



February 18, 2014

To: The Honorable Bert Stedman, Chairman  
Members, Alaska Senate Health and Social Services Committee

From: Tim Shestek  
Senior Director, State Affairs

RE: **SB 151 – OPPOSE**

On behalf of the American Chemistry Council (ACC), thank you for the opportunity to provide the following comments relative to SB 151, legislation that would require the state of Alaska to create a list of “chemicals of high concern” as well as restrict the use of specified flame retardants in certain consumer products.

Safety is a top priority for our member companies and we believe that consumers deserve to have confidence that the products they buy are safe for their intended uses. Our members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of chemical products and processes. Though this legislation may be well intentioned, we have the following concerns with the bill as drafted:

- A presumption that the presence of any identified chemical in a children’s product means the product is somehow harmful;
- The underlying premise that children’s products contain chemicals that pose a risk to the health of Alaska’s children;
- The lack of clarity as to how the proposed list of chemicals would be used by the State of Alaska; and
- Passage of SB 151 would add to a patchwork of state-based chemical and product reporting and regulatory requirements, resulting in regulatory uncertainty for the business and retail community. Enhancements to the nation’s chemical regulatory scheme can be more efficiently implemented on a uniform, national level.

**The Importance of Science in Chemical Regulation --- Presence Does Not Equal Harm**

The bill undercuts the integrated nature of hazard and exposure by presuming that the mere presence of a chemical indicates that when it is used or disposed it will likely result in exposure, or more specifically, exposure leading to harm. Presence of a chemical in a product cannot be a surrogate for “exposure” without any notion of whether or to what extent there may be an actual exposure at a level sufficient to cause harm.

A consumer product that contains a “chemical of high concern” does not necessarily mean that the product is harmful to human health or the environment or that there is any violation of existing safety standards or laws. Risks associated with a chemical in a product are dependent upon the potency of the chemical and the magnitude, duration and frequency of exposure to the chemical.

As drafted, SB 151 would result in a list of chemicals present in certain products without any corresponding information for the public as to what the information means, or perhaps more importantly what it doesn’t mean. Compiling a list of chemicals is not the same as conducting an evaluation of how those chemicals are used, in what amounts and whether



their use poses an unreasonable risk. Furthermore, the bill is silent as to what the state intends to do with the list once it is created and provides no guidance as to how the information on the list would be communicated to the public. Regulators run the risk of generating unnecessary fear and hysteria, unsupported by scientific fact, when this type of information is communicated inaccurately.

EPA, the Centers for Disease Control (CDC) and some states make it clear that the mere presence of a chemical in a product or in our bodies is insufficient information to determine whether that chemical or product poses a risk. For example, Washington State's Department of Ecology clearly states on its website:

**“The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws.”**

<http://www.ecy.wa.gov/programs/swfa/cspa/search.html>

The CDC, as part of its national biomonitoring report further adds “The presence of an environmental chemical in people's blood or urine does not mean that it will cause effects or disease. The toxicity of a chemical is related to its dose or concentration, in addition to a person's individual susceptibility.”

[http://www.cdc.gov/exposurereport/pdf/FourthReport\\_ExecutiveSummary.pdf](http://www.cdc.gov/exposurereport/pdf/FourthReport_ExecutiveSummary.pdf)

### **Unsupported Assumption that Children's Products Contain Harmful Substances**

ACC member company products are evaluated for performance and safety, in accordance with current government rules and regulations, as well as our own rigorous management system that is verified by third-party auditors, Responsible Care®. ACC companies have a responsibility to produce safe products. <http://responsiblecare.americanchemistry.com>

Often times, the Toxic Substances Control Act (TSCA) is incorrectly cited as an inadequate regulatory program to protect consumers. Bear in mind that more than a dozen federal laws (see attached chart) are in place to regulate the safety of chemicals in commerce, including the Consumer Product Safety Improvement Act (CPSIA) and the Federal Hazardous Substances Act (FHSA).

The FHSA gives the Consumer Product Safety Commission authority to ban by regulation a hazardous substance if it determines that the product is so hazardous that the cautionary labeling required by the act is inadequate to protect the public. Any toy or other article that is intended for use by children and that contains a hazardous substance is also banned under the FHSA if a child can gain access to the substance. In addition, the act gives the Commission authority to ban by regulation any toy, or other article intended for use by children which presents a mechanical, electrical or thermal hazard.

### **Bi-Partisan Effort to Enact Chemical Safety Improvement Act (CSIA)**

Though we oppose SB 151, we certainly recognize the need to modernize the federal chemical regulatory system so that consumers and others can have greater confidence in the safety of consumer products.

To that end, ACC has joined nearly 100 business groups, national and state organized labor, environmental advocates and others in support of the Chemical Safety Improvement Act (CSIA). This bi-partisan bill, co-sponsored by 25 Democrats and Republicans, including both Senator Lisa Murkowski and Senator Mark Begich, would enhance public safety by making changes to improve the way chemicals are regulated. In summary, the CSIA would do the following:

- Require EPA to identify high priority chemicals for review and assessment, and determine whether those substances pose an unreasonable risk to human health or the environment under their intended conditions of use.
- EPA would initiate a prioritization screening process to identify chemicals as high or low priority for further assessment. Provides opportunity for state governments to make recommendations to EPA for substances to be prioritized.
- EPA would be required to conduct safety assessments of these chemicals based solely on considerations of risk to human health and the environment, by integrating information about the chemicals' hazard potential, its uses

and its potential exposures. Furthermore, EPA would have the ability to focus in on “sensitive subpopulations” such as children when doing these safety assessments.

- EPA would determine whether a chemical meets the safety standard under its intended conditions of use. At that point, EPA can conclude that a chemical meets the safety standard as currently managed, needs additional controls to meet the standard, or that it cannot meet the safety standard under its intended conditions of use even with additional controls. EPA’s risk management options include bans and phase-outs.

Other key provisions of the CSIA include:

- Requires chemical manufacturers to conduct additional testing when it is warranted.
- Makes more information about chemicals available to the public.
- Requires EPA to use the best available science and modern scientific methods.

The CSIA provides the sort of predictable and workable regulatory environment that facilitates economic growth and enhances public safety. For the above listed reasons, ACC respectfully opposes SB 151.

Should you have any questions, please do not hesitate to contact me at 916-448-2581 or via email at [tim\\_shestek@americanchemistry.com](mailto:tim_shestek@americanchemistry.com). Thank you for the opportunity to share our views.