

# HOUSE BILL 759

M3

11r1250  
CF SB 637

---

By: **Delegates Waldstreicher, Bobo, Carr, Cullison, Frick, Frush, Gilchrist, Glenn, Healey, Hixson, Hubbard, Hucker, A. Kelly, Lee, Luedtke, McHale, Pena-Melnyk, Reznik, S. Robinson, Rosenberg, Tarrant, Washington, and Zucker**

Introduced and read first time: February 10, 2011

Assigned to: Health and Government Operations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Healthy Kids, Healthy Maryland – Toxic Chemical Identification and**  
3 **Reduction**

4 FOR the purpose of requiring the Department of the Environment (Department), in  
5 consultation with the Department of Health and Mental Hygiene, to publish on  
6 its Web site lists of certain chemicals of concern and certain priority chemicals  
7 designated in accordance with certain criteria on or before certain dates;  
8 providing for the updating of the lists at certain intervals; requiring the  
9 Department to include elemental mercury and mercury compounds on a certain  
10 list of priority chemicals; requiring certain manufacturers and distributors,  
11 within a certain time frame, to provide a certain notice related to the presence  
12 of certain priority chemicals in certain children's products to the Department,  
13 including certain information; authorizing the Department to require certain  
14 additional information to be included in the notice; requiring the Department,  
15 with a certain exception, to make information contained in the notice available  
16 to the public; providing a process for the classification and protection of certain  
17 proprietary information; authorizing the Department to share certain  
18 proprietary information with other State and federal agencies for a certain  
19 purpose, and to aggregate and redact certain information for a certain purpose;  
20 authorizing the Secretary of the Environment to waive certain notice  
21 requirements if the Secretary makes a certain determination; authorizing a  
22 trade organization to provide certain notice on behalf of certain members if a  
23 certain condition is met; authorizing the Department to extend the deadline to  
24 provide certain notice; authorizing the Department to impose a certain fee in a  
25 certain amount by regulation; providing that the fee is due at a certain time;  
26 authorizing the Department, by regulation, to prohibit the manufacture, sale,  
27 offer for sale, and distribution of certain children's products if the Department  
28 makes a certain determination; requiring the Department, on or before a certain

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 date, and at certain intervals thereafter, to identify a certain number of certain  
2 priority chemicals whose presence in certain children's products will trigger  
3 certain prohibitions; authorizing the Department to require the use of certain  
4 alternatives to certain priority chemicals for a certain purpose; authorizing the  
5 Department to make certain presumptions for a certain purpose; requiring  
6 certain manufacturers and distributors, within a certain time frame, to file a  
7 certain compliance plan with the Department in accordance with certain  
8 requirements; requiring certain manufacturers and distributors to provide  
9 certain notice to certain retail sellers and distributors of certain children's  
10 products; establishing a certain process for obtaining a waiver from the  
11 requirements of this Act; authorizing the Department to require certain  
12 manufacturers or distributors to file a certain certificate of compliance within a  
13 certain time frame including certain information; authorizing the Department  
14 to participate in an interstate chemical clearinghouse that meets certain  
15 criteria; authorizing a certain clearinghouse to maintain certain information on  
16 behalf of the State relating to priority chemicals; authorizing the Department to  
17 adopt certain regulations as necessary to implement this Act; providing for the  
18 application of this Act; defining certain terms; and generally relating to toxic  
19 chemicals in children's products.

20 BY adding to  
21 Article – Environment  
22 Section 6–1401 through 6–1412 to be under the new subtitle “Subtitle 14. Toxic  
23 Chemicals in Children's Products”  
24 Annotated Code of Maryland  
25 (2007 Replacement Volume and 2010 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – Environment**

29 **SUBTITLE 14. TOXIC CHEMICALS IN CHILDREN'S PRODUCTS.**

30 **6–1401.**

31 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
32 **INDICATED.**

33 **(B) “ALTERNATIVE” MEANS A SUBSTITUTE PROCESS, PRODUCT,**  
34 **MATERIAL, CHEMICAL, STRATEGY, OR COMBINATION OF THESE WHICH SERVES**  
35 **A FUNCTIONALLY EQUIVALENT PURPOSE TO A CHEMICAL IN A CHILDREN'S**  
36 **PRODUCT.**

37 **(C) “CHEMICAL” MEANS A SUBSTANCE WITH A DISTINCT MOLECULAR**  
38 **COMPOSITION OR A GROUP OF STRUCTURALLY RELATED SUBSTANCES**

1 INCLUDING THE PRODUCTS THAT FORM THROUGH THE DECOMPOSITION,  
2 DEGRADATION, OR METABOLISM OF A SUBSTANCE.

3 (D) "CHILD" MEANS AN INDIVIDUAL WHO IS UNDER THE AGE OF 18  
4 YEARS.

