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S.55

Introduced by Senators Lyons, Campion, Balint, Bray, Cummings, Ingram,
McCormack, Pearson, Pollina, and Sears

Referred to Committee on Health and Welfare

Date: January 25, 2019

Subject: Environmental health; toxic substances; chemicals of high concern to
children

Statement of purpose of bill as introduced: This bill proposes to establish an
Interagency Committee on Chemical Management to evaluate chemical
inventories in the State and identify potential risks from the inventories. The
bill would require a manufacturer of a children's product containing a
chemical of high concern to children (CHCC) to report the brand name,
product model, and available universal product code of a product. The
Commissioner of Health would be authorized to add a chemical to the CHCC
list on the basis of independent, peer-reviewed scientific research. The bill
would allow the Commissioner of Health by rule to restrict the sale of or
require the labeling of a children's product containing a CHCC after
consultation with the Working Group, instead of upon recommendation of the
Working Group. The bill would authorize the Commissioner of Health to
restrict the sale or require labeling of a children's product with a CHCC if the
Commissioner determines children may be exposed to a CHCC in the product.

1 An act relating to the regulation of toxic substances and hazardous materials

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

3 ~~*** Toxics Use Reduction and Reporting ***~~

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

5 § 6633. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT

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

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

9 (2) identify potential risks to human health and the environment from
10 chemical inventories in the State; and

11 (3) propose measures or mechanisms to address the identified risks from
12 chemical inventories in the State.

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

15 (1) the Secretary of Agriculture, Food and Markets or designee;

16 (2) the Secretary of Natural Resources or designee;

17 (3) the Commissioner of Health or designee;

18 (4) the Commissioner of Labor or designee;

19 (5) the Commissioner of Public Safety or designee;

20 (6) the Secretary of Commerce and Community Development or

21 designee.

1 ~~(7) the Commissioner of Information and Innovation, or the~~

2 ~~Commissioner of the successor department, or designee;~~

3 ~~(8) the Secretary of Transportation or designee.~~

4 ~~(c) Powers and duties. The Interagency Committee on Chemical~~
5 ~~Management shall:~~

6 ~~(1) Convene a citizen advisory panel to provide input and expertise to~~
7 ~~the Committee. The citizen advisory panel shall consist of persons with~~
8 ~~expertise in:~~

9 ~~(A) toxicology;~~

10 ~~(B) environmental law;~~

11 ~~(C) manufacturing products;~~

12 ~~(D) environmental health;~~

13 ~~(E) public health;~~

14 ~~(F) risk analysis;~~

15 ~~(G) maternal and child health care;~~

16 ~~(H) occupational health;~~

17 ~~(I) industrial hygiene;~~

18 ~~(J) public policy;~~

19 ~~(K) chemical management by academic institutions;~~

20 ~~(L) retail sales, and~~

1 (M) development and administration of information reporting
2 technology or databases.

3 (2) Monitor actions taken by the U.S. Environmental Protection Agency
4 (EPA) to regulate chemicals under the Toxic Substances Control Act,
5 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action
6 relevant to the jurisdiction of the agency.

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

10 (d) Assistance. The Interagency Committee on Chemical Management
11 shall have the administrative, technical, and legal assistance of the Agency of
12 Natural Resources; the Agency of Agriculture, Food and Markets; the
13 Department of Health; the Department of Public Safety; the Department
14 of Labor; the Agency of Commerce and Community Development; and the
15 Department of Information and Innovation. The Interagency Committee on
16 Chemical Management shall have the assistance of the Office of Legislative
17 Council for legislative drafting and the assistance of the Joint Fiscal Office for
18 the fiscal and economic analyses.

19 (e) Report. On or before January 15, and annually thereafter, the
20 Interagency Committee on Chemical Management shall report to the Senate
21 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 regarding the actions of the
Committee. 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) an estimate or summary of the known chemical inventories in the
State, as determined by metrics or measures established by the Committee;
(2) a summary of any change under federal statute or rule affecting the
regulation of chemicals in the State;
(3) recommended legislative or regulatory action to address the risks
posed by new or emerging chemicals of high concern; and
(4) recommended legislative or regulatory action to reduce health risks
from exposure to chemicals of high concern and reduce risks of harm to the
natural environment.

(f) Meetings.

