

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish & Wildlife to which was
3 referred Senate Bill No. 103 entitled “An act relating to the regulation of toxic
4 substances and hazardous materials” respectfully reports that it has considered
5 the same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 * * * Toxics Use Reduction and Reporting * * *

9 Sec. 1. 10 V.S.A. § 6633 is added to read:

10 § 6633. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL
11 MANAGEMENT

12 (a) Creation. There is created the Intergovernmental Committee on
13 Chemical Management in the State to:

14 (1) evaluate chemical inventories in the State on an annual basis;

15 (2) identify potential risks to human health and the environment from

16 chemical inventories in the State; and

17 (3) propose measures or mechanisms to address the identified risks from

18 chemical inventories in the State.

19 (b) Membership. The Intergovernmental Committee on Chemical

20 Management shall be composed of the following five members:

1 (1) one member of the House of Representatives appointed by the

2 Speaker of the House;

3 (2) one member of the Senate appointed by the Committee on

4 Committees:

5 (3) the Secretary of Agriculture, Food and Markets or designee;

6 (4) the Secretary of Natural Resources or designee;

7 (5) the Commissioner of Health or designee;

8 (6) the Commissioner of Labor or designee;

9 (7) the Commissioner of Public Safety or designee;

10 (8) the Secretary of Commerce and Community Development;

11 (9) the Commissioner of Information and Innovation.

12 (c) Powers and duties. The Intergovernmental Committee on Chemical
13 Management shall:

14 (1) Convene a citizen advisory panel to provide input and expertise to

15 the Committee. The citizen advisory panel shall consist of persons with

16 expertise in;

17 (A) toxicology;

18 (B) environmental law;

19 (C) manufacturing products;

20 (D) environmental health;

21 (E) public health;

- 1 (F) risk analysis;
- 2 (G) maternal and child health care;
- 3 (H) occupational health;
- 4 (I) industrial hygiene;
- 5 (J) public policy;
- 6 (K) chemical management by academic institutions;
- 7 (L) retail sales; and
- 8 (M) development and administration of information reporting
9 technology or databases.

10 (2) Monitor actions taken by the U.S. Environmental Protection Agency
11 (EPA) to regulate chemicals under the Toxic Substances Control Act,
12 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action
13 relevant to the jurisdiction of the agency.

14 (3) Annually review chemical inventories in the State in relation to
15 emerging scientific evidence in order to identify chemicals of high concern not
16 regulated by the State.

17 (d) Assistance. The Intergovernmental Committee on Chemical
18 Management shall have the administrative, technical, and legal assistance of
19 the Agency of Natural Resources; the Agency of Agriculture, Food and
20 Markets; the Department of Health; the Department of Public Safety; the
21 Department of Labor; the Agency of Commerce and Community

1 Development; and the Department of Information and Innovation. The
2 Intergovernmental Committee on Chemical Management shall have the
3 assistance of the Office of Legislative Council for legislative drafting and the
4 assistance of the Joint Fiscal Office for the fiscal and economic analyses.

5 (e) Report. On or before January 15, and annually thereafter, the
6 Intergovernmental Committee on Chemical Management shall report to the
7 Senate Committees on Natural Resources and Energy; on Health and Welfare;
8 and on Economic Development, Housing and General Affairs and the House
9 Committees on Natural Resources, Fish and Wildlife; on Human Services, and
10 on Commerce and Economic Development regarding the actions of the
11 Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of
12 required reports shall not apply to the report to be made under this section.

13 The report shall include:

14 (1) an estimate or summary of the known chemical inventories in the
15 State, as determined by metrics or measures established by the Committee;

16 (2) a summary of any change under federal statute or rule affecting the
17 regulation of chemicals in the State;

18 (3) recommended legislative or regulatory action to address the risks
19 posed by new or emerging chemicals of high concern; and

1 (4) recommended legislative or regulatory action to reduce health risks
2 from exposure to chemicals of high concern and reduce risks of harm to the
3 natural environment.

4 (f) Meetings.

5 (1) The Secretary of Natural Resources shall be the chair of the
6 Intergovernmental Committee on Chemical Management.

7 (2) The Secretary of Natural Resources call the first meeting of the
8 Intergovernmental Committee on Chemical Management to occur on or before
9 July 1, 2017.

