

30-LS0264\D
Bannister
3/5/18

CS FOR HOUSE BILL NO. 27()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE TARR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to chemicals that are of high concern for children and to the**
2 **manufacture, sale, distribution, and labeling of products containing certain flame**
3 **retardant chemicals; relating to an interstate chemicals clearinghouse; adding unlawful**
4 **acts to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing**
5 **for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Toxic-Free Children's Act.

10 * **Sec. 2.** AS 18.31 is amended by adding new sections to read:

11 **Article 5. Chemicals of High Concern for Childhood Exposure.**

12 **Sec. 18.31.610. Identification of chemicals of high concern.** The department,
13 after consultation with the Department of Health and Social Services, shall publish a

list of chemicals of high concern to which children are at high risk of potential exposure.

Sec. 18.31.620. Requirements for listing. (a) Before placing a chemical on the list, the department shall determine that the chemical is a chemical of high concern and that children are at high risk for potential exposure to the chemical.

(b) To determine that a chemical is a chemical of high concern, the department shall find that the chemical has been identified by a government entity, based on credible scientific evidence, as

(1) a carcinogen, a reproductive toxicant, a developmental toxicant, or an endocrine disruptor;

(2) persistent, bioaccumulative, and toxic; or

(3) very persistent and very bioaccumulative.

(c) To determine that there is a high potential for children to be exposed to a chemical of high concern,

(1) biomonitoring studies must demonstrate the presence of the chemical in human breast milk, human urine, or other bodily tissues or fluids;

(2) sampling and analysis must demonstrate the presence of the chemical in household dust, household indoor air, household drinking water, or elsewhere in the home environment; or

(3) the chemical must be an additive to or otherwise present in a consumer product.

Sec. 18.31.630. Review and revision of list. The department may periodically review the list and may revise the list by adding a chemical to the list or by removing from the list a chemical that does not satisfy the requirements of AS 18.31.620.

Sec. 18.31.640. Prohibition. (a) A person may not knowingly, in the course of business, manufacture in the state, sell in the state, offer for sale in the state, or distribute for sale in the state a consumer product that contains a chemical that inhibits flame production if the chemical

(1) is on the list;

(2) is TDCPP (Tris (1,3-dichloro-2-propyl) phosphate);

(3) is TCEP (Tris (2-chloroethyl) phosphate);

(4) is TCPP (Tris (1-chloro-2-propyl) phosphate);

(5) contains 100 or more parts per million of a nonpolymeric organohalogen flame retardant; or

(6) contains antimony (chemical abstracts service number 7440-36-0).

(b) This section does not apply to a consumer product that a person resells or offers for resale.

(c) In this section, "knowingly" has the meaning given in AS 11.81.900.

Sec. 18.31.650. Labeling. A person who manufactures a consumer product that contains a chemical that inhibits flame production and sells, offers for sale, or distributes the product in the state shall place on a label affixed to the product the following statement: "This product contains a chemical flame retardant."

Sec. 18.31.660. Civil penalty. (a) A person who violates AS 18.31.640 or 18.31.650 is liable to the state for a civil penalty that may not exceed

(1) for the first violation, \$500 for each day that the violation continues; or

(2) for each violation after the first violation, \$1,000 for each day that the violation continues.

(b) Violation of AS 18.31.640 or 18.31.650 is an unfair trade practice under AS 45.50.471 - 45.50.561, and, in addition to the civil penalty under (a) of this section, the remedies under AS 45.50.471 - 45.50.561 are available for the violation, except for the civil penalty under AS 45.50.551(b).

Sec. 18.31.670. Participation in interstate chemicals clearinghouse. The department shall participate in an interstate chemicals clearinghouse to

(1) assist the department to carry out its responsibilities under AS 18.31.610 - 18.31.690; and

(2) help coordinate the research and education needed to

(A) identify chemicals of high concern to which children are at high risk of potential exposure; and

(B) develop safer alternatives to the chemicals identified under (A) of this paragraph.

Sec. 18.31.680. Regulations. The department may adopt regulations under

AS 44.62 (Administrative Procedure Act) to implement AS 18.31.610 - 18.31.690.

Sec. 18.31.690. Definitions. In AS 18.31.610 - 18.31.690,

(1) "child" means a child who is under seven years of age;

(2) "consumer product" means clothing, toys, detachable car seats, nursing pillows, upholstered furniture, bedding, crib mattresses, nap pads, and changing pads, or other products used in the home primarily for or by a child or the parents or guardians of a child;

(3) "department" means the Department of Environmental Conservation;

(4) "list" means a list published under AS 18.31.610;

(5) "manufacturer" means a person who, in the course of business,

(A) manufactures a consumer product;

(B) affixes a brand name to a consumer product; or

(C) is the importer or first distributor in the United States of a consumer product if the consumer product was imported into the United States and if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not do business in the United States; in this subparagraph, "distributor" means a person who sells consumer products on a wholesale basis to a person for retail sale.

* **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(58) violating AS 18.31.640 or 18.31.650 (flame-inhibiting chemicals in consumer products).

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FIRST LIST OF CHEMICALS. By January 1, 2020, the Department of Environmental Conservation, in consultation with the Department of Health and Social Services, shall publish the first list of chemicals under AS 18.31.610, enacted by sec. 2 of this Act.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. Wherever "this chapter" appears in AS 18.31.010 -

- 1 18.31.500, the revisor of statutes shall substitute "AS 18.31.010 - 18.31.500."
2 * **Sec. 6.** AS 18.31.640, 18.31.650, and 18.31.660, added by sec. 2 of this Act, and
3 AS 45.50.471(b)(58), added by sec. 3 of this Act, take effect January 1, 2020.