

SENATE BILL No. 894

January 17, 2012, Introduced by Senators WARREN, BIEDA, ANDERSON, GLEASON, GREGORY, HOPGOOD, SMITH and HUNTER and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 5491 (MCL 333.5491), as added by 2007 PA 159,
and by adding section 5494.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5491. As used in this part:

2 (A) "CHEMICAL" MEANS A SUBSTANCE WITH A DISTINCT MOLECULAR
3 COMPOSITION OR A GROUP OF STRUCTURALLY RELATED SUBSTANCES AND
4 INCLUDES THE BREAKDOWN PRODUCTS OF THE SUBSTANCE OR SUBSTANCES THAT
5 FORM THROUGH DECOMPOSITION, DEGRADATION, OR METABOLISM.

6 (B) "CHEMICAL OF CONCERN" MEANS A CHEMICAL LISTED UNDER
7 SECTION 5494(1) .

8 (C) "CHEMICAL OF GREATEST CONCERN" MEANS A CHEMICAL OF CONCERN

1 THAT IS LISTED UNDER SECTION 5494(2).

2 (D) ~~(a)~~—"Child care article" means a product designed or
3 intended by the manufacturer to facilitate the sleep, relaxation,
4 or feeding of children or to help children with sucking or
5 teething.

6 (E) ~~(b)~~—"Children" means individuals who are ~~7~~12 years old or
7 younger. "CHILD" HAS A CORRESPONDING MEANING.

8 (F) "CHILDREN'S PRODUCT" MEANS A CONSUMER PRODUCT THAT MEETS
9 ANY OF THE FOLLOWING REQUIREMENTS:

10 (i) IS INTENDED PRIMARILY FOR USE BY OR FOR THE CARE OF
11 CHILDREN, SUCH AS A CHILD CARE ARTICLE, BABY PRODUCT, CHILD CAR
12 SEAT, TOY, OR ARTICLE OF CLOTHING, OR PERSONAL CARE PRODUCT FOR
13 CHILDREN.

14 (ii) CONTAINS A CHEMICAL OF GREATEST CONCERN AND WHEN USED OR
15 DISPOSED OF WILL LIKELY RESULT IN A CHILD OR HUMAN FETUS BEING
16 EXPOSED TO THAT CHEMICAL OF GREATEST CONCERN.

17 (G) ~~(e)~~—"Consumer" means that term as used in the consumer
18 product safety act, 15 USC 2051 to ~~2085~~2089.

19 (H) "CONSUMER PRODUCT" MEANS AN ITEM SOLD FOR RESIDENTIAL OR
20 COMMERCIAL USE, INCLUDING ANY COMPONENT PARTS AND PACKAGING.
21 CONSUMER PRODUCT DOES NOT INCLUDE A DRUG OR BIOLOGIC REGULATED BY
22 THE UNITED STATES FOOD AND DRUG ADMINISTRATION, A FOOD OR BEVERAGE
23 OR AN ADDITIVE TO A FOOD OR BEVERAGE, A TOBACCO PRODUCT, OR A
24 PESTICIDE REGULATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
25 AGENCY, EXCEPT THAT CONSUMER PRODUCT MAY INCLUDE A CONTAINER OR
26 PACKAGING IN WHICH SUCH AN ITEM IS SOLD.

27 (I) "DISTRIBUTOR" MEANS A PERSON WHO SELLS CHILDREN'S PRODUCTS

1 TO RETAIL ESTABLISHMENTS ON A WHOLESALE BASIS.

2 (J) "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES A FINAL
3 CONSUMER PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE CONSUMER
4 PRODUCT. IN THE CASE OF A CONSUMER PRODUCT THAT IS IMPORTED INTO
5 THE UNITED STATES, MANUFACTURER INCLUDES THE IMPORTER OR DOMESTIC
6 DISTRIBUTOR OF THE CONSUMER PRODUCT IF THE PERSON WHO MANUFACTURED
7 OR ASSEMBLED THE CONSUMER PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO
8 THE CONSUMER PRODUCT DOES NOT HAVE A PRESENCE IN THE UNITED STATES.

9 (K) ~~(d)~~—"Person" means an individual, partnership,
10 corporation, association, governmental entity, or other legal
11 entity.

12 (L) ~~(e)~~—"Toxic substance" means a substance that contains lead,
13 or a coating on an item that contains lead, so that the lead
14 content is more than 0.06% of the total weight. Toxic substance
15 does not include glass or crystal decorative components.

16 (M) ~~(f)~~—"Toy" means an article designed and made for the
17 amusement of a ~~minor~~ CHILD or for ~~the minor's~~ A CHILD'S use in
18 play.

19 SEC. 5494. (1) BY JULY 1, 2012, THE DEPARTMENT, IN
20 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL
21 COMPILE A LIST OF CHEMICALS THAT ARE IDENTIFIED, ON THE BASIS OF
22 CREDIBLE SCIENTIFIC EVIDENCE, TO HAVE ANY OF THE FOLLOWING
23 CHARACTERISTICS:

24 (A) ARE CARCINOGENS, ARE REPRODUCTIVE OR DEVELOPMENTAL
25 TOXICANTS, OR CAUSE REPRODUCTIVE OR DEVELOPMENTAL HARM OR OTHER
26 SYSTEMIC TOXICITY.

27 (B) ARE ENDOCRINE OR HORMONE DISRUPTORS.

1 (C) ARE PERSISTENT, BIOACCUMULATIVE, AND TOXIC.