10 (3) A majority of the membership of the Intergovernmental Committee
11 on Chemical Management shall constitute a quorum.

12 (g) Authority of agencies. The establishment of the Intergovernmental
13 Committee on Chemical Management shall not limit the independent authority
14 of a State agency to regulate chemical use or management under existing State
15 or applicable federal law.

16 Sec. 2. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT;

17 REPORT ON TOXIC USE REDUCTION AND REPORTING

18 On or before February 15, 2018, after consultation with the citizen advisory
19 panel and as part of the first report required under 10 V.S.A. § 6633(e), the
20 Interagency Committee on Chemical Management shall:

1 (1) Recommend how the State shall establish a centralized or unified
2 electronic reporting system to facilitate compliance by businesses and other
3 entities with chemical reporting and other regulatory requirements in the State.

4 The recommendation shall:

5 (A) identify a State agency or department to establish and administer
6 the reporting system;

7 (B) estimate the staff and funding necessary to administer the
8 reporting system;

9 (C) propose how businesses and the public can access information
10 submitted to or maintained as part of the reporting systems, including whether
11 access to certain information or categories of information should be limited due
12 to statutory requirements, regulatory requirements, trade secret protection, or
13 other considerations;

14 (D) propose how information maintained as part of the reporting
15 system can be accessed, including whether the information should be
16 searchable by: chemical name, common name, brand name, product model,
17 Global Product Classification (GPC) product brick description, standard
18 industrial classification, chemical facility, geographic area, zip code, or
19 address;

20 (E) propose how manufacturers of consumer products or subsets of
21 consumer products shall report or notify the State of the presence of designated

1 chemicals of concern in a consumer product and how information reported by
2 manufacturers is made available to the public;

3 (F) propose a method for displaying information or filtering or
4 refining search results so that information maintained on the reporting system
5 can be accessed or identified in a serviceable or functional manner for all users
6 of the system, including governmental agencies or departments, commercial
7 and industrial businesses reporting to the system, nonprofit associations, and
8 citizens; and

9 (G) estimate a time line for establishment of the reporting system.

10 (2) Recommend statutory amendments and regulatory revisions to
11 existing State recordkeeping and reporting requirements for chemicals,
12 hazardous materials, and hazardous wastes in order to facilitate assessment of
13 risks to human health and the environment posed by the use of chemicals in the
14 State. The recommendations shall include:

15 (A) the thresholds or amounts of chemicals used, manufactured, or
16 distributed, and hazardous materials and hazardous wastes generated or
17 managed, in the State that require recordkeeping and reporting;

18 (B) the persons or entities using, manufacturing, or distributing
19 chemicals and generating or managing hazardous materials and hazardous
20 wastes that are subject to recordkeeping and reporting requirements; and

1 (C) any changes required to streamline and modernize existing
2 recordkeeping and reporting requirements to facilitate compliance by business
3 and other entities.

4 (3) Recommend amendments to the requirements for Toxic Use
5 Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159,
6 subchapter 2 that shall include:

7 (A) The list of chemicals or materials subject to the reporting and
8 planning requirements. The list of chemicals or materials shall include and be
9 in addition to the chemicals or substances listed under Title III, Section 313 of
10 the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A.
11 § 1773 (chemicals of high concern to children).

12 (B) The thresholds or amounts of chemicals used or hazardous waste
13 generated by a person that require reporting and planning.

14 (C) The information to be reported, including:

15 (i) the quantity of hazardous waste generated and the quantity of
16 hazardous waste managed during a year;

17 (ii) the quantity of toxic substances, or raw material resulting in
18 hazardous waste, used during a year;

19 (iii) an assessment of the effect of each hazardous waste reduction
20 measure and toxics use reduction measure implemented; and

1 (iv) a description of factors during a year that have affected toxics
2 use, hazardous waste generation, releases into the environment, and onsite and
3 offsite hazardous waste management.

4 (D) The persons or entities using chemicals or generating hazardous
5 waste that are subject to reporting and planning;

6 (E) Proposed revisions to the toxic chemical or hazardous waste
7 reduction planning requirements, including conditions or criteria that qualify a
8 person to complete a plan.

