

SENATE AMENDMENTS TO SENATE BILL 1569

By COMMITTEE ON HEALTH CARE AND HUMAN SERVICES

February 12

1 On page 1 of the printed bill, delete lines 12 through 20 and delete pages 2 through 10 and in-
2 sert:

“DEFINITIONS

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5
6 **“SECTION 1. As used in sections 1 to 12 of this 2014 Act:**

7 **“(1) ‘Children’s cosmetics’ includes cosmetics that are made for, marketed for use by or**
8 **marketed to children under 12 years of age and that are:**

9 **“(a) Represented in the packaging, display or advertising of the cosmetics as appropriate**
10 **for use by children;**

11 **“(b) Sold in conjunction with, attached to or packaged together with other products that**
12 **are packaged, displayed or advertised as appropriate for use by children; or**

13 **“(c) Sold in:**

14 **“(A) A retail store, catalog or website that exclusively offers for sale products that are**
15 **packaged, displayed or advertised as appropriate for use by children; or**

16 **“(B) A discrete portion of a retail store, catalog or website that offers for sale products**
17 **that are packaged, displayed or advertised as appropriate for use by children.**

18 **“(2) ‘Children’s jewelry’ includes jewelry that is made for, marketed for use by or mar-**
19 **keted to children under 12 years of age and that is:**

20 **“(a) Represented in the packaging, display or advertising of the jewelry as appropriate for**
21 **use by children;**

22 **“(b) Sold in conjunction with, attached to or packaged together with other products that**
23 **are packaged, displayed or advertised as appropriate for use by children;**

24 **“(c) Sized for children and not intended by the manufacturer to be used by adults; or**

25 **“(d) Sold in:**

26 **“(A) A vending machine;**

27 **“(B) A retail store, catalog or website that exclusively offers for sale products that are**
28 **packaged, displayed or advertised as appropriate for use by children; or**

29 **“(C) A discrete portion of a retail store, catalog or website that offers for sale products**
30 **that are packaged, displayed or advertised as appropriate for use by children.**

31 **“(3)(a) ‘Children’s product’ means:**

32 **“(A) A product designed or intended by the manufacturer to:**

33 **“(i) Help a child with sucking or teething;**

34 **“(ii) Facilitate the sleep, relaxation or feeding of a child; or**

35 **“(iii) Be worn as clothing by children.**

- 1 **“(B) Car seats.**
- 2 **“(C) Children’s cosmetics.**
- 3 **“(D) Children’s jewelry.**
- 4 **“(E) Toys.**
- 5 **“(b) ‘Children’s product’ does not mean:**
- 6 **“(A) Athletic shoes with cleats or spikes.**
- 7 **“(B) Batteries.**
- 8 **“(C) BB guns, pellet guns and air rifles.**
- 9 **“(D) Bicycles and tricycles.**
- 10 **“(E) Chemistry sets.**
- 11 **“(F) Consumer electronic products, including personal computers, audio and video**
- 12 **equipment, calculators, wireless telephones and game consoles, handheld devices that incor-**
- 13 **porate a video screen and are used to access interactive software, and the associated pe-**
- 14 **ripherals.**
- 15 **“(G) Interactive software intended for leisure and entertainment, such as computer**
- 16 **games, and their storage media, such as compact discs.**
- 17 **“(H) Model rockets.**
- 18 **“(I) Pocketknives and multitools.**
- 19 **“(J) Roller skates.**
- 20 **“(K) Scooters.**
- 21 **“(L) Darts with metallic points.**
- 22 **“(M) Slings and catapults.**
- 23 **“(N) Snow sporting equipment, including skis, poles, boots, snowboards, sleds and**
- 24 **bindings.**
- 25 **“(O) Sporting equipment, including bats, balls, gloves, sticks, pucks and pads.**
- 26 **“(P) Video toys that can be connected to a video screen and are operated at a nominal**
- 27 **voltage exceeding 24 volts.**
- 28 **“(Q) Food and food packaging regulated by the United States Food and Drug Adminis-**
- 29 **tration or the United States Department of Agriculture.**
- 30 **“(4)(a) ‘Cosmetics’ means products or components of products that are intended to be**
- 31 **rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human**
- 32 **body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the**
- 33 **appearance.**
- 34 **“(b) ‘Cosmetics’ does not mean soap, dietary supplements or food and drugs approved by**
- 35 **the United States Food and Drug Administration.**
- 36 **“(5) ‘High priority chemical’ means a chemical that has been identified by a state or**
- 37 **federal agency or an accredited research university, or by scientific evidence deemed credible**
- 38 **and authoritative by the Oregon Health Authority, as known to do one or more of the fol-**
- 39 **lowing:**
- 40 **“(a) Harm the normal development of a fetus or child or cause other developmental**
- 41 **toxicity;**
- 42 **“(b) Cause cancer, genetic damage or reproductive harm;**
- 43 **“(c) Disrupt the endocrine system;**
- 44 **“(d) Damage the nervous system, immune system or organs or cause other systemic**
- 45 **toxicity;**

1 “(e) Be persistent, bioaccumulative and toxic; or

2 “(f) Be very persistent and very bioaccumulative.

3 “(6) ‘Manufacturer’ means any person that produces a children’s product or an importer
4 or domestic distributor of a children’s product. For the purposes of this subsection,
5 ‘importer’ means the owner of the children’s product.

6 “(7) ‘Trade association’ means a membership organization of persons engaging in the
7 same or a similar or related line of commerce, organized to promote and improve business
8 conditions in that line of commerce and not to engage in regular business activities that
9 ordinarily are carried on for profit.

10 “(8) ‘Very bioaccumulative’ means having a bioconcentration factor or bioaccumulation
11 factor greater than or equal to 5,000, or if neither are available, having a log K_{OW} value
12 greater than 5.0.

13 “(9) ‘Very persistent’ means having a half-life greater than or equal to:

14 “(a) In soil or sediment, 180 days; or

15 “(b) In water or evidence of long-range transport, 60 days.

16
17 **“HIGH PRIORITY CHEMICALS OF CONCERN FOR CHILDREN’S**
18 **HEALTH USED IN CHILDREN’S PRODUCTS**

19
20 **“SECTION 2.** (1) The Oregon Health Authority shall establish and maintain a list of high
21 priority chemicals of concern for children’s health when used in children’s products. The
22 authority shall include on the list chemicals that are listed on the Washington State De-
23 partment of Ecology’s Reporting List of Chemicals of High Concern to Children on the ef-
24 fective date of this 2014 Act.

25 “(2) The authority shall post the list of high priority chemicals on its website. For each
26 high priority chemical on the list, the authority shall post:

27 “(a) Information regarding the known health impacts associated with exposure to the
28 chemical; and

29 “(b) Data collected under section 4 of this 2014 Act in a format that is searchable and
30 accessible to the public.

31 “(3)(a) The authority shall review and revise the list of high priority chemicals every
32 three years.

33 “(b) In completing the revisions under this subsection, the authority shall consider add-
34 ing or removing a chemical from the list of high priority chemicals if, after the effective date
35 of this 2014 Act:

36 “(A) The chemical is added to or removed from the Washington State Department of
37 Ecology’s Reporting List of Chemicals of High Concern to Children or another list maintained
38 by a state agency, another state or a federal agency that the authority has identified by rule
39 as a list intended to identify high priority chemicals; or

40 “(B) A person has petitioned the authority, as described in paragraph (c) of this sub-
41 section, to consider adding or removing the chemical from the list of high priority chemicals.

42 “(c) A person may petition the authority to consider adding or removing a chemical from
43 the list of high priority chemicals by providing the following information about a chemical
44 to the authority:

45 “(A) The prime chemical name and the Chemical Abstracts Service Registry Number; and

1 “(B) Credible peer-reviewed scientific information documenting why the chemical meets
2 or fails to meet the criteria required for inclusion on the authority’s list of high priority
3 chemicals.

4 “(d) In completing the revisions under this subsection, the authority may remove a
5 chemical from the list of high priority chemicals if the authority determines that the chem-
6 ical is no longer being used in children’s products.

7 “(4) The authority shall update the list of high priority chemicals on its website within
8 one year of the date on which a chemical is added to or removed from the list.

9 “SECTION 3. (1) Section 2 of this 2014 Act becomes operative on July 1, 2014.

10 “(2) The Oregon Health Authority shall first post on its website the list of high priority
11 chemicals established under section 2 of this 2014 Act not later than January 1, 2015.

12
13 “MANUFACTURER DISCLOSURE OF HIGH PRIORITY CHEMICALS
14 OF CONCERN FOR CHILDREN’S HEALTH USED IN
15 CHILDREN’S PRODUCTS

16 “(Manufacturer Notice Requirements)

17
18 “SECTION 4. (1) A manufacturer of a children’s product sold or offered for sale in this
19 state that contains a chemical included on the list established and maintained under section
20 2 of this 2014 Act shall provide notice to the Oregon Health Authority that the
21 manufacturer’s product contains a high priority chemical. The notice must be filed annually
22 with the authority and must contain:

23 “(a) The prime chemical name and Chemical Abstracts Service Registry Number of the
24 chemical contained in the children’s product;

25 “(b) A brief description of the children’s product that contains the chemical;

26 “(c) A description of the function of the chemical in the children’s product;

27 “(d) The amount of the chemical used in each unit of the children’s product, reported in
28 ranges rather than exact amounts;

29 “(e) The name and address of the manufacturer and the name, address and telephone
30 number of a contact person for the manufacturer; and

31 “(f) Any other information that the manufacturer deems relevant to the appropriate use
32 of the children’s product.

