

# D R A F T

## SUMMARY

Modifies provisions relating to regulation of chemicals in children's products.

Delays implementation of requirement that manufacturer of children's product remove or make substitution for high priority chemical of concern.

## A BILL FOR AN ACT

1  
2 Relating to chemicals in children's products; amending ORS 431A.253,  
3 431A.258 and 431A.260.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 431A.253 is amended to read:

6 431A.253. As used in ORS 431A.253 to 431A.280:

7 (1) "Chemical" means:

8 (a) A substance with a distinct molecular composition and the breakdown  
9 products of the substance that form through decomposition, degradation or  
10 metabolism.

11 (b) A group of structurally related substances and the breakdown products  
12 of the substances that form through decomposition, degradation or  
13 metabolism.

14 (2)(a) "Children's cosmetics" means products that are intended to be  
15 rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied  
16 to the human body or any part thereof for cleansing, moisturizing,  
17 beautifying, promoting attractiveness or altering the appearance.

18 (b) "Children's cosmetics" does not mean soap, dietary supplements or  
19 food and drugs approved by the United States Food and Drug Administration.

20 (3)(a) "Children's product" means:

1 (A) Any of the following products that are made for, marketed for use by  
2 or marketed to children under 12 years of age:

3 (i) A product designed or intended by the manufacturer to facilitate  
4 sucking, teething, sleep, relaxation, feeding or drinking.

5 (ii) Children's clothing and footwear.

6 (iii) Car seats.

7 (iv) Children's cosmetics.

8 (v) Children's jewelry.

9 (vi) Toys.

10 (B) Any component part of a product specified in subparagraph (A) of this  
11 paragraph **that is accessible to the consumer.**

12 (b) "Children's product" does not mean:

13 (A) Athletic shoes with cleats or spikes.

14 (B) Batteries.

15 (C) BB guns, pellet guns and air rifles.

16 (D) Bicycles and tricycles.

17 (E) Chemistry sets.

18 (F) Consumer electronic products, including personal computers, audio  
19 and video equipment, calculators, wireless telephones and game consoles,  
20 handheld devices that incorporate a video screen and are used to access  
21 interactive software, and the associated peripherals.

22 (G) Interactive software intended for leisure and entertainment, such as  
23 computer games, and their storage media, such as compact discs.

24 (H) Model rockets.

25 (I) Pocketknives and multitools.

26 (J) Roller skates.

27 (K) Scooters.

28 (L) Sets of darts with metallic points.

29 (M) Slings and catapults.

30 (N) Snow sporting equipment, including skis, poles, boots, snowboards,  
31 sleds and bindings.

1 (O) Sporting equipment and accessories, including but not limited to bats,  
2 balls, gloves, sticks, pucks, pads, helmets and other protective equipment,  
3 weight training and exercise aids, protective eyewear, backpacks and tents,  
4 raingear, sport bags and luggage, and golf equipment.

5 (P) Video toys that can be connected to a video screen and are operated  
6 at a nominal voltage exceeding 24 volts.

7 (Q) Food and beverages and food and beverage packaging regulated by the  
8 United States Food and Drug Administration or the United States Depart-  
9 ment of Agriculture.

10 (4) "Contaminant" means trace amounts of chemicals that are incidental  
11 to manufacturing and that serve no intended function in the product com-  
12 ponent, including but not limited to:

13 (a) Unintended by-products of chemical reactions during the manufacture  
14 of the product component;

15 (b) Trace impurities in feedstock;

16 (c) Incompletely reacted chemical mixtures; and

17 (d) Degradation products.

18 (5) "De minimis level" means:

19 (a) For a chemical that is an intentionally added chemical, the practical  
20 quantification limit; or

21 (b) For a chemical that is a contaminant, a concentration of 100 parts per  
22 million.

23 (6) "Intentionally added chemical" means a chemical in a product that  
24 serves an intended function in the product component.

25 (7) "Manufacturer" means any person that produces a children's product  
26 or an importer or domestic distributor of a children's product. For the pur-  
27 poses of this subsection, "importer" means the owner of the children's prod-  
28 uct.

29 (8) "Mouthable" means, in describing a children's product or any part of  
30 a children's product, that an intended use of the product or any part of the  
31 product includes being placed in the mouth for any purpose.

1 (9) “Practical quantification limit” means the lowest concentration of a  
2 chemical that can be reliably measured within specified limits of precision,  
3 accuracy, representativeness, completeness and comparability during routine  
4 laboratory operating conditions.

5 (10) “Trade association” means a membership organization of persons en-  
6 gaging in the same or a similar or related line of commerce, organized to  
7 promote and improve business conditions in that line of commerce and not  
8 to engage in regular business activities that ordinarily are carried on for  
9 profit.

10 **SECTION 2.** ORS 431A.258 is amended to read:

11 431A.258. (1)(a) A manufacturer of a children’s product sold or offered for  
12 sale in this state that contains a chemical included on the list established  
13 and maintained under ORS 431A.255 in an amount at or above a de minimis  
14 level shall provide a biennial notice as described in subsection (2) of this  
15 section to the Oregon Health Authority by January 1 of each applicable no-  
16 tice year.

17 (b) The first biennial notice required under this section shall be submitted  
18 to the authority by January 1 of the year following the year that the chem-  
19 ical contained in the children’s product sold or offered for sale in this state  
20 is added to the list.