9 (F) Any changes to streamline and modernize the program to improve
10 its effectiveness.

11 (4) Draft legislation to implement the Committee’s recommendations
12 under subdivisions (1), (2), and (3) of this section.

13 * * * Testing Groundwater * * *

14 Sec. 3. 10 V.S.A. § 1982 is added to read:

15 § 1982. TESTING OF GROUNDWATER SOURCES

16 (a) Definition. As used in this section, “groundwater source” means that
17 portion of a potable water supply that draws water from the ground, including
18 a drilled well, shallow well, driven well point, or spring.

19 (b) Testing prior to new use. Prior to use of a new groundwater source as a
20 potable water supply, the person who owns or controls the groundwater source

1 shall test the groundwater source for the parameters set forth in subsection (c)
2 of this section.

3 (c) Parameters of testing. A water sample collected under this section shall
4 be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation,
5 total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any
6 other parameters required by the Agency by rule. The Agency by rule may
7 require testing for a parameter by region or specific geographic area of
8 concern.

9 (d) Submission of test results. Results of the testing required under
10 subsection (b) shall be submitted, on a form provided by the Department of
11 Health, to the Department of Health and, when required by the Secretary
12 pursuant to a permit, to the Secretary.

13 (e) Rulemaking. The Secretary, after consultation with the Department of
14 Health, the Wastewater and Potable Water Supply Technical Advisory
15 Committee, private laboratories, and other interested parties, shall adopt by
16 rule requirements regarding:

17 (1) when, prior to use of a new groundwater source, the test required
18 under subsection (b) of this section shall be conducted;

19 (2) who shall be authorized to sample the source for the test required
20 under subsections (b) and (c) of this section, provided that the rule shall

1 include the person who owns or controls the groundwater source and licensed
2 well drillers among those authorized to sample the source;

3 (3) how a water sample shall be collected in order to comply with the
4 requirements of the analyses to be performed; and

5 (4) any other requirements necessary to implement this section.

6 (f) Marketability of title. Non-compliance with the requirements of this
7 section shall not affect the marketability of title or create a defect in title of a
8 property, provided water test results required under this section are forwarded,
9 prior to the conveyance of the property, to the Department of Health and, when
10 required by the Secretary pursuant to a permit, to the Agency.

11 Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER

12 SOURCE TESTING

13 The Secretary of Natural Resources shall commence rulemaking under
14 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules
15 under 10 V.S.A. § 1982 on or before January 1, 2018.

16 Sec. 5. 18 V.S.A. § 501b is amended to read:

17 § 501b. CERTIFICATION OF LABORATORIES

18 (a) The ~~commissioner~~ Commissioner may certify a laboratory that meets
19 the standards currently in effect of the National Environmental Laboratory
20 Accreditation Conference and is accredited by an approved National

1 Environmental Laboratory Accreditation Program accrediting authority or its
2 equivalent to perform the testing and monitoring:

3 (1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking
4 Water Act; and

5 (2) of water from a potable water supply, as that term is defined in
6 10 V.S.A. § 1972(6).

7 (b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a
8 certificate granted under this section, after notice and opportunity to be heard,
9 if the ~~commissioner~~ Commissioner finds that the certificate holder has:

10 (A) submitted materially false or materially inaccurate
11 information; or

12 (B) violated any material requirement, restriction, or condition of the
13 certificate; or

14 (C) violated any statute, rule, or order relating to this title.

15 (2) The order shall set forth what steps, if any, may be taken by the
16 certificate holder to relieve the holder of the suspension or enable the
17 certificate holder to reapply for certification if a previous certificate has been
18 revoked.

19 (c) A person may appeal the suspension or revocation of the certificate to
20 the ~~board~~ Board under section 128 of this title.

21 * * *

1 (f) A laboratory certified to conduct testing of groundwater sources or
2 water supplies from a potable water supply, as that term is defined in 10
3 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall
4 submit the results of groundwater analyses to the department of health and the
5 agency of natural resources Department of Health in a format required by the
6 ~~department of health~~ Department of Health.

7 Sec. 6. 10 V.S.A. § 1974 is amended to read:

8 § 1974. EXEMPTIONS

9 Notwithstanding any other requirements of this chapter, the following
10 projects and actions are exempt:

11 * * *

12 (8) The use or operation of a failed supply that consists of only one
13 groundwater source that provides water to only one single family residence.

