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TO: The Honorable Pam Marsh, Chair
House Committee on Energy and the Environment

FROM: Gabriela Goldfarb, Environmental Public Health Section Manager
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Subject: House Bill 2495, Toxic Free Kids Program Amendments

I am Gabriela Goldfarb, Environmental Public Health Section Manager in the Oregon Health Authority's Public Health Division. I am here to provide information related to House Bill 2495, which would amend the Toxic Free Kids Act enacted in 2015 (HB 478). OHA has no position on the bill, but we can offer information about how HB 2495 would change the Toxic Free Kids Program OHA currently implements.

The 2015 Toxic Free Kids Act requires manufacturers of children's products sold in Oregon to report certain products containing one or more High Priority Chemicals of Concern for Children's Health, if those target chemicals are present at or above specific levels. The Act further requires manufacturers to substitute or remove the target chemicals from a subset of those products starting in 2022, or otherwise remove them from commerce. Oregon's requirements apply only to manufacturers of children's products with annual worldwide gross sales of \$5 million or more.

House Bill 2495 would allow OHA to align certain parts of Oregon's Toxic Free Kids Program with elements of similar laws and programs in Washington and Vermont in regard to the list of target chemicals; the type of information manufacturers are required to report; and the definition of one type of children's product.

First, HB 2495 would remove a limit in current statute on changes to the list of High Priority Chemicals of Concern for Children's Health. Existing statute directs OHA to consider changes made by the State of Washington and other state or federal agencies when amending Oregon's target chemicals list, but also limits OHA to adding no more than 5 chemicals every 3 years. For example, after Washington State added more than 20 chemicals to its target list in 2017, when OHA undertook its first triennial review of chemicals, our public health toxicologists had to pick 5 of those chemicals to add to Oregon's list. HB 2495 would allow OHA to align its chemical lists with those of the Washington State, as the law encourages. This bill also allows OHA to add classes of chemicals with similar toxicological effects to the list, instead of having to add them one by one, as current law requires.

Next, HB 2495 would require manufacturers to report children's products by brand name and product model rather than general product categories as the Act currently requires. This change would make it possible for a consumer to look up information about a specific product, including whether the product contains a high priority chemical. Manufacturers reporting to Vermont's Chemical Disclosure Program for Children's Products are currently required to provide this information.

HB 2495 would also change the date on which biennial notices (reports) are to be submitted to OHA from January 1 to January 31. This allows manufacturers more time to report for the previous year more accurately. As January 31st is the date by which children's products are to be reported under Washington's Children's Safe Products Act, this change would further align the two states' laws.

Two remaining changes relate to program elements unique to Oregon. Under Oregon's program, unless a manufacturer obtains a waiver, starting in 2022 it must remove or substitute target chemicals from a subset of the children's products reported to Oregon. Washington and Vermont require only reporting. Oregon's removal or substitution requirements apply to the subset of reportable products that are:

- mouthable,
- a children's cosmetic, or
- made for or marketed for use by children under the age of three.

HB 2495 would broaden the existing definition of ‘mouthable’ children’s products to align with the State of Washington definition. Mouthable in Washington means a toy or part of a toy a child is able to put in the mouth (whether or not it is intended to go in the mouth), and is further defined as having any dimension smaller than 5 centimeters. Oregon’s current definition is a toy specifically intended to be put in the mouth, such as a pacifier. This change would significantly increase the number of children’s products requiring removal or substitution of chemicals. We would also anticipate an increase in the number of manufacturers applying to OHA to obtain a waiver from these requirements.

Finally, House Bill 2495 amends existing statute related to hazard assessments. A manufacturer seeking to replace a chemical of concern found in a mouthable product, children’s cosmetic or product for children under three with a substitute chemical must submit a hazard assessment to OHA that explains how the substitute chemical and the product itself are inherently less hazardous than before the change. HB 2495 would limit the validity of hazard assessments to a period of three years if OHA were to fail to approve or deny the application within 180 days of submission. Under current statute such hazard assessments would be valid in perpetuity.

OHA is available to serve as a resource to the committee and answer any questions about the Toxic Free Kids Program or the effect of HB 2495.