



**ITI Testimony on S.103 - Regulation of Toxic Substances
& Hazardous Materials
Senate Committee on Health and Welfare
January 31st, 2018**

The Information Technology Industry Council (ITI) appreciates the opportunity to provide input on the House amendments to S.103.

ITI's Environmental Leadership Council (ELC) represents many leading manufacturers of computers, mobile devices, video display devices, printers, and other electronic equipment. Our member companies have long been leaders in innovation and sustainability. These companies not only provide consumers with the most cutting edge and sophisticated technology, but also provide countless jobs for communities across the nation. Due to regulatory and market pressures, ELC members typically restrict hundreds of chemicals from our supply chain and our members go beyond requirements on environmental design and energy efficiency, and lead the way in product stewardship efforts. As a result, such prestigious indices as the Dow Jones Sustainability Index, the Financial Times Sustainability Index, and the Global 100 have consistently recognized numerous ITI members for their concrete environmental and sustainability achievements.

I serve as the staff lead for ITI's Product Stewardship Committee, which manages all issues related to the materials in our products and works to ensure that materials policies globally are based on sound science and are harmonized to the extent practicable. I have worked on and have advised materials management and restriction regimes at the international, federal and state levels. While we recognize that Act 188 relates to children's products and exempts most electronic devices, we have several key concerns with the proposed changes to the Act in the House amendment to S.103.

Removing the weight of credible scientific evidence

S.103 as currently written removes the "weight of credible scientific evidence" as the basis for adding a chemical to the Chemicals of Concern to Children list and substitutes "independent, peer reviewed, scientific research." Almost every chemical management regime globally uses the weight of evidence or an equivalent phrase. International laws and programs such as the EU Directive on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)¹ and the Global Harmonized System (GHS) of Classification and Labeling of Chemicals² use Weight of Evidence to fulfil information requirements. Domestically, state programs such as California's Safer Consumer Products Regulations³ and Washington State's Safer Children's Products Act⁴ require a weight of evidence approach when considering adding

¹ See ECHA website on Weight of Evidence: <https://echa.europa.eu/support/registration/how-to-avoid-unnecessary-testing-on-animals/weight-of-evidence>

² See page 2 of https://www.kelleronline.com/PDF/HazcomCenter/SCHC_GHS_FS7_Carcinogenicity_110509.pdf

³ CA does not specifically use "weight of evidence" but requires that the state consider the "extent and quality" of information available. See page 23 of <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Text-of-Final-Safer-Consumer-Products-Regulations-2.pdf>

⁴ See page 11 of: <https://fortress.wa.gov/ecy/publications/documents/1704022.pdf>

chemicals to the programs.

Removing the requirement to use the weight of evidence will create a standard of entry unique to the State of Vermont, and potentially gives the Department of Health overly broad discretion to add chemicals based on a single independent peer-reviewed study, regardless of any competing or contradictory evidence.

Working Group Authority/Role

The amendment significantly changes the intent, authority and role of the Chemicals of High Concern to Children Working Group. Currently under Act 188, the Working Group provided recommendations to ban or restrict chemicals contained in Children's Products. The Working Group is appointed from a diverse set of stakeholders and experts and is intended to collaboratively provide balance and a broader perspective in this important decision-making process. The proposed S.103 amendments would change the role of the Working Group to a solely consultative body and allows the Health Commissioner to ban or restrict products with potentially limited "consultation" with the Working Group

ITI believes that the proposed changes in S.103 significantly hinder the ability of the Working Group to fulfill its responsibilities.

Removal of Risk-based approach for banning of chemicals

S.103 as currently written eliminates the consideration of potential exposure to chemicals of high concern in products.

Most materials restriction laws, such as the lead restrictions in the Federal Consumer Product Safety Improvement Act or California Proposition 65, consider exposure as a mitigating factor. These laws recognize that if there is no chance for exposure, the use of a chemical does not present a risk and the regulations do not cover these products.

Conclusion

ITI again thanks the Committee for the opportunity to provide input on this amendment. However, due to the reasons above we cannot support this amendment as it is currently written. Act 188 was developed by way of extensive deliberation and compromise by all stakeholders. ITI believes that the Act should be given adequate time to be fully implemented, and we believe that it is premature to amend the law at this time.

If you have any questions, please do not hesitate to contact me at ccleet@itic.org / 202-626-5759.



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About ITI. ITI is the global voice of the tech sector. We advocate for public policies that advance innovation, open markets, and enable the transformational economic, societal, and commercial opportunities that our companies are creating. Our members represent the entire spectrum of technology: from internet companies, to hardware and networking equipment manufacturers, to software developers. ITI's diverse membership and expert staff provide a broad perspective and intelligent insight in confronting the implications and opportunities of policy activities around the world. Visit <http://www.itic.org/> to learn more. Follow us on Twitter for the latest ITI news [@ITI_TechTweets](#).