

February 5, 2014

State of Vermont  
Senate Committee on Health and Welfare  
115 State Street  
Montpelier, VT 05633-5301  
Attention: Sen. Claire Ayer, Chair

Dear Senator Ayer and Fellow Committee Members:

Burton Snowboards is a Burlington, Vermont-based snowboard company solely dedicated to creating and perfecting a full range of the best snowboarding equipment, outerwear, accessories and apparel. Founded in 1977, Burton has fueled the growth of snowboarding worldwide through its groundbreaking product lines, its team of top snowboarders and its grassroots efforts to get the sport accepted at resorts. Privately held and headquartered in Burlington, Vermont with international offices in Innsbruck, Tokyo, Sydney, Montreal and Beijing, Burton is the world's leading snowboard company and owns other top sports equipment and related brands, including Channel Islands Surfboards, Anon Optics, Gravis Footwear and Analog. Burton is committed to improving its environmental and social impact through an integrated global sustainability program, which includes a team solely dedicated to removing harmful chemicals and moving toward safer chemistry in all of our products. We take matters of sustainability personally and have taken an active role in many efforts and organizations supporting the environment, including a leading role in the Outdoor Industry's Sustainability Working Group, Protect Our Winters and BICEP (Businesses for Innovative Climate and Energy Policy).

Thank you for the opportunity to provide comments on S.239, an act relating to the regulation of toxic substances. Burton Snowboards ("Burton") recently became aware of this proposed chemicals management legislation. While we support the broader goals and objectives of S.239, we have several concerns that we'd like to share with the Committee.

### ***BURTON'S SUSTAINABILITY VISION AND CHEMICAL MANAGEMENT STRATEGY***

As a company that develops, markets, sells and distributes a broad range of consumer products globally, Burton is well versed and experienced in the evolving global regulatory landscape. Over the last five years, Burton has developed and implemented a comprehensive supply chain and regulatory



compliance strategy that is designed to monitor and (over time) eliminate restricted substances and chemicals from the products we distribute into the marketplace. Burton has adopted industry leading Restricted Substance Lists (“RSLs”) that are considered “best in class” tools within the outdoor sporting goods and apparel industries, and which are designed to educate our supply chain and enforce Burton’s strict product chemistry standards. Burton has invested significantly in third party testing capacity to ensure that our suppliers meet our RSL standards, and we have worked collaboratively with other brands in our industry to phase out known hazardous materials and innovate safer alternatives. We have also partnered with the leading certification partner for safer textiles and materials chemistry, bluesign, that ensures only safe chemicals are used during both the manufacturing and use phase of our products.

As you have heard and will likely hear from other consumer products companies, testing for and eliminating toxic chemicals from consumer products is a challenging and complex task that requires major financial investments in infrastructure, new head count, outside vendor relationships and a different approach to how organizations manage their product development and global supply chains. Burton has taken huge strides to detox our supply chain but there is still work to do. For more on Burton’s sustainability efforts and vision please visit:

[https://www.burton.com/on/demandware.store/Sites-Burton\\_US-Site/default/Company-Sustainability](https://www.burton.com/on/demandware.store/Sites-Burton_US-Site/default/Company-Sustainability)

### ***NEED FOR A FEDERAL SOLUTION OR HARMONIZATION AT THE STATE LEVEL***

Burton’s experience to date with the various state-level product regulatory schemes in California, Washington, Maine and elsewhere can be summed up in a common theme: there is an immediate need to harmonize and reconcile individual state regulatory frameworks in order to achieve real and lasting results in “detoxing” consumer products. While it’s clear that the Federal Toxic Substances Control Act (“TSCA”) has failed to achieve meaningful results due to various factors (including minimal EPA enforcement and lack of prioritization) we believe that there is still an opportunity to forge a Federal solution if it’s supported and lead by representative who have Vermonters’ best interests in mind, such as Senator Leahy. If Federal legislation remains unachievable, then the fall back position should be a harmonization of state-level product regulatory schemes. S.239, while well intentioned, would simply be one more state-imposed impediment to doing business for most consumer products companies in its



current form. As drafted, S.239 will increase Burton's regulatory compliance burden and may impede our longer-term efforts to eliminate toxic chemicals in our entire product line as it will increase short-term compliance costs and shift our internal compliance team's attention and focus to navigating the administration of yet another new regulation at the expense of making real progress towards Burton's long-term sustainability goals. We note that S.239's "Findings" make reference to harmonization efforts with various other regulatory schemes but we question how this is going to happen and we need to see more details on S.239's harmonization strategy before we can support S.239.

### ***S.239 IS OVERLY BROAD AND REQUIRES ADDITIONAL FINE TUNING***

In Burton's view, the most glaring omission in S.239 is the lack of real-world prioritization and phasing-in of certain categories of consumer products in order to ensure that the State's shorter-term focus is on the most hazardous chemicals and substances in the highest-risk products. By way of example, California's Safer Consumer Products Act includes the concept of a "Priority Product" as a device to address the types of consumer products that are most likely to have harmful effects, such as cosmetics and health and beauty care products. Inclusion of a priority product category in S.239 would create a more workable launch for both the State and all affected companies that, in turn, would likely result in higher overall compliance rates, reduced enforcement and administration costs and harness the State's limited resources on the highest risk products in the short to mid term. Further, we believe that it would be prudent for the State to solicit other stakeholders' input on the designation of "chemicals of high concern" and related definitions within S.239 to ensure a robust dialogue, validate the scientific data and craft a more eloquent and effective chemicals management statute.

### ***LACK OF RESOURCES TO IMPLEMENT, ADMINISTER AND ENFORCE S.239***

Based on our years of experience navigating and dealing with various state-level and international product regulatory bodies, we encourage the Committee to ask itself if the State of Vermont is prepared to deal with the volume of data submissions, questions and enforcement needs that will be required should S.239 become law. We urge the Committee to reach out to its counterparts in California and Washington to inquire about challenges, resource requirements, budgetary needs and related matters which these states encountered when they enacted similar toxic chemical regulation for consumer products. With respect to specific requirements set forth in S.239 for waivers, manufacturers must present

toxicological data and/or quantitative analysis to support the continued use of listed chemicals. Such testing is extremely expensive and our experience with California's analogous legislation suggests that such costs can exceed \$1M per substance. While we suspect that over time such testing costs may decrease due to information sharing and collaboration, it's unlikely to happen in the short term. We remain skeptical that the State of Vermont should make a multi-million dollar investment in enforcement efforts related to S.239 knowing that the State of California (with the 10<sup>th</sup> largest GDP in the world of approx. \$1.7T) is still trying to fine tune and enforce its own toxic chemical legislation.

### **CONCLUSION**

Burton will always continue to work hard to improve our global environmental and social impact, a strategy which is anchored around our determined effort to move toward greener chemistry in Burton's entire product line. We strongly desire to work together with the Committee to help develop chemical management legislation that helps not only Vermonters but also Burton's global consumer base and the environment. However it's critical that we approach consumer products chemicals management in the right way, with an eye towards the experiences of our sister states and nations in order to achieve the most successful long-term outcomes. ***With these shared goals in mind, Burton requests further refinement of S.239 to ensure that Vermont's homegrown toxic chemicals legislation has the best possible impact on improving consumer health and the environment, and we hope that you will take us up on our offer to use our experience and expertise to get there.***

Thank you for the opportunity to provide comments and for the Committee's consideration of Burton's concerns. For additional information or questions please contact:

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