

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 38 MRSA §1691, sub-§8-B, as enacted by PL 2011, c. 319, §2, is amended to read:

8-B. De minimis level. "De minimis level" means:

A. For a chemical of high concern or priority chemical that is an intentionally added chemical in a component of a children's product, the practical quantification limit or the alternatives analysis threshold adopted by the department pursuant to section 1695; or

B. For a chemical of high concern or priority chemical that is a contaminant present in a component of a children's product, a concentration of 100 parts per million or the alternatives analysis threshold adopted by the department pursuant to section 1695.

Sec. 2. 38 MRSA §1693, sub-§2, as repealed and replaced by PL 2011, c. 319, §3, is repealed and the following enacted in its place:

2. Revisions. The department may periodically review new credible scientific evidence and revise the list published pursuant to subsection 1. The department may add a chemical to the list if, in the judgment of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, the chemical meets one or more of the criteria in subsection 1.

Sec. 3. 38 MRSA §1693, sub-§3, ¶A, as enacted by PL 2011, c. 319, §3, is amended to read:

A. Does not meet the criteria for listing pursuant to subsection 1; ~~or~~.

Sec. 4. 38 MRSA §1693, sub-§3, ¶B, as enacted by PL 2011, c. 319, §3, is repealed.

Sec. 5. 38 MRSA §1693-A, sub-§3, as enacted by PL 2011, c. 319, §4, is amended to read:

3. Updates. By January 1, 2015, and every 3 years thereafter, the commissioner shall review the list published pursuant to subsection 1 at least every 3 years. The commissioner shall remove any chemical from the list of chemicals of high concern that has been designated as a priority chemical pursuant to section 1694 or that no longer meets any of the criteria of subsection 2. The commissioner may identify additional chemicals of high concern according to the criteria and requirements of this section. The list of chemicals of high concern may not consist of more than 70 or fewer than 10 chemicals of high concern, unless fewer than 10 chemicals of high concern meet any of the criteria under subsection 2.

A person may submit recommendations with supporting credible scientific evidence to the department to consider a chemical for addition to the list of chemicals of high concern. By January 1, 2015, and annually thereafter, the department shall publish a list of chemicals recommended for consideration pursuant to this subsection and any changes made to the list of chemicals of high concern.

Sec. 6. 38 MRSA §1693-A, sub-§3-A is enacted to read:

3-A. Removal by petition. A person may petition the department to remove a chemical from the list published pursuant to subsection 1. The department, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, may grant a petition if the person demonstrates to the satisfaction of the department that the chemical:

- A. Does not meet the criteria for listing pursuant to subsection 2; or
- B. Meets the criteria for removal from the list pursuant to subsection 3.

Upon receipt of a petition under this subsection, the department shall notify interested persons and provide an opportunity for review and comment on the evidence submitted by the petitioner. The department shall make a determination within 180 days of receipt of the petition and notify interested persons of the basis for its decision. If the petition is granted, the department shall immediately remove the chemical from the list.

Sec. 7. 38 MRSA §1694, sub-§2, as amended by PL 2011, c. 319, §5, is further amended to read:

2. Designation. ~~The commissioner shall designate at least 2 priority chemicals by January 1, 2011. The commissioner may designate additional priority chemicals if the commissioner finds that the chemicals meet one of the criteria listed in subsection 1.~~

A person may submit recommendations with supporting credible scientific evidence to the department to consider a chemical for designation as a priority chemical. By January 1, 2015, and annually thereafter, the department shall publish a list of chemicals recommended for consideration as priority chemicals pursuant to this subsection and any changes made to the list of chemicals designated as priority chemicals.

Sec. 8. 38 MRSA §1695, sub-§1-A is enacted to read:

1-A. Alternatives analysis threshold. Starting on January 1, 2014, the department may adopt an alternatives analysis threshold concentration for any chemical subject to disclosure or reporting requirements of this chapter that is greater than the applicable practical quantification limit for an intentionally added chemical. The department may also specify an alternatives analysis threshold concentration greater than 100 parts per million for any chemical subject to disclosure or reporting requirements of this chapter that is a contaminant.

A. The department shall issue a notice to persons required to report pursuant to this chapter inviting comments on the appropriate alternatives analysis threshold for a particular chemical.

B. A person who submits comments pursuant to paragraph A must include an explanation of the testing method used to reach the person's suggested alternatives analysis threshold. The comments must also include a statement of the toxicity of the chemical at the suggested threshold level.

