



April 18, 2019

The Honorable Rep. Ann Pugh, Chair  
House Committee on Human Services  
115 State Street Montpelier, VT 05633

**RE: SENATE BILL 55 – RESPECTFULLY OPPOSE**

Dear Representative Pugh:

On behalf of the Toy Association and our members we respectfully write to inform you of our opposition to Senate Bill 55, which proposes changes to Sec. 8. 18 V.S.A. § 1776. In 2014, this legislature created Act 188 which created a complex and costly chemical disclosure and regulatory program for children's products. We have concerns that the proposed amendment seeks to make substantial changes to the program without providing the Act 188 Working Group an opportunity to move forward in its mission.

The Toy Association is the not-for-profit trade association for manufacturers, importers and retailers of toys and youth entertainment products sold in North America. The Association represents more than 950 companies – both large and small in size. The Toy Association commends the Committee's interest in assuring that children's products are safe, and the Association and our members share this interest. The Toy Association's mission is to bring fun and joy to children's lives and in that mission the safety of young consumers is paramount – it is our industry's number-one priority.

Toys are already highly regulated and reviewed for safety. Existing federal and international regulatory structures ensure that toys are reviewed in this manner, and all toys sold in the U.S. must also comply with numerous federal safety and environmental regulations under a variety of laws and regulations including:

- The Consumer Product Safety Improvement Act (CPSIA) signed into law in 2008,
- The Consumer Product Safety Act (CPSA),
- The Child Safety Protection Act (CSPA),
- The Federal Hazardous Substances Act (FHSA),
- The ASTM Safety Specification on Toys (which was adopted as a mandatory federal standard on February 10, 2009), and
- The Toxic Substances Control Act.

In 2016, Congress approved significant changes to the Toxic Substances Control Act. The intent is to give the US EPA more authority to review chemicals in commerce, and strengthen safety standards. Under this network of requirements, it is illegal to sell toys or children's products containing various substances known to be harmful to children and to which children might be exposed. The Toy Association continues to support strong regulations for toys, but they must be safety-based and national in scope to allow for consistently safe products across the nation.

The proposed amendment removes the need for the Department of Health to rely on the “weight of credible scientific evidence” as the basis for adding a chemical to the chemicals of concern to children list. Instead, the Department can use credible, peer-reviewed information to selectively pick data, or even make decisions based on a single study. Peer-reviewed scientific information can lead to a multitude of different conclusions. The weight of credible scientific evidence is necessary to ensure the validity of the findings. Removing the requirement to use credible scientific data when regulating and restricting consumer products can be dangerous for health and safety.

Further, Act 188 in current law does not restrict or prescribe which scientific data the Department of Health can consider and does not require the Department to give deference to whoever produces the greatest volume. The term “weight” does not give any entity, industry or otherwise, an advantage in the Department's regulatory decision-making process.

Currently, the Commissioner of Health needs approval from the Act 188 Working Group to restrict or ban a product from distribution or sale in Vermont. This provides additional insight, guidance, and oversight over a significant regulatory power. This legislation allows the Commissioner to unilaterally restrict or ban a product from distribution or sale in Vermont. The requirement of Working Group's approval is a reasonable step to ensuring that all sides of this potential regulatory stage are fully considered and vetted.

Finally, the Toy Association has concerns regarding the changes to the exposure requirements in section 4. This proposed legislation would strike language requiring a hazard identification and risk-based approach. This change allows for an arbitrary selection of chemicals based on presence, regardless of whether there is an actual hazard or risk of harm. If the committee is concerned the threshold in current law is unmanageable, we would request the committee develop language that balances the hazard and risk a chemical may pose with the overall safety of the product.

The Toy Association and its members have always recognized the special relationship we have with children... their safety and well-being are always our top priority. While we share your interest in safety, we must urge you to carefully evaluate this legislation. The Act 188 Working Group should be given the opportunity to continue its work without watered down changes. Undermining the scientific thresholds and processes will not improve the health and safety of consumers or these already safe products.

On behalf of the over 950 members of Toy Association, and the toy industry in Vermont, we thank you for your consideration of these concerns. The Toy Association would be happy to address any questions that you and the members of the Committees might have with regard to our concerns on this topic and legislation. Please feel free to contact me at [mlenz@toyassociation.org](mailto:mlenz@toyassociation.org) or 401-965-0439 for more information.

Sincerely,



Matthew Lenz  
Director, State Government Affairs  
The Toy Association

CC: Members of the House Committee on Human Services