33 “(2)(a) The authority may enter into reciprocal data-sharing agreements with other
34 states in which manufacturers of children’s products are required to disclose information
35 related to high priority chemicals. The authority must use the GS1 Global Product Classi-
36 fication system to identify and specify product categories subject to the data-sharing agree-
37 ments. If the authority has entered into a data-sharing agreement with another state, and
38 a manufacturer has reported the information required in the notice described in subsection
39 (1) of this section to that state, the manufacturer may request that the other state provide
40 the authority with the information in lieu of the manufacturer’s direct reporting of the in-
41 formation to the authority.

42 “(b) A manufacturer fulfills the notice requirement of subsection (1) of this section when
43 the authority receives the information from the other state and the authority determines
44 that the information received satisfies the requirements for the notice.

45 “(3) In lieu of the manufacturer’s providing notice to the authority under subsection (1)

1 or (2) of this section, the authority may require that the notice described in subsection (1)
2 of this section be submitted to the Interstate Chemicals Clearinghouse. The authority by rule
3 shall specify procedures for the provision of such notice by manufacturers to the Interstate
4 Chemicals Clearinghouse.

5 “(4) Manufacturers of children’s products with annual worldwide gross sales of less than
6 \$5 million, as reported on the most recent tax return filed by the manufacturer before the
7 notice required by this section, are exempt from the requirements of this section but may
8 provide notice voluntarily.

9 “(5) A trade association may provide required notices on behalf of its member manufac-
10 turers under the provisions of this section.

11
12 “(Oregon Health Authority Compliance Testing)

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14 “**SECTION 5.** The Oregon Health Authority may conduct testing of children’s products
15 sold or offered for sale in this state in order to determine compliance with section 4 of this
16 2014 Act.

17
18 “(Operative Date for Sections 4 and 5 of this 2014 Act)

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20 “**SECTION 6.** (1) Sections 4 and 5 of this 2014 Act become operative on January 1, 2016.

21 “(2) The first notice under section 4 of this 2014 Act must be provided to the Oregon
22 Health Authority not later than July 1, 2016.

23
24 “(Interstate Chemicals Clearinghouse)

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26 “**SECTION 7.** The Oregon Health Authority is authorized to participate in the Interstate
27 Chemicals Clearinghouse in cooperation with other states and government entities to assist
28 the authority in carrying out sections 1 to 12 of this 2014 Act.

29
30 “(Civil Penalties)

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32 “**SECTION 8.** (1) If the Oregon Health Authority has reason to believe that a person has
33 violated or is in violation of section 4 of this 2014 Act, the authority shall provide the person
34 with written notice informing the person of the suspected violation and stating that the
35 person may avoid a civil penalty by, no later than 90 days after the date on the written no-
36 tice, providing the authority with:

37 “(a) The proper notice required under section 4 of this 2014 Act;

38 “(b) Proof that the person is already in compliance with section 4 of this 2014 Act; or

39 “(c) Proof that the person is not a manufacturer subject to section 4 of this 2014 Act.

40 “(2) If a person fails to respond to a written notice under subsection (1) of this section
41 within 90 days, the authority may impose a civil penalty not to exceed \$2,500. Each 90-day
42 period that the violation continues after the preceding imposition of a civil penalty is a sep-
43 arate offense subject to a separate civil penalty not to exceed \$5,000. The authority is not
44 required to provide the person with an opportunity to cure the continuing violation before
45 imposing a civil penalty for the continuing violation.

1 “(3) The authority shall adopt by rule a schedule of civil penalties for violations of this
2 section and section 4 of this 2014 Act.

3 “(4) In imposing a civil penalty under this section, the authority shall consider the fol-
4 lowing factors:

5 “(a) The past history of the person incurring a civil penalty in taking all feasible steps
6 or procedures necessary or appropriate to correct any violation.

7 “(b) Any prior violations of statutes, rules, orders or permits pertaining to high priority
8 chemicals.

9 “(c) The gravity and magnitude of the violation.

10 “(d) Whether the violation was a sole event, repeated or continuous.

11 “(e) Whether the violation was a result of an unavoidable accident, negligence or an in-
12 tentional act.

