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'Toxics' bill is an unnecessary overreach: Editorial

From the Desk of Senator Ted Ferrioli

capitol.JPG

The Oregon state Capitol in Salem. *(Michelle Brence/Staff)*

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Many of Oregon's notable policy failures are a consequence of overreach. Why do something simple, lawmakers seem to ask, when you can do something complex and hyper-ambitious instead? The answers to that question abound – Cover Oregon, the Business Energy Tax Credit and most recently the low-carbon fuel standard. Lawmakers keep right on reaching anyway, and the impulse is driving **Senate Bill 478** – aka "the toxics bill" – ever closer to the governor's desk.

The bill's purpose – to protect children from toxins - is part of its genius. Protecting kids is something everybody wants, for which reason the legislation automatically enjoys a significant level of uncritical support. Even so, similar proposals have died in the Legislature before, **including in 2013**. As appealing as it might sound, this bill has problems – and a very cheap and simple alternative.

The legislation, broadly speaking, would do two things. First, it would establish a list of "high priority chemicals of concern" and require manufacturers of children's products to report the presence of such substances "at or above a de minimis level." The resulting database would be searchable by the public. Second, the bill eventually would require manufacturers to remove these substances from a few classes of products used by very young children. Manufacturers could apply for waivers under certain circumstances – if, for instance, removal is "not financially or technically feasible" – but otherwise the mere presence of a listed chemical in a covered product would be treated as evidence of danger.

As alarming as the bill's terminology might be, the presence of "high priority chemicals of concern" in a product doesn't necessarily mean that using it is dangerous, acknowledges chief Senate sponsor **Chris Edwards, D-Eugene**. "Any given product by itself can be deemed to be safe if any child were exposed to only that product," he says. "But there's no way to know the total load on a child's system because there are so many products."

The bill targets a fuzzy area insufficiently covered, supporters believe, by federal regulations, which most efficiently govern products marketed in all 50 states. A handful of states, including Vermont, Minnesota and Washington, have adopted related legislation that focuses largely upon the reporting of chemicals deemed worrisome. SB478 would leap with unusual vigor into ban-'em territory.

Oregonian editorials

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Surely, you'd think, state lawmakers would be loath to contribute in such dramatic fashion to the creation of a nationwide regulatory patchwork unless they were responding to a true health emergency. This view, however, doesn't square with the loopholes written into SB478. Manufacturers of children's products with global sales under $5 million need not report or remove "high priority chemicals of concern." Manufacturers with 25 or fewer employees may ask for an extra two years to remove listed chemicals.

And then there's the special sporting-goods exemption.

Jung, Erik Lukens, Steve Moss and Len Reed.

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The reporting language in SB478 was written carefully to mirror Washington's program. Oregon will adopt Washington's list of worrisome chemicals, for instance. Oregon will consider adding or dropping chemicals added or dropped by Washington. The monkey-see, monkey-do approach is smart – why repeat work someone else is doing already? – and extends even to definitions. Among these are categories of products excluded from scrutiny, including certain sporting goods. As introduced, the definition of a key sporting-goods exemption mirrored Washington law almost exactly. Recently, however, an amendment to Oregon's bill packed the sporting-goods exemption with scads of products – backpacks, tents, rain gear, sport bags, luggage and so on – marketed, Edwards acknowledged, by the "fairly large sporting equipment and apparel cluster in Oregon."

It's unlikely that lawmakers would carve out such exemptions in a law that responded to anything approaching a public health crisis. You could argue that small and local businesses deserve some concessions, but the freedom to poison kids clearly isn't one of them.

Why, given the limited nature of the problem SB478 seeks to address, take the dramatic and unusual step of compelling manufacturers to remove listed chemicals? Supporters argue that the federal government isn't doing enough to address the problem. However, an update of the 1970s-era Toxic Substances Control Act is working its way through Congress, **clearing the House Tuesday by a vote of 398 to one**. Telling manufacturers what they may not include in products sold to children is best left to Uncle Sam, who happens to be moving in the right direction.

That leaves the matter of collecting and reporting chemical information for the benefit of parents, many of whom might like to exercise an abundance of caution in shopping for their kids. In that respect, SB478 itself points to a solution that eliminates the need for the bill itself. Because the bill's collection and reporting elements deliberately mimic Washington's program – albeit with some Oregon-specific loopholes – why not defer entirely to the state to our north?

Everything in SB478 that's worth doing, in other words, could be accomplished at almost no cost to Oregonians by steering them to the **website site for Washington's Children's Safe Products Act**.