

American Chemistry Council
Testimony before the Oregon State Senate Committee on Health Care & Human Services
SB 1569 (as introduced)
February 4, 2014

The American Chemistry Council (ACC) is pleased to offer the following comments on SB 1569. Safety is a top priority for our member companies. We believe that consumers deserve to have confidence that the products they buy are safe for their intended uses. ACC members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of chemical products and processes. SB 1569 would require the Oregon Health Authority (OHA) to create a list of high priority chemicals of concern for children; post public information on possible health impacts associated with exposure to these chemicals, presumably through the routine and intended use of a consumer product; and mandate that listed chemicals be removed or substituted by the manufacturer within five years.

Chemical and product safety assessments must be grounded in sound scientific principles and integrate hazard, use and exposure information. Unfortunately, SB 1569 falls short on two fundamental science policy issues:

- The presumption that the presence of any identified chemical in a children's product means the product is somehow harmful; and,
- The bill's underlying premise that children's products contain chemicals that pose a risk to the health of Oregon's children.

The Importance of Science in Chemical Regulation --- Presence Does Not Equal Harm

The bill undercuts the integrated nature of hazard and exposure by presuming that the mere presence of a chemical indicates that when it is used or disposed it will likely result in exposure, or more specifically, exposure leading to harm. Presence of a chemical in a product cannot be a surrogate for "exposure" without any notion of whether or to what extent there may be an actual exposure to a level sufficient to cause harm.

A consumer product that contains the "high priority chemical" does not necessarily mean that the product is harmful to human health or the environment or that there is any violation of existing safety standards or laws. Risks associated with a chemical in a product are dependent upon the potency of the chemical and the magnitude, duration and frequency of exposure to the chemical. However, SB 1569 establishes a chemical substitution mandate for consumer product companies based on the mere presence of an identified chemical in their products.

The bill would also simply result in a list of chemicals present in certain children's products without any corresponding information for the public as to what the information means, or perhaps more importantly what it doesn't mean. Compiling a list of chemicals is not the same as conducting an evaluation of how those chemicals are used, in what amounts and whether their use poses an unreasonable risk. Regulators run the risk of generating unnecessary fear and hysteria, unsupported by scientific fact, when this type of information is communicated inaccurately.

In addition, the bill includes on the OHA list of chemicals those already included on the Washington State Department of Ecology's Reporting List of Chemicals of High Concern to Children. However, Washington's Department of Ecology has not conducted any sort of assessment that reaches any scientific conclusion about the safety of these products. In fact, Ecology clearly states on its website the following:

- **The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws.**
- **The reporting triggers are not health-based values.**
- **The data should not be used determine the safety of an individual product.**

(Reference: <http://www.ecy.wa.gov/programs/swfa/cspa/search.html>)

Unsupported Assumption that Children's Products Contain Harmful Substances

ACC member company products are evaluated for performance and safety, in accordance with current government rules and regulations, as well as our own rigorous management system that is verified by third-party auditors, Responsible Care®. ACC companies have a responsibility to produce safe products. It is therefore inaccurate to make a sweeping and general allegation that "children's products contain chemicals that pose a risk to the health of children."

Often times, the Toxic Substances Control Act (TSCA) is incorrectly cited as an inadequate regulatory program to protect consumers. Bear in mind that more than a dozen federal laws (see attached chart) are in place to regulate the safety of chemicals in commerce, including the Consumer Product Safety Improvement Act (CPSIA) and the Federal Hazardous Substances Act (FHSA).

The FHSA gives the Consumer Product Safety Commission authority to ban by regulation a hazardous substance if it determines that the product is so hazardous that the cautionary labeling required by the act is inadequate to protect the public. Any toy or other article that is intended for use by children and that contains a hazardous substance is also banned under the FHSA if a child can gain access to the substance. In addition, the act gives the Commission authority to ban by regulation any toy, or other article intended for use by children which presents a mechanical, electrical or thermal hazard.

Bi-Partisan Effort to Enact Chemical Safety Improvement Act (CSIA)

Though we oppose SB 1569, we certainly recognize the need to modernize the federal chemical regulatory system so that consumers and others can have greater confidence in the safety of consumer products.

To that end, ACC has joined nearly 100 business groups, national and state organized labor, environmental advocates and others in support of the Chemical Safety Improvement Act (CSIA). This bi-partisan bill, co-sponsored by 25 Democrats and Republicans in the US Senate would enhance public safety by making changes to improve the way chemicals are regulated. In summary, the CSIA would do the following:

- Require EPA to identify high priority chemicals for review and assessment, and determine whether those substances pose an unreasonable risk to human health or the environment under their intended conditions of use.

- EPA would initiate a prioritization screening process to identify chemicals as high or low priority for further assessment and allows for state governments to make recommendations to EPA for substances to be prioritized.
- EPA would be required to conduct safety assessments of these chemicals based solely on considerations of risk to human health and the environment, by integrating information about the chemicals' hazard potential, its uses and its potential exposures. Furthermore, EPA would have the ability to focus in on "sensitive subpopulations" such as children when doing these safety assessments.
- EPA would determine whether a chemical meets the safety standard under its intended conditions of use. At that point, EPA can conclude that a chemical meets the safety standard as currently managed, needs additional controls to meet the standard, or that it cannot meet the safety standard under its intended conditions of use even with additional controls. EPA's risk management options include bans and phase-outs.

Other key provisions of the CSIA include:

- Requires chemical manufacturers to conduct additional testing when it is warranted.
- Makes more information about chemicals available to the public.
- Requires EPA to use the best available science and modern scientific methods.

The CSIA provides the sort of predictable and workable regulatory environment that facilitates economic growth and enhances public safety. ACC encourages the Oregon Legislature to urge its Congressional representatives to support the CSIA.

For the above listed reasons, ACC must respectfully oppose SB 1569 as drafted.

Questions/Comments:

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