



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 944

2 AMENDMENT NO. _____. Amend Senate Bill 944 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Child-Safe Chemicals Act.

6 Section 5. Legislative findings. The General Assembly
7 finds:

8 (1) Research shows that many toys, children's products, and
9 other consumer products contain lead, cadmium, phthalates,
10 bisphenol A, and other chemicals that have been shown to cause
11 harm to children's health and the environment. These chemicals,
12 and others like them, have been linked to long-term health
13 impacts such as birth defects, reproductive harm, impaired
14 learning, liver toxicity, and cancer.

15 (2) The scientific literature provides extensive evidence
16 that bisphenol-A and pththalates are hormone-disrupting

1 chemicals, that these chemicals are found in humans at levels
2 associated with adverse effects, and that lead and cadmium are
3 dangerous neurotoxicants that can damage the human brains,
4 internal organs, and nervous systems.

5 (3) Because children's bodies are growing and developing,
6 they are especially vulnerable to the effects of toxic
7 chemicals.

8 (4) To protect children's health, it is important to phase
9 out the use of lead, cadmium, phthalates, and bisphenol A in
10 children's toys and to collect information on other hazardous
11 chemicals that are present in toys and other products to
12 determine whether further action is required.

13 Section 10. Definitions. In this Act:

14 "Agency" means the Illinois Environmental Protection
15 Agency.

16 "Alternative" means a substitute process, product,
17 material, chemical, strategy, or combination of these that
18 serves a functionally equivalent purpose to a chemical in a
19 consumer product.

20 "Children's jewelry" means jewelry that is made for,
21 marketed for use by, or marketed to children under the age of
22 12 and includes jewelry that meets any of the following
23 conditions:

24 (1) represented in its packaging, display, or
25 advertising as appropriate for use by children under the

1 age of 12;

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

5 (3) sized for children and not intended for use by
6 adults; or

7 (4) sold in any of the following:

8 (i) a vending machine;

9 (ii) a retail store, catalogue, or online web site,
10 in which a person exclusively offers for sale products
11 that are packaged, displayed, or advertised as
12 appropriate for use by children; or

13 (iii) a discrete portion of a retail store,
14 catalogue, or online web site, in which a person offers
15 for sale products that are packaged, displayed, or
16 advertised as appropriate for use by children.

17 "Children's product" includes any of the following:

18 (1) toys;

19 (2) cosmetics intended for children under the age of
20 12;

21 (3) children's jewelry;

22 (4) a product designed or intended by the manufacturer
23 to help a child with sucking or teething, to facilitate
24 sleep, relaxation, or the feeding of a child, or to be worn
25 as clothing by children; or

26 (5) child car seats.

1 "Chemical of high concern" means a chemical identified by
2 an authoritative government entity on the basis of credible
3 scientific evidence as known to:

4 (1) harm the normal development of a fetus or child or
5 cause other developmental toxicity;

6 (2) cause cancer, genetic damage, or reproductive
7 harm;

8 (3) disrupt the endocrine or hormone system;

9 (4) damage the nervous system, immune system, or organs
10 or cause other systemic toxicity;

11 (5) be persistent, bioaccumulative, and toxic; or

12 (6) be very persistent and very bioaccumulative.

13 "Chemical of low concern" means a chemical for which
14 adequate toxicity and environmental data are available to
15 determine that it is not a chemical of high concern, a chemical
16 of moderate concern, or a chemical of unknown concern.

17 "Chemical of moderate concern" means a chemical identified
18 by an authoritative governmental entity on the basis of
19 credible scientific evidence as being suspected of causing an
20 adverse health or environmental effect listed in the definition
21 of "chemicals of high concern."

22 "Chemical of unknown concern" means a chemical for which
23 insufficient data are available to classify it as a chemical of
24 high concern, a chemical of moderate concern, or a chemical of
25 low concern.

26 "Consumer product" means any item sold for residential or

1 commercial use, including any component parts and packaging.
2 For purposes of this Act, a consumer product does not include a
3 drug or biologic regulated by the U.S. Food and Drug
4 Administration, a food or beverage or additives thereto,
5 tobacco products, or a pesticide regulated by the U.S.
6 Environmental Protection Agency, except that a consumer
7 product may include a container or packaging in which those
8 products are sold.

9 "Cosmetics" includes articles intended to be rubbed,
10 poured, sprinkled, or sprayed on, introduced into, or otherwise
11 applied to the human body or any part thereof for cleansing,
12 beautifying, promoting attractiveness, or altering the
13 appearance, and articles intended for use as a component of
14 such an article.

15 "Distributor" means a person who sells products to retail
16 establishments on a wholesale basis.