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

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

3 ~~(4) The Interagency Committee on Chemical Management shall meet no~~
4 ~~more than four times in a calendar year.~~

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

** * * 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.

1 ~~Sec. 2. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT.~~

2 REPORT ON TOXIC USE REDUCTION AND REPORTING

3 On or before January 15, 2020, after consultation with the citizen advisory
4 panel and as part of the first report required under 10 V.S.A. § 6633(e), the
5 Interagency Committee on Chemical Management shall:

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

9 The recommendation shall:

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

12 (B) estimate the staff and funding necessary to administer the
13 reporting system;

14 (C) propose how businesses and the public can access information
15 submitted to or maintained as part of the reporting systems, including whether
16 access to certain information or categories of information should be limited
17 due to statutory requirements, regulatory requirements, trade secret protection,
18 or other considerations,

1 (D) propose how information maintained as part of the reporting

2 system can be accessed, including whether the information should be

3 searchable by: chemical name, common name, brand name, product model,

4 Global Product Classification (GPC) product brick description, standard

5 industrial classification, chemical facility, geographic area, zip code, or

6 address;

7 (E) propose how manufacturers of consumer products or subsets of

8 consumer products shall report or notify the State of the presence of designated

9 chemicals of concern in a consumer product and how information reported by

10 manufacturers is made available to the public;

11 (F) propose a method for displaying information or filtering or

12 refining search results so that information maintained on the reporting system

13 can be accessed or identified in a serviceable or functional manner for all users

14 of the system, including governmental agencies or departments, commercial

15 and industrial businesses reporting to the system, nonprofit associations, and

16 citizens; and

17 (G) estimate a timeline for establishment of the reporting system.

18 (2) Recommend statutory amendments and regulatory revisions to

19 existing State record keeping and reporting requirements for chemicals,

20 hazardous materials, and hazardous wastes in order to facilitate assessment of

1 risks to human health and the environment posed by the use of chemicals in
2 the State. The recommendations shall include:

3 (A) the thresholds or amounts of chemicals used, manufactured, or
4 distributed, and hazardous materials and hazardous wastes generated or
5 managed in the State that require record keeping and reporting;

6 (B) the persons or entities using, manufacturing, or distributing
7 chemicals and generating or managing hazardous materials and hazardous
8 wastes that are subject to record keeping and reporting requirements; and

9 (C) any changes required to streamline and modernize existing
10 record keeping and reporting requirements to facilitate compliance by
11 businesses and other entities.

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

15 (A) The list of chemicals or materials subject to the reporting and
16 planning requirements. The list of chemicals or materials shall include and be
17 in addition to the chemicals or substances listed under Title III, Section 313 of
18 the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A.
19 § 1773 (chemicals of high concern to children).

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

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

2 (i) the quantity of hazardous waste generated and the quantity of
3 hazardous waste managed during a year;

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

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

8 (iv) a description of factors during a year that have affected toxics
9 use, hazardous waste generation, releases into the environment, and on-site and
10 off-site hazardous waste management.

11 (D) The persons or entities using chemicals or generating hazardous
12 waste that are subject to reporting and planning.

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

16 (F) Any changes to streamline and modernize the program to
17 improve its effectiveness.

18 (4) Draft legislation to implement the Committee's recommendation
19 under subdivisions (1), (2), and (3) of this section.

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. § 1775(b) is amended to read:

(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;

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

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

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

8 ~~See 4-18 V.S.A. § 1776 is amended to read:~~

9 § 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO
10 CHILDREN; PROHIBITION OF SALE

11 * * *

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

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

21 (A) harms the normal development of a fetus or child or causes other
22 ~~developmental toxicity,~~

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

2 ~~(C) disrupts the endocrine system;~~

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

5 ~~(E) is a persistent bioaccumulative toxic.~~

6 (2) The chemical has been found through:

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

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

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

13 * * *

14 (d) Rule to regulate sale or distribution.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 ~~*****~~
Sec. 4. 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, peer-reviewed scientific evidence information, 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 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~~ 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 or 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.

* * *

Sec. 4a. 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).

* * * Effective Dates * * *

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Sec. 5. EFFECTIVE DATES

3

~~(a) This section and Secs. 1 (Interagency Committee on Chemical~~

4

~~Management) and 2 (report on toxic use reduction and reporting) shall take~~

5

~~effect on passage.~~

(a) This section and Secs. 1 and 2 (the Interagency Committee on Chemical Management; transition) shall take effect on passage.

6

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