calculators, wireless telephones and game consoles, handheld devices that incorporate a video  
5 screen and are used to access interactive software, and the associated peripherals.
- 6 (G) Interactive software intended for leisure and entertainment, such as computer games, and  
7 their storage media, such as compact discs.
- 8 (H) Model rockets.
- 9 (I) Pocketknives and multitools.
- 10 (J) Roller skates.
- 11 (K) Scooters.
- 12 (L) Sets of darts with metallic points.
- 13 (M) Slings and catapults.
- 14 (N) Snow sporting equipment, including skis, poles, boots, snowboards, sleds and bindings.
- 15 (O) Sporting equipment and accessories, including but not limited to bats, balls, gloves, sticks,  
16 pucks, pads, helmets and other protective equipment, weight training and exercise aids, protective  
17 eyewear, backpacks and tents, raingear, sport bags and luggage, and golf equipment.
- 18 (P) Video toys that can be connected to a video screen and are operated at a nominal voltage  
19 exceeding 24 volts.
- 20 (Q) Food and beverages and food and beverage packaging regulated by the United States Food  
21 and Drug Administration or the United States Department of Agriculture.
- 22 (4) "Contaminant" means trace amounts of chemicals that are incidental to manufacturing and  
23 that serve no intended function in the product component, including but not limited to:
- 24 (a) Unintended by-products of chemical reactions during the manufacture of the product com-  
25 ponent;
- 26 (b) Trace impurities in feedstock;
- 27 (c) Incompletely reacted chemical mixtures; and
- 28 (d) Degradation products.
- 29 (5) "De minimis level" means:
- 30 (a) For a chemical that is an intentionally added chemical, the practical quantification limit; or
- 31 (b) For a chemical that is a contaminant, a concentration of 100 parts per million.
- 32 (6) "Intentionally added chemical" means a chemical in a product that serves an intended func-  
33 tion in the product component.
- 34 (7) "Manufacturer" means any person that produces a children's product or an importer or do-  
35 mestic distributor of a children's product. For the purposes of this subsection, "importer" means the  
36 owner of the children's product.
- 37 (8) "Mouthable" means, in describing a children's product or any part of a children's product,  
38 that an intended use of the product or any part of the product includes being placed in the mouth  
39 for any purpose.
- 40 (9) "Practical quantification limit" means the lowest concentration of a chemical that can be  
41 reliably measured within specified limits of precision, accuracy, representativeness, completeness  
42 and comparability during routine laboratory operating conditions.
- 43 (10) "Trade association" means a membership organization of persons engaging in the same or  
44 a similar or related line of commerce, organized to promote and improve business conditions in that  
45 line of commerce and not to engage in regular business activities that ordinarily are carried on for

1 profit.

2 **SECTION 2.** ORS 431A.258 is amended to read:

3 431A.258. (1)(a) A manufacturer of a children's product sold or offered for sale in this state that  
4 contains a chemical included on the list established and maintained under ORS 431A.255 in an  
5 amount at or above a de minimis level shall provide a biennial notice as described in subsection (2)  
6 of this section to the Oregon Health Authority by January 1 of each applicable notice year.

7 (b) The first biennial notice required under this section shall be submitted to the authority by  
8 January 1 of the year following the year that the chemical contained in the children's product sold  
9 or offered for sale in this state is added to the list.

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

11 (a) The name and Chemical Abstracts Service Registry Number of the chemical contained in the  
12 children's product;

13 (b) The product category of the children's product that contains the chemical;

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

15 (d) The amount of the chemical used in each unit of the children's product reported as a range  
16 rather than an exact amount;

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

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

21 (3)(a) The authority may enter into reciprocal data sharing agreements with other states in  
22 which manufacturers of children's products are required to disclose information related to high pri-  
23 ority chemicals of concern for children's health used in children's products. The authority must use  
24 the GS1 Global Product Classification system to identify and specify product categories subject to  
25 the data sharing agreements. If the authority has entered into a data sharing agreement with an-  
26 other state, and a manufacturer has reported the information required in the notice described in  
27 subsection (2) of this section to that state, the manufacturer may request that the other state pro-  
28 vide the authority with the information in lieu of the manufacturer's direct reporting of the infor-  
29 mation to the authority.

