

SENATE BILL No. 399

May 29, 2013, Introduced by Senators WARREN, HOPGOOD, GREGORY, HOOD, ANANICH, WHITMER, BIEDA, JOHNSON and HUNTER and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 5491 (MCL 333.5491), as added by 2007 PA 159,
and by adding section 5494.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5491. As used in this part:

2 ~~—— (a) "Child care article" means a product designed or intended~~
3 ~~by the manufacturer to facilitate the sleep, relaxation, or feeding~~
4 ~~of children or to help children with sucking or teething.~~

5 ~~—— (b) "Children" means individuals who are 7 years old or~~
6 ~~younger.~~

7 (A) "CHEMICAL" MEANS A SUBSTANCE WITH A DISTINCT MOLECULAR
8 COMPOSITION OR A GROUP OF STRUCTURALLY RELATED SUBSTANCES AND
9 INCLUDES THE BREAKDOWN PRODUCTS OF THE SUBSTANCE OR SUBSTANCES THAT

1 FORM THROUGH DECOMPOSITION, DEGRADATION, OR METABOLISM.

2 (B) "CHEMICAL OF CONCERN" MEANS A CHEMICAL LISTED PURSUANT TO
3 SECTION 5494(1).

4 (C) "CHEMICAL OF GREATEST CONCERN" MEANS A CHEMICAL OF CONCERN
5 THAT IS LISTED PURSUANT TO SECTION 5494(2).

6 (D) "CHILD" MEANS AN INDIVIDUAL WHO IS 12 YEARS OLD OR
7 YOUNGER.

8 (E) "CHILD CARE ARTICLE" MEANS A PRODUCT DESIGNED OR INTENDED
9 BY THE MANUFACTURER TO FACILITATE THE SLEEP, RELAXATION, OR FEEDING
10 OF CHILDREN OR TO HELP CHILDREN WITH SUCKING OR TEETHING.

11 (F) "CHILDREN'S PRODUCT" MEANS A CONSUMER PRODUCT THAT MEETS
12 ANY OF THE FOLLOWING REQUIREMENTS:

13 (i) IS INTENDED PRIMARILY FOR USE BY OR FOR THE CARE OF
14 CHILDREN, SUCH AS A CHILD CARE ARTICLE, BABY PRODUCT, CHILD CAR
15 SEAT, TOY, OR ARTICLE OF CLOTHING, OR PERSONAL CARE PRODUCT FOR
16 CHILDREN.

17 (ii) CONTAINS A CHEMICAL OF GREATEST CONCERN AND WHEN USED OR
18 DISPOSED OF WILL LIKELY RESULT IN A CHILD OR HUMAN FETUS BEING
19 EXPOSED TO THAT CHEMICAL OF GREATEST CONCERN.

20 (G) ~~(e)~~ "Consumer" means that term as used in the consumer
21 product safety act, 15 USC 2051 to ~~2085~~-2089.

22 (H) "CONSUMER PRODUCT" MEANS AN ITEM SOLD FOR RESIDENTIAL OR
23 COMMERCIAL USE, INCLUDING ANY COMPONENT PARTS AND PACKAGING.
24 CONSUMER PRODUCT DOES NOT INCLUDE A DRUG OR BIOLOGIC REGULATED BY
25 THE UNITED STATES FOOD AND DRUG ADMINISTRATION, A FOOD OR BEVERAGE
26 OR AN ADDITIVE TO A FOOD OR BEVERAGE, A TOBACCO PRODUCT, OR A
27 PESTICIDE REGULATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION

1 AGENCY, EXCEPT THAT CONSUMER PRODUCT MAY INCLUDE A CONTAINER OR
2 PACKAGING IN WHICH SUCH AN ITEM IS SOLD.

3 (I) "DISTRIBUTOR" MEANS A PERSON WHO SELLS CHILDREN'S PRODUCTS
4 TO RETAIL ESTABLISHMENTS ON A WHOLESALE BASIS.

