

SENATE BILL NO. 151

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY SENATORS OLSON, Ellis, Wielechowski, Gardner

Introduced: 1/31/14

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

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

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

6 * **Section 1.** AS 18.31 is amended by adding new sections to read:

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

8 **Sec. 18.31.610. Identification of chemicals of high concern.** The department,
9 after consultation with the Department of Health and Social Services, shall publish a
10 list of chemicals of high concern to which children are at high risk of potential
11 exposure.

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

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

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

6 (2) persistent, bioaccumulative, and toxic; or

7 (3) very persistent and very bioaccumulative.

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

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

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

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

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

20 **Sec. 18.31.640. Prohibition.** (a) A person may not, in the course of business,
21 manufacture in the state, sell in the state, offer for sale in the state, or distribute for
22 sale in the state a consumer product that contains a chemical that inhibits flame
23 production if the chemical is on the list or is identified as

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

25 (2) TCEP (Tris (2-chloroethyl) phosphate); or

26 (3) TCPP (Tris (1-chloro-2-propyl) phosphate).

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

29 **Sec. 18.31.650. Remedies.** (a) A person who violates AS 18.31.640 is liable to
30 the state for a civil penalty that may not exceed

31 (1) for the first violation, \$1,000 for each day that the violation

1 continues; or

2 (2) for each violation after the first violation, \$2,500 for each day that
3 the violation continues.

4 (b) Violation of AS 18.31.640 is an unfair trade practice under AS 45.50.471 -
5 45.50.561, and, in addition to the civil penalty under (a) of this section, the remedies
6 under AS 45.50.471 - 45.50.561 are available for the violation, except for the civil
7 penalty under AS 45.50.551(b).

8 **Sec. 18.31.660. Participation in interstate chemicals clearinghouse.** The
9 department shall participate in an interstate chemicals clearinghouse to

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

12 (2) help coordinate the research and education needed to

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

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

17 **Sec. 18.31.670. Regulations.** The department may adopt regulations under
18 AS 44.62 (Administrative Procedure Act) to implement AS 18.31.610 - 18.31.690.

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

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

21 (2) "consumer product" means a product used in the home primarily
22 for or by a child or the parents or guardians of a child; in this paragraph, "product"
23 includes clothing, toys, detachable car seats, nursing pillows, crib mattresses, nap
24 pads, and changing pads;

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

27 (4) "distributor" means a person who sells consumer products on a
28 wholesale basis to a person for retail sale;

29 (5) "list" means a list published under AS 18.31.610;

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

31 (A) manufactures a consumer product;

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

2 (C) is the importer or first distributor in the United States of a
3 consumer product if the consumer product was imported into the United States
4 and if the person who manufactured or assembled the consumer product or
5 whose brand name is affixed to the consumer product does not do business in
6 the United States.

7 * **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

8 (58) violating AS 18.31.640 (flame-inhibiting chemicals in consumer
9 products).

10 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION: FIRST LIST OF CHEMICALS. By January 1, 2016, the Department
13 of Environmental Conservation, in consultation with the Department of Health and Social
14 Services, shall publish the first list of chemicals under AS 18.31.610, enacted by sec. 1 of this
15 Act.

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

18 REVISOR'S INSTRUCTION. Wherever "chapter" appears in AS 18.31.010 -
19 18.31.500, the revisor of statutes shall substitute "AS 18.31.010 - 18.31.500."

20 * **Sec. 5.** AS 18.31.640, added by sec. 1 of this Act, and AS 45.50.471(b)(58), added by sec.
21 2 of this Act, take effect January 1, 2016.