30 (b) A manufacturer fulfills the notice requirement of subsection (1) of this section when the au-  
31 thority receives the information from the other state and the authority determines that the infor-  
32 mation received satisfies the requirements for the notice specified in subsection (2) of this section.

33 (4) In lieu of the manufacturer's providing notice to the authority under subsection (1) or (3) of  
34 this section, the authority may require that the notice described in subsection (2) of this section be  
35 submitted to the Interstate Chemicals Clearinghouse. The authority by rule shall specify procedures  
36 for the provision of such notice by manufacturers to the Interstate Chemicals Clearinghouse.

37 (5)(a) *[The authority shall grant an exemption to a manufacturer of children's products that applies*  
38 *for an exemption from the notice requirements of this section if the application demonstrates that]* **A**  
39 **manufacturer of children's products is exempt from the notice requirements of this section**  
40 **if:**

41 (A) The high priority chemical of concern for children's health used in children's products is  
42 present in the children's product otherwise subject to the notice requirements of this section only  
43 as a contaminant;

44 (B) The manufacturer conducts a manufacturing control program for the contaminant; and

45 (C) The manufacturing control program meets minimum standards for a manufacturing control

1 program as set forth by the authority by rule.

2 (b) The authority shall approve or disapprove an exemption application within 180 days after its  
3 submittal. If the authority fails to act within 180 days, the exemption application is deemed ap-  
4 proved. If the authority disapproves an exemption application, the manufacturer may submit a re-  
5 vised exemption application for consideration within 180 days after the authority's disapproval.

6 (6) A trade association may provide required notices on behalf of its member manufacturers  
7 under the provisions of this section.

8 (7) When a manufacturer provides notice to the authority under the provisions of this section,  
9 the manufacturer may submit recommendations to the authority regarding technical, financial or  
10 logistical support deemed necessary for innovation and green chemistry solutions related to high  
11 priority chemicals of concern for children's health used in children's products.

12 **SECTION 3.** ORS 431A.260 is amended to read:

13 431A.260. (1) On or before **the later of January 1, 2026, or** the date on which a manufacturer  
14 of a children's product submits the third biennial notice required under ORS 431A.258 for a chemical  
15 that is present in a children's product, the manufacturer must remove or make a substitution for the  
16 chemical pursuant to ORS 431A.263, or seek a waiver under ORS 431A.265, if the chemical is present  
17 in a children's product that is:

18 (a) Mouthable;

19 (b) A children's cosmetic; or

20 (c) Made for, marketed for use by or marketed to children under three years of age.

21 (2) A manufacturer with 25 or fewer employees may apply for a two-year extension of the date  
22 specified in subsection (1) of this section to meet the requirements of this section.

23 (3) Manufacturers are exempt from meeting the requirements of this section for children's pro-  
24 ducts described in subsection (1) of this section that:

25 (a) Contain high priority chemicals of concern for children's health used in children's products  
26 at levels that are at or below allowable levels for children's products as established by the Con-  
27 sumer Product Safety Improvement Act of 2008, P.L. 110-314, 122 Stat. 3016, as in effect on July 27,  
28 2015[.]; **or**

29 (b) **Meet the safety standards of ASTM (American Society for Testing and Materials) F963**  
30 **or European standard EN 71 (Safety of Toys).**

31 (4)(a) The Oregon Health Authority shall adopt rules providing for additional exemptions from  
32 the requirements of this section.

33 (b) For purposes of this subsection, any consumer product safety standard adopted under federal  
34 **or international** law that establishes allowable levels for children's products of a high priority  
35 chemical of concern for children's health used in children's products is presumed to establish the  
36 maximum allowable level of the chemical that may be used in children's products that are sold or  
37 offered for sale in this state. The authority may not require a manufacturer in compliance with the  
38 federal **or international** standard to also comply with the provisions of this section unless the au-  
39 thority establishes in the rulemaking process that a lower maximum allowable level for children's  
40 products of a high priority chemical of concern for children's health used in children's products than  
41 the allowable level set by the federal **or international** standard is necessary to protect human  
42 health and welfare.

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