21 (2) The notice required by subsection (1) of this section must contain:

22 (a) The name and Chemical Abstracts Service Registry Number of the  
23 chemical contained in the children’s product;

24 (b) The product category of the children’s product that contains the  
25 chemical;

26 (c) A description of the function of the chemical in the children’s product;

27 (d) The amount of the chemical used in each unit of the children’s product  
28 reported as a range rather than an exact amount;

29 (e) The name and address of the manufacturer, and the name, address and  
30 telephone number of a contact person for the manufacturer; and

31 (f) Any other information that the manufacturer deems relevant to the

1 appropriate use of the children's product.

2 (3)(a) The authority may enter into reciprocal data sharing agreements  
3 with other states in which manufacturers of children's products are required  
4 to disclose information related to high priority chemicals of concern for  
5 children's health used in children's products. The authority must use the GS1  
6 Global Product Classification system to identify and specify product categories  
7 subject to the data sharing agreements. If the authority has entered into  
8 a data sharing agreement with another state, and a manufacturer has reported  
9 the information required in the notice described in subsection (2) of  
10 this section to that state, the manufacturer may request that the other state  
11 provide the authority with the information in lieu of the manufacturer's direct  
12 reporting of the information to the authority.

13 (b) A manufacturer fulfills the notice requirement of subsection (1) of this  
14 section when the authority receives the information from the other state and  
15 the authority determines that the information received satisfies the requirements  
16 for the notice specified in subsection (2) of this section.

17 (4) In lieu of the manufacturer's providing notice to the authority under  
18 subsection (1) or (3) of this section, the authority may require that the notice  
19 described in subsection (2) of this section be submitted to the Interstate  
20 Chemicals Clearinghouse. The authority by rule shall specify procedures for  
21 the provision of such notice by manufacturers to the Interstate Chemicals  
22 Clearinghouse.

23 (5)(a) *[The authority shall grant an exemption to a manufacturer of*  
24 *children's products that applies for an exemption from the notice requirements*  
25 *of this section if the application demonstrates that]* **A manufacturer of**  
26 **children's products is exempt from the notice requirements of this**  
27 **section if:**

28 (A) The high priority chemical of concern for children's health used in  
29 children's products is present in the children's product otherwise subject to  
30 the notice requirements of this section only as a contaminant;

31 (B) The manufacturer conducts a manufacturing control program for the

1 contaminant; and

2 (C) The manufacturing control program meets minimum standards for a  
3 manufacturing control program as set forth by the authority by rule.

4 (b) The authority shall approve or disapprove an exemption application  
5 within 180 days after its submittal. If the authority fails to act within 180  
6 days, the exemption application is deemed approved. If the authority disap-  
7 proves an exemption application, the manufacturer may submit a revised  
8 exemption application for consideration within 180 days after the authority's  
9 disapproval.

10 (6) A trade association may provide required notices on behalf of its  
11 member manufacturers under the provisions of this section.

12 (7) When a manufacturer provides notice to the authority under the pro-  
13 visions of this section, the manufacturer may submit recommendations to the  
14 authority regarding technical, financial or logistical support deemed neces-  
15 sary for innovation and green chemistry solutions related to high priority  
16 chemicals of concern for children's health used in children's products.

17 **SECTION 3.** ORS 431A.260 is amended to read:

18 431A.260. (1) On or before **the later of January 1, 2026, or** the date on  
19 which a manufacturer of a children's product submits the third biennial no-  
20 tice required under ORS 431A.258 for a chemical that is present in a  
21 children's product, the manufacturer must remove or make a substitution for  
22 the chemical pursuant to ORS 431A.263, or seek a waiver under ORS  
23 431A.265, if the chemical is present in a children's product that is:

24 (a) Mouthable;

25 (b) A children's cosmetic; or

26 (c) Made for, marketed for use by or marketed to children under three  
27 years of age.

28 (2) A manufacturer with 25 or fewer employees may apply for a two-year  
29 extension of the date specified in subsection (1) of this section to meet the  
30 requirements of this section.

31 (3) Manufacturers are exempt from meeting the requirements of this sec-

1 tion for children's products described in subsection (1) of this section that:

2 (a) Contain high priority chemicals of concern for children's health used  
3 in children's products at levels that are at or below allowable levels for  
4 children's products as established by the Consumer Product Safety Improve-  
5 ment Act of 2008, P.L. 110-314, 122 Stat. 3016, as in effect on July 27,  
6 2015[.]; **or**

7 (b) **Meet the safety standards of ASTM (American Society for**  
8 **Testing and Materials) F963 or European standard EN 71 (Safety of**  
9 **Toys).**

10 (4)(a) The Oregon Health Authority shall adopt rules providing for addi-  
11 tional exemptions from the requirements of this section.

12 (b) For purposes of this subsection, any consumer product safety standard  
13 adopted under federal **or international** law that establishes allowable levels  
14 for children's products of a high priority chemical of concern for children's  
15 health used in children's products is presumed to establish the maximum al-  
16 lowable level of the chemical that may be used in children's products that  
17 are sold or offered for sale in this state. The authority may not require a  
18 manufacturer in compliance with the federal **or international** standard to  
19 also comply with the provisions of this section unless the authority estab-  
20 lishes in the rulemaking process that a lower maximum allowable level for  
21 children's products of a high priority chemical of concern for children's  
22 health used in children's products than the allowable level set by the federal  
23 **or international** standard is necessary to protect human health and welfare.

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