2 (D) ARE VERY PERSISTENT AND VERY BIOACCUMULATIVE.

3 (2) BY JULY 1, 2013, THE DEPARTMENT, IN CONSULTATION WITH THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL COMPILE A LIST OF NOT
5 LESS THAN 10 CHEMICALS EACH OF WHICH IS A CHEMICAL OF CONCERN AND
6 MEETS 1 OR MORE OF THE FOLLOWING CRITERIA:

7 (A) HAS BEEN FOUND THROUGH BIOMONITORING TO BE PRESENT IN
8 HUMAN BLOOD INCLUDING UMBILICAL CORD BLOOD, BREAST MILK, URINE, OR
9 OTHER BODILY TISSUES OR FLUIDS.

10 (B) HAS BEEN FOUND THROUGH SAMPLING AND ANALYSIS TO BE PRESENT
11 IN CONSUMER PRODUCTS OR IN HOUSEHOLD DUST, INDOOR AIR, DRINKING
12 WATER, OR ELSEWHERE IN THE HOME ENVIRONMENT.

13 (C) HAS BEEN FOUND THROUGH MONITORING TO BE PRESENT IN FISH,
14 WILDLIFE, OR THE NATURAL ENVIRONMENT.

15 (D) IS INCLUDED IN THE UNITED STATES ENVIRONMENTAL PROTECTION
16 AGENCY'S SPONSORED CHEMICALS LIST OR UNSPONSORED CHEMICALS LIST,
17 DEVELOPED UNDER ITS HIGH PRODUCTION VOLUMES CHALLENGE PROGRAM AND
18 TOGETHER COMPRISING CHEMICALS PRODUCED OR IMPORTED IN THE UNITED
19 STATES IN QUANTITIES OF 1,000,000 POUNDS OR MORE PER YEAR.

20 (E) IS DETERMINED BY THE DEPARTMENT TO BE OF SPECIFIC
21 RELEVANCE TO THE HEALTH OF CHILDREN IN THIS STATE.

22 (3) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
23 ENVIRONMENTAL QUALITY, MAY UPDATE THE LIST OF CHEMICALS OF CONCERN
24 AS OFTEN AS THE DEPARTMENT CONSIDERS NECESSARY. THE DEPARTMENT, IN
25 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, SHALL
26 UPDATE AND ADD NOT LESS THAN 10 CHEMICALS TO THE LIST OF CHEMICALS
27 OF GREATEST CONCERN AT LEAST EVERY 2 YEARS IN THE MANNER PRESCRIBED

1 IN SUBSECTION (2).

2 (4) NOT MORE THAN 30 DAYS AFTER CREATION OR ALTERATION OF A
3 LIST OF CHEMICALS OF CONCERN OR CHEMICALS OF GREATEST CONCERN, THE
4 DEPARTMENT SHALL PUBLICLY POST THE INFORMATION ON ITS WEBSITE IN AN
5 EASILY UNDERSTANDABLE FORM.

6 (5) BY JANUARY 1, 2014, AND EVERY 2 YEARS THEREAFTER, THE
7 DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
8 QUALITY, SHALL SUBMIT A REPORT TO THE LEGISLATURE ABOUT PROGRESS IN
9 IDENTIFYING CHEMICALS OF CONCERN AND CHEMICALS OF GREATEST CONCERN.
10 THE DEPARTMENT SHALL INCLUDE IN THE REPORT A DETAILED PLAN TO
11 INFORM CONSUMERS OF CHEMICALS OF GREATEST CONCERN AS WELL AS A PLAN
12 TO PROTECT CHILDREN IN THIS STATE FROM CHEMICALS OF CONCERN.

13 (6) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
14 ENVIRONMENTAL QUALITY, MAY PARTICIPATE IN AN INTERSTATE CHEMICALS
15 INFORMATION CLEARINGHOUSE TO ASSIST IN CARRYING OUT THE
16 REQUIREMENTS OF THIS PART. THE DEPARTMENT MAY WORK IN COLLABORATION
17 WITH OTHER STATES AND AN INTERSTATE CHEMICALS INFORMATION
18 CLEARINGHOUSE FOR PURPOSES INCLUDING, BUT NOT LIMITED TO, ALL OF
19 THE FOLLOWING:

20 (A) COLLECTION AND DISSEMINATION OF INFORMATION REGARDING
21 CHEMICAL HAZARDS.

22 (B) COLLECTION AND DISSEMINATION OF INFORMATION REGARDING THE
23 USE OF CHEMICALS IN CHILDREN'S PRODUCTS.

24 (C) ASSESSMENT OF ALTERNATIVES TO HAZARDOUS CHEMICALS AND
25 THEIR USE IN PRODUCTS.

26 (D) PUBLIC EDUCATION ABOUT MATTERS DESCRIBED IN SUBDIVISIONS

27 (A), (B), AND (C).

1 (7) THE DEPARTMENT MAY NEGOTIATE WITH AN INTERSTATE CHEMICALS
2 INFORMATION CLEARINGHOUSE TO MAINTAIN INFORMATION REGARDING
3 CHEMICALS ON BEHALF OF THIS STATE, INCLUDING, BUT NOT LIMITED TO,
4 INFORMATION REGARDING CHEMICALS LISTED PURSUANT TO THIS SECTION.

5 Enacting section 1. This amendatory act may be known and cited
6 as the "chemicals of greatest concern identification act".