17 "Manufacturer" means the person who manufactured a final
18 product or whose brand name is affixed to the product. In the
19 case of a product that was imported into the United States,
20 "manufacturer" includes the importer or domestic distributor
21 of the product if the person who manufactured or assembled the
22 product or whose brand name is affixed to the product does not
23 have a presence in the United States.

24 "Priority chemical" means a chemical designated as such
25 pursuant to Section 20 of this Act.

26 "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP),

1 dibutyl 34 phthalate (DBP), benzyl butyl phthalate (BBP),
2 diisonoyl phthalate 35 (DINP), diisodecyl phthalate (DIDP), or
3 di-n-octyl phthalate (DnOP).

4 "Safer alternative" means an alternative that, when
5 compared to a priority chemical that it could replace, would
6 reduce the potential for harm to human health or the
7 environment or that has not been shown to pose the same or
8 greater potential for harm to human health or the environment
9 as that priority chemical.

10 "Toy" means a product designed or intended by the
11 manufacturer to be used by a child at play.

12 "Trade association" means a membership organization of
13 persons engaging in a similar or related line of commerce,
14 organized to promote and improve business conditions in that
15 line of commerce and not to engage in a regular business of a
16 kind ordinarily carried on for profit.

17 Section 15. Regulation of toxic chemicals in children's
18 products.

19 (a) Beginning July 1, 2009, no person may manufacture,
20 knowingly sell, offer for sale, distribute for sale, or
21 distribute for use in this State a children's product or
22 product component containing the following:

23 (i) lead or cadmium at more than 0.004 percent by
24 weight (40 parts per million); or

25 (ii) phthalates, individually or in combination, at

1 more than 0.01 percent by weight (100 parts per million).

2 (b) Beginning July 1, 2009, no person may manufacture,
3 knowingly sell, offer for sale, distribute for sale, or
4 distribute for use in this State a children's product intended
5 for a child under 3 years of age if that product contains or
6 leaches bisphenol A.

7 Section 20. Chemicals of high concern to children
8 designated as priority chemicals.

9 (a) Lead, cadmium, phthalates, and bisphenol A are hereby
10 designated priority chemicals.

11 (b) The Agency may designate chemicals of high concern as
12 additional priority chemicals after considering a child's or
13 developing fetus's potential for exposure to the chemical based
14 on credible scientific evidence of any one or more of the
15 following:

16 (i) the chemical has been found through biomonitoring
17 to be present in human blood, including umbilical cord
18 blood, breast milk, urine, or other bodily tissues or
19 fluids;

20 (ii) the chemical has been found through sampling and
21 analysis to be present in household dust, indoor air,
22 drinking water, or elsewhere in the home environment;

23 (iii) the chemical has been added to or is present in a
24 consumer product used or present in the home; or

25 (iv) the chemical has been identified as a high

1 production volume chemical by the U.S. Environmental
2 Protection Agency.

3 Section 25. Reporting of priority chemicals in consumer
4 products.

5 (a) Six months after a chemical is identified as a priority
6 chemical pursuant to Section 20 of this Act, a manufacturer of
7 a consumer product containing a priority chemical, or a trade
8 association on behalf of its members, shall provide notice to
9 the Agency that the manufacturer's product contains a priority
10 chemical. The notice shall be in electronic format. The notice
11 must be filed annually with the Agency and shall include the
12 following information:

13 (i) the name and a brief description of the product;

14 (ii) the name of the priority chemical;

15 (iii) the amount of the chemical in each unit of the
16 product;

17 (iv) the total amount of the chemical in all units of
18 the product sold in Illinois and the United States during
19 the most recent calendar year for which sales figures are
20 available;

21 (v) the intended purpose of the chemical in the
22 product;

23 (vi) the name and address of the manufacturer and the
24 name, address, and phone number of a contact person for the
25 manufacturer of the product; and

1 (vii) a statement of the manufacturer's policy
2 regarding the use of priority chemicals in consumer
3 products.

4 (b) The Agency may waive the notification requirement under
5 subsection (a) of this Section for one or more specified uses
6 of a priority chemical if the Agency determines that
7 substantially equivalent information is already publicly
8 available or that the specified use or uses are minor in volume
9 and very unlikely to result in exposure of a child or fetus to
10 the chemical. The Agency may grant an extension of the deadline
11 for submission of the required information for one or more
12 specified uses of a priority chemical in a consumer product if
13 it determines that more time is needed by the manufacturer.

14 Section 30. Other authorities and responsibilities of the
15 Agency.

16 (a) The Agency shall develop, publish, and maintain a web
17 site that includes a list of priority chemicals, with
18 explanations for why they are so designated, and provides
19 consumers with information on consumer products that contain
20 priority chemicals and available information on safer
21 alternatives to the priority chemical.