13 “(f) The person’s cooperativeness and efforts to correct the violation.

14 “(g) The economic and financial conditions of the person incurring a civil penalty.

15 “(5) Civil penalties described in this section shall be imposed in the manner provided in
16 ORS 183.745.

17 “(6) All civil penalties recovered under this section shall be paid into the High Priority
18 Chemicals of Concern for Children’s Health Fund established under section 10 of this 2014
19 Act.

20 “SECTION 9. Section 8 of this 2014 Act becomes operative on January 1, 2016.

21
22 “HIGH PRIORITY CHEMICALS OF CONCERN FOR
23 CHILDREN’S HEALTH FUND
24

25 “SECTION 10. (1) The High Priority Chemicals of Concern for Children’s Health Fund is
26 established in the State Treasury, separate and distinct from the General Fund. Interest
27 earned by the High Priority Chemicals of Concern for Children’s Health Fund shall be cred-
28 ited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health
29 Authority to administer sections 1 to 12 of this 2014 Act.

30 “(2) The authority may accept gifts, grants or contributions from any public or private
31 source for the purpose of carrying out sections 1 to 12 of this 2014 Act.

32 “(3) The High Priority Chemicals of Concern for Children’s Health Fund shall consist of:

33 “(a) Moneys accepted by the authority pursuant to subsection (2) of this section.

34 “(b) Civil penalties imposed under section 8 of this 2014 Act.
35

36 “RULES
37

38 “SECTION 11. In accordance with applicable provisions of ORS chapter 183, the Oregon
39 Health Authority may adopt rules necessary for the administration of sections 1 to 12 of this
40 2014 Act.
41

42 “REPORTS TO LEGISLATIVE ASSEMBLY
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44 “SECTION 12. Not later than the first day of each odd-numbered year regular session,
45 the Oregon Health Authority shall submit to the Legislative Assembly in the manner pro-

1 vided in ORS 192.245 a report that details:

2 “(1) Any revisions made to the list of high priority chemicals established and maintained
3 under section 2 of this 2014 Act.

4 “(2) The number of manufacturers in compliance with section 4 of this 2014 Act.

5 “(3) An analysis of the information collected pursuant to section 4 of this 2014 Act,
6 specifying:

7 “(a) The number and types of children’s products sold or offered for sale in this state
8 that contain one or more high priority chemicals on the list established and maintained un-
9 der section 2 of this 2014 Act.

10 “(b) The range of amounts of listed high priority chemicals, and an analysis of the levels
11 of the listed high priority chemicals, present in various categories of children’s products.

12 “(c) Information on the potential for exposure to high priority chemicals based on the
13 number of children’s products sold or offered for sale in this state that contain one or more
14 chemicals on the list established and maintained under section 2 of this 2014 Act, the likely
15 exposure routes of those chemicals and the typical use patterns for the children’s products
16 that contain the chemicals.

17 “(4)(a) Recommendations on:

18 “(A) Limiting, reducing or preventing exposure to listed high priority chemicals based
19 on an analysis of the information collected;

20 “(B) Opportunities to provide technical assistance, award grants, promote public-private
21 partnerships and take other actions to encourage manufacturers to produce children’s pro-
22 ducts that do not contain high priority chemicals;

23 “(C) Policy options to promote and provide incentives for the use of chemical alternatives
24 assessments and principles of green chemistry; and

25 “(D) Additional or improved methods for informing consumers about high priority
26 chemicals in children’s products.

27 “(b) In developing the recommendations described in paragraph (a) of this subsection, the
28 authority may consult with the Department of Environmental Quality, the Oregon Business
29 Development Department and other state agencies.

30 “SECTION 13. The Oregon Health Authority shall submit the first biennial report re-
31 quired under section 12 of this 2014 Act no later than February 1, 2017.

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33 “EXPENDITURE LIMITATION

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35 “SECTION 14. Notwithstanding any other law limiting expenditures, the amount of
36 \$57,046 is established for the biennium beginning July 1, 2013, as the maximum limit for
37 payment of expenses from, moneys or other revenues, including Miscellaneous Receipts, but
38 excluding lottery funds and federal funds, collected or received by the Oregon Health Au-
39 thority for carrying out the duties of the authority under sections 1 to 12 of this 2014 Act.

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41 “MISCELLANEOUS

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43 “SECTION 15. The unit captions used in this 2014 Act are provided only for the conven-
44 ience of the reader and do not become part of the statutory law of this state or express any
45 legislative intent in the enactment of this 2014 Act.

“EMERGENCY CLAUSE

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“SECTION 16. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.”.