14 * * * Chemicals of High Concern to Children * * *

15 Sec. 7. 18 V.S.A. § 1775(b) is amended to read:

16 (b) Format for notice. The Commissioner shall specify the format for
17 submission of the notice required by subsection (a) of this section, provided
18 that the required format shall be generally consistent with the format for
19 submission of notice in other states with requirements substantially similar to
20 the requirements of this section. Any notice submitted under subsection (a)
21 shall contain the following information:

1 (1) the name of the chemical used or produced and its chemical abstracts
2 service registry number;

3 (2) a description of the product or product component containing the
4 chemical, including: the brand name; product model; and the universal product
5 code if the product has such a code;

6 (3) the amount of the chemical contained in each unit of the product or
7 product component, reported by weight or parts per million as authorized by
8 the Commissioner;

9 (4) the name and address of the manufacturer of the children's product
10 and the name, address, and telephone number of a contact person for the
11 manufacturer;

12 (5) any other information the manufacturer deems relevant to the
13 appropriate use of the product; and

14 (6) any other information required by the Commissioner under rules
15 adopted pursuant to 3 V.S.A. chapter 25.

16 Sec. 8. 18 V.S.A. § 1776 is amended to read:

17 § 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO
18 CHILDREN; PROHIBITION OF SALE

19 * * *

20 (b) Additional chemicals of concern to children. The Commissioner may
21 by rule add additional chemicals to the list of chemicals of high concern to

1 children, provided that the Commissioner of Health, on the basis of the weight
2 of credible independent, peer-reviewed, scientific evidence has research,
3 determined that a chemical proposed for addition to the list meets both of the
4 following criteria in subdivisions (1) and (2) of this subsection:

5 (1) The Commissioner of Health has determined that an authoritative
6 governmental entity or accredited research university has demonstrated that the
7 chemical:

8 (A) harms the normal development of a fetus or child or causes other
9 developmental toxicity;

10 (B) causes cancer, genetic damage, or reproductive harm;

11 (C) disrupts the endocrine system;

12 (D) damages the nervous system, immune system, or organs or causes
13 other systemic toxicity; or

14 (E) is a persistent bioaccumulative toxic.

15 (2) The chemical has been found through:

16 (A) biomonitoring to be present in human blood, umbilical cord
17 blood, breast milk, urine, or other bodily tissues or fluids;

18 (B) sampling and analysis to be present in household dust, indoor air,
19 drinking water, or elsewhere in the home environment; or

20 (C) monitoring to be present in fish, wildlife, or the natural
21 environment.

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(d) Rule to regulate sale or distribution.

(1) The Commissioner, ~~upon the recommendation of~~ after consultation ~~with~~ the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) ~~children will~~ may be exposed to a chemical of high concern to children in the children's product; and

~~(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.~~

(2) In determining whether children ~~will~~ may be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product;

or

1 (D) the potential ~~and frequency~~ of exposure of children to the
2 chemical of high concern to children in the children's product.

3 (3) A rule adopted under this section may:

4 (A) prohibit the children's product containing the chemical of high
5 concern to children from sale, offer for sale, or distribution in the State; or

6 (B) require that the children's product containing the chemical of high
7 concern to children be labeled prior to sale, offer for sale, or distribution in the
8 State.

9 (4) The any rule adopted under this subsection, the Commissioner shall
10 adopt reasonable time frames for manufacturers, distributors, and retailers to
11 comply with the requirements of the rules. No prohibition on sale or
12 manufacture of a children's product in the State shall take effect sooner than
13 two years after the adoption of a rule adopted under this section unless the
14 Commissioner determines that an earlier effective date is required to protect
15 human health and the new effective date is established by rule.

16 (5) The Chemicals of High Concern to Children Working Group may, at
17 its discretion, submit to the House Committees on Natural Resources, Fish and
18 Wildlife and on Human Services and the Senate Committees on Natural
19 Resources and Energy and on Health and Welfare recommendations or
20 consultation provided to the Commissioner under subdivision (1) of this
21 subsection.

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* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (Interagency Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(e) in Sec. 3 shall take effect on passage.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE