

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 14-274)**

Overview and Legal and Fiscal Impact

The regulations provide that on or after October 1, 2014, a person may not import, sell, or offer for sale any child care product containing more than one-tenth of 1% of TDCPP by mass.

The regulations present no legal issue of concern.

The regulations have no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Dangerous Devices and Substances: Prohibition of Child Care Products Containing TCEP or TDCPP: COMAR 10.19.07.01-.03

Legal Analysis

Background

TDCPP is one of several phosphorus-based flame retardants referred to as TRIS chemicals. TDCPP, also known as chlorinated TRIS, is used as a flame retardant for polyurethane foam, plastics, resins, and some fabric backings. TDCPP may be the most common flame retardant found in baby products with foam, including car seats, changing pads, and baby carriers. Chapter 391 of 2014 prohibited a person from importing, selling, or offering for sale any child care product that contains more than one-tenth of 1% of TDCPP.

Summary of Regulation

The regulations define TDCPP as an industrial chemical also known as (tris (1, 3-dichloro-2-propyl) phosphate). The regulations provide that on or after October 1, 2014, a person may not import, sell, or offer for sale any child care product containing more than one-tenth of 1% of TDCPP by mass. In addition, the Secretary of Health and Mental Hygiene may suspend implementation of the regulations if the Secretary determines that the fire safety benefits of TDCPP are greater than the known health risks associated with TDCPP.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites § 24-306 of the Health – General Article as authority for the regulations. Section 24-306(c) prohibits a person from importing, selling, or offering for sale any child care product that contains more than one-tenth of 1% of TDCPP by mass and § 24-306(f) requires the department to adopt regulations implementing § 24-306 on or before January 1, 2015.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

The regulations have no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no fiscal impact on State or local governments. The Department of Legislative Services concurs and notes that the regulations merely implement Chapter 391 of 2014 and have no additional impact beyond that estimated in the fiscal and policy note for that legislation (HB 229, enacted as Chapter 391). The fiscal and policy note acknowledged a minimal increase in general fund revenues for the State due to civil penalty provisions but assumed enforcement could be handled by local health departments with existing resources, if done on a complaint basis.

Impact on Budget

The regulations have no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs that there is no additional economic impact beyond that estimated in the fiscal and policy note for HB 229, which indicated a potential meaningful impact on revenues for small retailers who were not able to phase out stock of affected child care products.

Contact Information

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