22 (b) By January 15 2009, and January 15 of every subsequent
23 2-year period in which one or more chemicals has been
24 designated a priority chemical pursuant to Section 20 of this
25 Act, the Agency shall submit a report on priority chemicals in

1 consumer products to the committees of the legislature having
2 jurisdiction over environmental health matters. The report
3 shall identify consumer products or product categories that may
4 contain priority chemicals, available information on safer
5 alternatives to those chemicals, and a list of and
6 recommendations regarding policy options for addressing
7 consumer products that contain priority chemicals, including,
8 but not limited to, policies that phase out existing and
9 prevent new uses of priority chemicals in consumer products,
10 policies to facilitate the identification or development of
11 safer alternatives, and ways to inform consumers about toxic
12 chemicals in products, including labeling.

13 (c) The Agency may assess fees, not to exceed \$250 for a
14 manufacturer or \$10,000 for a trade association, payable upon
15 submission of notice of priority chemical use, to cover the
16 Agency's reasonable costs, including hiring staff, in
17 complying with the requirements of this Act.

18 (d) The Agency has the authority to require that a
19 manufacturer of a children's product containing a priority
20 chemical, or a trade association on its member's behalf,
21 prepare and submit a report acceptable to the Agency that
22 assesses the availability of safer alternatives to that
23 chemical. The Agency shall the allow the manufacturer or trade
24 association reasonable time to complete the report. If a report
25 acceptable to the Agency is not timely submitted, the Agency
26 may assess a fee on the manufacturer or distributor to cover

1 the costs to prepare an independent report on the availability
2 of safer alternatives by Agency staff or a contractor of the
3 Agency's choice.

4 Section 35. Exemptions. The following are exempt from the
5 reporting and requirements in Section 20 of this Act.

6 (a) Industry. The requirements of this Act do not apply to
7 the use of priority chemicals for industrial or manufacturing
8 purposes if that use does not result in the priority chemicals
9 inclusion in a consumer product.

10 (b) Transportation. The requirements of this Act do not
11 apply to transportation vehicles or their component parts,
12 except that the use of priority chemicals in detachable car
13 seats is not exempt.

14 (c) Combustion. The requirements of this Act do not apply
15 to priority chemicals generated solely as combustion
16 byproducts or that are present in combustible fuels.

17 (d) Retailers. Retailers are exempt from the requirements
18 of this Act, except if they knowingly sell a consumer product
19 containing a priority chemical after the effective date of its
20 prohibition under this Act for which they have received prior
21 notification from a manufacturer, trade association, or the
22 State.

23 Section 40. Interstate clearinghouse. The Agency is
24 authorized to participate in an interstate clearinghouse to

1 promote safer chemicals in consumer products in cooperation
2 with other states and governmental entities. The Agency may
3 cooperate with the interstate clearinghouse to organize and
4 manage available data on chemicals, including information on
5 uses, hazards, and environmental concerns; to produce an
6 inventory of information on safer alternatives to specific uses
7 of chemicals of high concern, and on model policies and
8 programs; to provide technical assistance to business and
9 consumers related to safer chemicals; and to undertake other
10 activities in support of State programs to promote safer
11 chemicals. The Agency may provide the interstate clearinghouse
12 with product information submitted to the Agency in accordance
13 with this Act.

14 Section 45. Enforcement and implementation.

15 (a) A consumer product containing a priority chemical may
16 not be knowingly offered for final sale, use, or distribution
17 after the effective date of this Act unless the manufacturer of
18 that product is in compliance with the requirements of this
19 Act.

20 (b) A manufacturer of consumer products that are restricted
21 under this Act must notify persons that sell the manufacturer's
22 products in this State about the provisions of this Act no less
23 than 90 days prior to the effective date of the restrictions. A
24 manufacturer that produces, sells, or distributes a consumer
25 product prohibited from manufacture, sale, or distribution in

1 this Act shall recall the product and reimburse the retailer or
2 any other purchaser for the product.

3 (c) A manufacturer of consumer products in violation of
4 this Act is subject to a civil penalty not to exceed \$5,000 for
5 each violation in the case of a first offense. Manufacturers
6 who are repeat violators are subject to a civil penalty not to
7 exceed \$10,000 for each repeat offense. Penalties collected
8 under this Section shall be allocated to the Agency to help
9 cover the Agency's reasonable costs in complying with the
10 requirements of this Act.

11 (d) If there are grounds to suspect that a product is being
12 offered for sale, use, or distribution in violation of this
13 Act, the Agency may request the manufacturer to provide a
14 certificate of compliance. Within 10 days after receipt of a
15 request, the manufacturer shall:

16 (i) provide the Agency with a certificate attesting
17 that the product complies with the requirements of this
18 Section; or

19 (ii) notify persons who sell the manufacturer's
20 products in this State that the sale of the product is
21 prohibited and reimburse them for the product and any
22 applicable shipping and handling charges for returning the
23 product.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."