5 (J) "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES A CONSUMER
6 PRODUCT IN ITS FINAL FORM OR WHOSE BRAND NAME IS AFFIXED TO THE
7 CONSUMER PRODUCT. IN THE CASE OF A CONSUMER PRODUCT THAT IS
8 IMPORTED INTO THE UNITED STATES, MANUFACTURER INCLUDES THE IMPORTER
9 OR DOMESTIC DISTRIBUTOR OF THE CONSUMER PRODUCT IF THE PERSON WHO
10 MANUFACTURED OR ASSEMBLED THE CONSUMER PRODUCT OR WHOSE BRAND NAME
11 IS AFFIXED TO THE CONSUMER PRODUCT DOES NOT HAVE A PRESENCE IN THE
12 UNITED STATES.

13 (K) ~~(d)~~ "Person" means an individual, partnership,
14 corporation, association, governmental entity, or other legal
15 entity.

16 (L) ~~(e)~~ "Toxic substance" means a substance that contains lead,
17 or a coating on an item that contains lead, so that the lead
18 content is more than 0.06% of the total weight. Toxic substance
19 does not include glass or crystal decorative components.

20 (M) ~~(f)~~ "Toy" means an article designed and made for the
21 amusement of a ~~minor~~ CHILD or for the ~~minor's~~ A CHILD'S use in
22 play.

23 SEC. 5494. (1) BY JULY 1, 2014, THE DEPARTMENT, IN
24 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL
25 COMPILE A LIST OF CHEMICALS THAT ARE IDENTIFIED, ON THE BASIS OF
26 CREDIBLE SCIENTIFIC EVIDENCE, TO BE 1 OR MORE OF THE FOLLOWING:

27 (A) CARCINOGENS, REPRODUCTIVE OR DEVELOPMENTAL TOXICANTS, OR

1 CHEMICALS THAT CAUSE REPRODUCTIVE OR DEVELOPMENTAL HARM OR OTHER
2 SYSTEMIC TOXICITY.

3 (B) ENDOCRINE OR HORMONE DISRUPTORS.

4 (C) PERSISTENT, BIOACCUMULATIVE, AND TOXIC.

5 (D) VERY PERSISTENT AND VERY BIOACCUMULATIVE.

6 (2) BY JULY 1, 2014, THE DEPARTMENT, IN CONSULTATION WITH THE
7 DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL COMPILE A LIST OF NOT
8 LESS THAN 10 CHEMICALS OF CONCERN THAT MEET 1 OR MORE OF THE
9 FOLLOWING CRITERIA:

10 (A) HAVE BEEN FOUND THROUGH BIOMONITORING TO BE PRESENT IN
11 BREAST MILK, URINE, HUMAN BLOOD INCLUDING UMBILICAL CORD BLOOD, OR
12 OTHER BODILY TISSUES OR FLUIDS.

13 (B) HAVE BEEN FOUND THROUGH SAMPLING AND ANALYSIS TO BE
14 PRESENT IN CONSUMER PRODUCTS OR IN HOUSEHOLD DUST, INDOOR AIR,
15 DRINKING WATER, OR ELSEWHERE IN THE HOME ENVIRONMENT.

16 (C) HAVE BEEN FOUND THROUGH MONITORING TO BE PRESENT IN FISH,
17 WILDLIFE, OR THE NATURAL ENVIRONMENT.

18 (D) ARE INCLUDED IN THE UNITED STATES ENVIRONMENTAL PROTECTION
19 AGENCY'S SPONSORED CHEMICALS LIST OR UNSPONSORED CHEMICALS LIST,
20 DEVELOPED UNDER ITS HIGH PRODUCTION VOLUMES CHALLENGE PROGRAM AND
21 TOGETHER COMPRISING CHEMICALS PRODUCED OR IMPORTED IN THE UNITED
22 STATES IN QUANTITIES OF 1,000,000 POUNDS OR MORE PER YEAR.

23 (E) ARE DETERMINED BY THE DEPARTMENT TO BE SPECIFICALLY
24 RELEVANT TO THE HEALTH OF CHILDREN IN THIS STATE.