Sec. 9. 38 MRSA §1695, sub-§§2 and 4, as enacted by PL 2007, c. 643, §2, are amended to read:

2. Supplemental information. The manufacturer or distributor of a children's product that contains a priority chemical shall provide the following additional information if requested by the department:

A. Information on the likelihood that the chemical will be released from the children's product to the environment during the children's product's life cycle and the extent to which users of the children's product are likely to be exposed to the chemical;

B. Information on the extent to which the chemical is present in the environment or human body; and

C. An assessment of the availability, cost, feasibility and performance, including potential for harm to human health and the environment, of alternatives to the priority chemical and the reason the priority chemical is used in the manufacture of the children's product in lieu of identified alternatives. ~~If an assessment acceptable to the department is not timely submitted, the department may assess a fee on the manufacturer or distributor to cover the costs to prepare an independent report on the availability of safer alternatives by a contractor of the department's choice.~~

If an assessment acceptable to the department is not timely submitted or if the department determines the preparation of such an assessment by an independent contractor will be more expeditious, cost-effective or comprehensive, the department may assess a fee on the manufacturer or distributor to cover the costs to prepare an independent report on the availability of safer alternatives by a contractor of the department's choice.

The manufacturer or distributor of a children's product that contains a priority chemical may provide additional information to the department regarding the potential for harm to human health and the environment from specific uses of the priority chemical.

4. Rulemaking to determine fees. If the department assesses a fee pursuant to subsection 2, paragraph C or subsection 3, the department shall determine the appropriate fee through ~~major substantiveroutine technical~~ rulemaking, as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 10. 38 MRSA §1699, as enacted by PL 2007, c. 643, §2, is repealed and the following enacted in its place:

§ 1699. Education and assistance

1. Education and assistance. As resources allow, the department shall develop a program to educate and assist consumers and retailers in identifying children's products that may contain priority chemicals.

2. Citizen participation. Once every year, beginning in 2015, the department shall establish a 30-day period during which any person may submit information, in summary form, on the topic of toxic chemicals in children's products and the effectiveness of this chapter. The summary must be limited to the concise key points related to the products or chemicals. The department may request additional information based on the summary provided.

3. Information. Beginning January 1, 2014 and annually by January 1st thereafter, the department shall publish on the department's publicly accessible website the list of chemicals of high concern under section 1693-A, subsection 1 and the types of products that contain each chemical on the list.

Sec. 11. Progress report. By January 3, 2014, the Department of Environmental Protection shall consult with the Department of Health and Human Services, Maine Center for Disease Control and Prevention to review relevant available information regarding chemicals in children's products and consider appropriate actions under the Maine Revised Statutes, Title 38, chapter 16-D. Upon request by the Joint Standing Committee on Environment and Natural Resources, the department shall provide a briefing on the department's implementation of Title 38, chapter 16-D to the joint standing committee. The joint standing committee may report out a bill relating to the briefing to the Second Regular Session of the 126th Legislature.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Administration - Environmental Protection 0251

Initiative: Provides Other Special Revenue Funds allocations for technology costs related to implementing changes in the toxic chemicals in children's products program.

OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
All Other	\$586	\$781
OTHER SPECIAL REVENUE FUNDS TOTAL	\$586	\$781

Administration - Environmental Protection 0251

Initiative: Provides funding for technology costs related to implementing changes in the toxic chemicals in children's products program.

GENERAL FUND	2013-14	2014-15
All Other	\$665	\$886
GENERAL FUND TOTAL	\$665	\$886

Remediation and Waste Management 0247

Initiative: Provides funding for 1/2-time Environmental Specialist IV position and one Toxicologist position and associated administrative and technology costs related to implementing changes in the toxic chemicals in children's products program.

GENERAL FUND	2013-14	2014-15
POSITIONS - LEGISLATIVE COUNT	1.500	1.500
Personal Services	\$92,160	\$131,049
All Other	\$11,246	\$995
GENERAL FUND TOTAL	\$103,406	\$132,044

ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
DEPARTMENT TOTALS	2013-14	2014-15
GENERAL FUND	\$104,071	\$132,930
OTHER SPECIAL REVENUE FUNDS	\$586	\$781
DEPARTMENT TOTAL - ALL FUNDS	\$104,657	\$133,711

SUMMARY

This amendment is the minority report of the committee and replaces the bill. The amendment does the following.

1. It authorizes the Department of Environmental Protection to specify by rule an alternatives analysis threshold for a chemical for the purpose of determining the de minimis level of the chemical.
2. It establishes a process for considering revisions to the lists of chemicals of high concern and priority chemicals.
3. It establishes a process for petitioning for removal of a chemical from the list of chemicals of high concern.
4. It authorizes the Department of Environmental Protection to contract for an independent alternatives assessment for priority chemicals without first requesting one from manufacturers or distributors of children's products.
5. It directs the Department of Environmental Protection to establish a 30-day period each year during which persons may submit information on the topic of toxic chemicals in children's products.

6. It requires the annual publication of the list of chemicals of high concern on the Department of Environmental Protection's publicly accessible website.

7. It directs the Department of Environmental Protection to consult with the Department of Health and Human Services, Maine Center for Disease Control and Prevention by January 3, 2014 to review information regarding chemicals in children's products and consider appropriate actions. It also authorizes the Joint Standing Committee on Environment and Natural Resources to report out a bill relating to a briefing by the department on the laws governing toxic chemicals in children's products.

8. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)