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February 21, 2021

Chair Pam Marsh
House Committee on Energy and Environment
State Capitol
Salem, Oregon

RE: House Bill 2495 – OPPOSE

Dear Chair Marsh and Committee Members:

On behalf of the Toy Association and our members we respectfully write to inform you of our **opposition to House Bill 2495** which proposes to expand the scope of the Toxic Free Kids Act (TFKA) and increase the reporting obligation. This bill would make significant changes to the TFKA program at time when the current program has yet to be fully implement and businesses are still suffering the impacts of the pandemic.

The Toy Association is the not-for-profit trade association for manufacturers, importers and retailers of toys and youth entertainment products sold in North America. The Association represents more than 950 companies – both large and small. The Toy Association commends the Committee’s interest in assuring that children’s products are safe, and the Association and our members share this interest. The Toy Association’s mission is to bring fun and joy to children’s lives and in that mission the safety of young consumers is paramount – it is our industry’s number-one priority.

The Toy Association and its members have long been leaders in toy safety. Our efforts include leading the development of the first comprehensive toy safety standard (later adopted as ASTM F963, which in 2008 became a mandatory consumer product safety rule under CPSIA). The industry continues to provide technical input and actively participate in the ongoing review of this "living" standard to keep pace with innovation and potential emerging issues. The Association and its members work with government officials, consumer groups, medical and child development experts, testing labs and industry leaders on ongoing programs to ensure safe play.

Inconsistent with other states laws and federal/international safety standards

In 2015, the Oregon legislature passed Senate Bill 478, establishing the Toxics-Free Kids Act (TFKA), which HB 2495 bill seeks to amend. Principal provisions of the law include:

- **Priority Chemicals List:** The law allows the Oregon Health Authority (OHA) to create a list of high priority chemicals of concern for children’s products.

- ***Oregon’s current list of chemicals is closely aligned with WA State’s “Children’s Safe Products Act.” HB 2495 would dramatically change that by adding “classes” of chemical in addition to specific chemicals.***
- **Chemical Disclosure:** Manufacturers of children’s products sold in Oregon were required to report on the presence of priority chemicals "at or above a de minimis level" in their products beginning on January 1, 2018.
 - ***Disclosure requirements under the TFKA closely aligned with WA State’s “Children’s Safe Products Act.” HB 2495 would dramatically change that by requiring additional product level information to be included.***
- **Removal/Substitution:** Manufacturers are required to remove or substitute any chemicals they are reporting from certain classes of products beginning on January 1, 2022.
 - ***WA State’s “Children’s Safe Products Act” currently does not require the removal or substitution of listed chemicals as is required by the TFKA.***

The TFKA was not consistent with any other state programs like Washington state and Vermont because of the requirements to remove or substitute chemicals. It is further reaching than programs in states like California and federal and international safety standards because it does not require any assessment of the usage or potential risks of a chemical but requires removal or substitution of chemicals based solely on their presence of a chemical – even naturally occurring contaminants. HB 2495 will require the removal/substitution of significantly more chemicals because it seeks to add “classes of chemicals.” This provision can also limit the search for less hazardous alternatives and viable substitutions.

If HB 2495 is seeking to align with Washington State’s “Safer Products for Washington” program then it should also align with the scope and processes of that program which are entirely different than the current TFKA program. The Toy Association would support legislation to fully align Oregon’s TFKA program with either Washington State’s “Children’s Safe Products Act” or “Safer Products for Washington” programs.

Existing statute has not yet been implemented and program rules are still pending

The current provisions of the TFKA have not yet been implemented and therefore an assessment of the benefits or effectiveness of the program has not been conducted. HB 2495 is prematurely seeking to expand the program and increase the regulatory burdens for a program that is already extremely complex and goes beyond requirements of similar state, federal or international laws.

Additionally, in Oregon and other states that are attempting to implement similar programs there have been significant costs for both the government and businesses. Governments are currently suffering a drain on resources and funding due to the pandemic while businesses are working to address impacts to their sales, workforces and supply chains. Companies are facing major challenges preparing to comply the existing TFKA statute when they still do not have the regulations that define how product redesigns, alternative assessments, hazard assessments and quantitative exposure assessments are to be conducted. The legislature should consider delaying TFKA deadlines since the rules have been delayed and allow a period of economic recovery before saddling business with additional regulatory burdens.

On behalf of the member of the Toy Association we thank you for your consideration of these concerns. We would be happy to address any questions regarding our concerns on this legislation. Please feel free to contact me at jgibbons@toyassociation.org or 646-512-1320 for more information.

Sincerely,

A handwritten signature in black ink, appearing to read 'JGibbons', with a long horizontal flourish extending to the right.

Jennifer Gibbons
VP, State Government Affairs
The Toy Association