

No. 75. An act relating to the regulation of toxic substances and hazardous materials.

(S.55)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Toxics Use Reduction and Reporting * * *

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

§ 6633. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT

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

- (1) evaluate chemical inventories in the State on an annual basis;
- (2) identify potential risks to human health and the environment from chemical inventories in the State; and
- (3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Interagency Committee on Chemical Management shall be composed of the following eight members:

- (1) the Secretary of Agriculture, Food and Markets or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Commissioner of Health or designee;
- (4) the Commissioner of Labor or designee;
- (5) the Commissioner of Public Safety or designee;
- (6) the Secretary of Commerce and Community Development or designee;

(7) the Secretary of Digital Services or designee; and

(8) the Secretary of Transportation or designee.

(c) Powers and duties. The Interagency Committee on Chemical management shall:

(1) Convene a citizen advisory panel to provide input and expertise to the Committee. The citizen advisory panel shall consist of persons available to the Committee on an as-needed basis to provide the following expertise:

(A) one individual with expertise in toxicology;

(B) one individual with expertise in environmental health;

(C) one individual with expertise in maternal and child health;

(D) one individual with expertise in industrial hygiene or occupational health;

(E) one individual with expertise in human health and environmental risk assessment;

(F) one individual with expertise in manufacturing products or processes located in Vermont and subject to Vermont recordkeeping and reporting requirements;

(G) one individual with expertise in retail sales located in Vermont;

(H) one individual associated with a small business located in Vermont and subject to Vermont recordkeeping and reporting requirements;

(I) one individual associated with an academic institution with expertise in chemical management or chemical policy;

(J) one individual with expertise in environmental law;

(K) one individual with expertise in public policy, with a focus on chemical policy; and

(L) one individual with expertise in development and administration of information reporting technology or databases.

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

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

(4) Develop written procedures, guidance, and other resources that are necessary and appropriate to carry out the functions of the Interagency Committee on Chemical Management.

(d) Assistance. The Interagency Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Department of Health, the Department of Public Safety, the Department of Labor, the Agency of Commerce and Community Development, and the Agency of Digital Services.

(e) Report. On or before December 15, 2020 and biennially thereafter, the Interagency Committee on Chemical Management shall report to the Governor and make recommendations regarding the actions of the Committee in accordance with this section. Copies of the report shall be submitted to: the Senate Committees on Natural Resources and Energy, on Health and Welfare, and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish, and Wildlife, on Human Services, and on Commerce and Economic Development. The provisions of 2 V.S.A. §20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) a summary of chemical use in the State based on reported chemical inventories;

(2) a summary of identified risks to human health and the environment from reported chemical inventories;

(3) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State; and

(4) recommended legislative or regulatory action to reduce risks to human health and the environment from regulated and unregulated chemicals of emerging concern.

(f) Meetings.

(1) The Secretary of Natural Resources or designee shall be the Chair of the Interagency Committee on Chemical Management.

(2) The Secretary of Natural Resources or designee shall call the first meeting of the Interagency Committee on Chemical Management to occur on or before July 1, 2019.

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

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

Sec. 2. TRANSITION; LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) the Interagency Committee on Chemical Management established by Executive Order No. 02-19 shall fulfill the powers and duties of the Interagency Committee on Chemical Management under 10 V.S.A. § 6633;
and

(2) the persons appointed as members of the citizen advisory committee of the Interagency Committee on Chemical Management established by Executive Order No. 02-19 shall continue as members of the citizen advisory committee established under 10 V.S.A. § 6633.

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

Sec. 3. 18 V.S.A. § 1774 is amended to read:

§ 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING
GROUP

(a) Creation. The Chemicals of High Concern to Children Working Group (Working Group) is created within the Department of Health for the purpose of providing the Commissioner of Health advice and recommendations regarding implementation of the requirements of this chapter.

* * *

(c) Powers and duties. The Working Group shall:

(1) ~~upon the request of the Chair of the Working Group,~~ review proposed chemicals for listing as a chemical of high concern to children under section 1773 of this title; and

(2) recommend to the Commissioner of Health whether rules should be adopted under section 1776 of this title to regulate the sale or distribution of a children's product containing a chemical of high concern to children.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend at least two chemicals of high concern to children in children's products for review by the Working Group. The Commissioner's recommendations shall be based on the degree of human

health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health and the Agency of Natural Resources.

(e) Meetings.

(1) The Chair of the Working Group may convene the Working Group at any time, but no less frequently than at least ~~once every other~~ twice a year.

(2) A majority of the members of the Working Group, including adjunct members when appointed, shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) Reimbursement. Members of the Working Group, including adjunct members, whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

Sec. 4. 18 V.S.A. § 1775 is amended to read:

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH
CONCERN

* * *

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided

that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

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

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

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

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

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

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

* * *

(1) Submission of notice; dates. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776 of this title, a

manufacturer shall submit the notice required under subsection (a) of this section ~~by:~~

~~(1) January 1, 2017; and~~

~~(2) August 31, 2018, and biennially on or before August 31, 2020 and~~
annually thereafter.

Sec. 5. 18 V.S.A. § 1776 is amended to read:

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

* * *

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of ~~the weight~~ of credible, scientific evidence, including peer-reviewed studies, has determined that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

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

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

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

(C) disrupts the endocrine system;

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

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

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

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

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

* * *

(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~~ possibility 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

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

(3) A rule adopted under this section may:

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

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

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than

two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

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

* * *

(f) Additional rules.

(1) ~~On or before July 1, 2017, the~~ The Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (b), (c), or (d) of this section. The rule shall provide:

(A) all relevant criteria for evaluation of the chemical;

(B) criteria by which a chemical, due to its presence in the environment or risk of harm, shall be prioritized for addition or removal from the list of chemicals of high concern to children or for regulation under subsection (d) of this section;

(C) time frames for labeling or phasing out sale or distribution; ~~and~~

(D) requirements for when and how a manufacturer of a children's product that contains a chemical of high concern to children provides the notice required under subsection 1775(a) of this title when the manufacturer intends to introduce the children's product for sale between the required dates for reporting; and

(E) other information or process determined as necessary by the Commissioner for implementation of this chapter.

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Sec. 6. DEPARTMENT OF HEALTH; RULEMAKING DATE

On or before January 1, 2020, the Commissioner of Health shall adopt the rule required under 18 V.S.A. § 1776(f)(1)(D) (notice by manufacturer of children's product containing a chemical of high concern to children between reporting dates).

Sec. 7. DEPARTMENT OF HEALTH REPORT ON CHEMICAL OF HIGH CONCERN TO CHILDREN PROGRAM; PUBLIC INFORMATION

On or before January 15, 2020, the Commissioner of Health shall submit to the House Committee on Human Services and the Senate Committee on Health and Welfare a report regarding the implementation of the Chemicals of High Concern to Children Program under 18 V.S.A. chapter 38A. The report shall include:

(1) a summary of the status of the Program;

(2) a recommendation on how to make information submitted under the Program more publicly available and more consumer-centric; and

(3) an evaluation of the feasibility of the Department of Health reviewing and approving the safety of a children's product that contains a chemical of high concern to children prior to sale of the children's product, including:

(A) an estimate of the additional staff or resources that would be required to conduct presale safety review of children's products sold in the State;

(B) the estimated time for review of a children's product; and

(C) an estimate of the effect that presale review of children's products would have on the availability of children's products in the State.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section, Secs. 1 and 2 (the Interagency Committee on Chemical Management; transition), and in Sec. 5, the rulemaking under 18 V.S.A. § 1776(f)(reporting) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

Date Governor signed bill: June 19, 2019