25 (3) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
26 ENVIRONMENTAL QUALITY, MAY UPDATE THE LIST OF CHEMICALS OF CONCERN
27 AS OFTEN AS THE DEPARTMENT CONSIDERS NECESSARY. THE DEPARTMENT, IN

1 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL
2 UPDATE AND ADD NOT LESS THAN 10 CHEMICALS TO THE LIST OF CHEMICALS
3 OF GREATEST CONCERN AT LEAST EVERY 2 YEARS BASED ON THE CRITERIA
4 SET FORTH IN SUBSECTION (2).

5 (4) NOT MORE THAN 30 DAYS AFTER CREATION OR ALTERATION OF A
6 LIST OF CHEMICALS OF CONCERN OR CHEMICALS OF GREATEST CONCERN, THE
7 DEPARTMENT SHALL PUBLICLY POST THE INFORMATION ON ITS WEBSITE IN AN
8 EASILY UNDERSTANDABLE FORM.

9 (5) BY JANUARY 1, 2015, AND EVERY 2 YEARS THEREAFTER, THE
10 DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
11 QUALITY, SHALL SUBMIT A REPORT TO THE LEGISLATURE ABOUT PROGRESS IN
12 IDENTIFYING CHEMICALS OF CONCERN AND CHEMICALS OF GREATEST CONCERN.
13 THE DEPARTMENT SHALL INCLUDE IN THE REPORT A DETAILED PLAN TO
14 INFORM CONSUMERS OF CHEMICALS OF GREATEST CONCERN AS WELL AS A PLAN
15 TO PROTECT CHILDREN IN THIS STATE FROM CHEMICALS OF CONCERN.

16 (6) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
17 ENVIRONMENTAL QUALITY, MAY PARTICIPATE IN AN INTERSTATE CHEMICALS
18 INFORMATION CLEARINGHOUSE TO ASSIST IN CARRYING OUT THE
19 REQUIREMENTS OF THIS PART. THE DEPARTMENT MAY WORK IN COLLABORATION
20 WITH OTHER STATES AND AN INTERSTATE CHEMICALS INFORMATION
21 CLEARINGHOUSE FOR PURPOSES INCLUDING, BUT NOT LIMITED TO, ALL OF
22 THE FOLLOWING:

23 (A) COLLECTION AND DISSEMINATION OF INFORMATION REGARDING
24 CHEMICAL HAZARDS.

25 (B) COLLECTION AND DISSEMINATION OF INFORMATION REGARDING THE
26 USE OF CHEMICALS IN CHILDREN'S PRODUCTS.

27 (C) ASSESSMENT OF ALTERNATIVES TO HAZARDOUS CHEMICALS AND

1 THEIR USE IN PRODUCTS.

2 (D) PUBLIC EDUCATION ABOUT MATTERS DESCRIBED IN SUBDIVISIONS
3 (A), (B), AND (C).

4 (7) THE DEPARTMENT MAY NEGOTIATE WITH AN INTERSTATE CHEMICALS
5 INFORMATION CLEARINGHOUSE TO MAINTAIN INFORMATION REGARDING
6 CHEMICALS ON BEHALF OF THIS STATE, INCLUDING, BUT NOT LIMITED TO,
7 INFORMATION REGARDING CHEMICALS LISTED PURSUANT TO THIS SECTION.

8 (8) IT IS THE INTENTION OF THE LEGISLATURE TO APPROPRIATE
9 REVENUE FOR 1.5 ADDITIONAL FULL-TIME EQUIVALENT POSITIONS IN THE
10 TOXICOLOGY AND RESPONSE SECTION OF THE DIVISION OF ENVIRONMENTAL
11 HEALTH OF THE DEPARTMENT OF COMMUNITY HEALTH FOR MONITORING AND
12 ENFORCING COMPLIANCE WITH THIS PART.

13 Enacting section 1. This amendatory act may be referred to as
14 the "chemicals of greatest concern identification act".