5 (E) "CHILDREN'S PRODUCT" MEANS:

6 (1) A CONSUMER PRODUCT INTENDED FOR USE BY A CHILD  
7 INCLUDING TOYS, CAR SEATS, COSMETICS, CLOTHING, AND JEWELRY; AND

8 (2) A CONSUMER PRODUCT THAT, WHEN USED OR DISPOSED OF,  
9 IS LIKELY TO EXPOSE A CHILD TO A PRIORITY CHEMICAL CONTAINED IN THE  
10 PRODUCT.

11 (F) "CONSUMER PRODUCT" MEANS AN ITEM SOLD FOR RESIDENTIAL  
12 OR COMMERCIAL USE, INCLUDING COMPONENT PARTS AND PACKAGING.

13 (G) "DISTRIBUTOR" MEANS A PERSON WHO SELLS A CHILDREN'S  
14 PRODUCT TO A RETAIL ESTABLISHMENT ON A WHOLESALE BASIS.

15 (H) (1) "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES A  
16 FINAL CHILDREN'S PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE  
17 CHILDREN'S PRODUCT.

18 (2) "MANUFACTURER" INCLUDES THE IMPORTER OR FIRST  
19 DOMESTIC DISTRIBUTOR OF A CHILDREN'S PRODUCT PRODUCED OUTSIDE THE  
20 UNITED STATES.

21 (I) "PRIORITY CHEMICAL" MEANS A CHEMICAL IDENTIFIED AS A  
22 PRIORITY CHEMICAL BY THE DEPARTMENT UNDER THIS SUBTITLE.

23 (J) "PROPRIETARY INFORMATION" MEANS:

24 (1) A TRADE SECRET;

25 (2) CONFIDENTIAL COMMERCIAL INFORMATION; OR

26 (3) CONFIDENTIAL FINANCIAL INFORMATION.

27 6-1402.

28 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS  
29 SUBTITLE DOES NOT APPLY TO:

- 1           **(1) CHEMICALS IN USED CHILDREN’S PRODUCTS;**
- 2           **(2) PHARMACEUTICAL PRODUCTS;**
- 3           **(3) MEDICAL DEVICES;**
- 4           **(4) MOTOR VEHICLES AND THEIR COMPONENT PARTS;**
- 5           **(5) A PRIORITY CHEMICAL:**
- 6                   **(i) GENERATED SOLELY AS BY-PRODUCTS OF**  
7 **COMBUSTION; OR**
- 8                   **(ii) IN A COMBUSTIBLE FUEL;**
- 9           **(6) RETAILERS;**
- 10           **(7) A TELECOMMUNICATIONS SERVICE PROVIDER WHOSE NAME**  
11 **APPEARS ON A TELECOMMUNICATIONS DEVICE BUT DOES NOT MANUFACTURE**  
12 **THE DEVICE; OR**
- 13           **(8) A CONTAINER OR PACKAGING FOR FOOD OR BEVERAGES.**
- 14           **(B) THIS SUBTITLE APPLIES TO:**
- 15                   **(1) CHILD CAR SEATS;**
- 16                   **(2) CONTAINERS OR PACKAGING FOR FOOD OR BEVERAGES THAT**  
17 **ARE SPECIFICALLY MARKETED OR INTENDED FOR USE BY A MINOR 3 YEARS OF**  
18 **AGE OR UNDER; AND**
- 19                   **(3) A RETAILER WHO KNOWINGLY SELLS A CHILDREN’S PRODUCT**  
20 **CONTAINING A PRIORITY CHEMICAL AFTER THE EFFECTIVE DATE OF A**  
21 **PROHIBITION AGAINST THE CHILDREN’S PRODUCT ESTABLISHED UNDER §**  
22 **6-1406 OF THIS SUBTITLE FOR WHICH THE RETAILER HAS RECEIVED NOTICE**  
23 **UNDER § 6-1408 OF THIS SUBTITLE.**
- 24 **6-1403.**

25           **(A) ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT, IN**  
26 **CONSULTATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,**  
27 **SHALL PUBLISH ON ITS WEB SITE A LIST OF CHEMICALS OF CONCERN**  
28 **DESIGNATED IN ACCORDANCE WITH THIS SECTION.**

1           **(B) THE DEPARTMENT MAY DESIGNATE A CHEMICAL AS A CHEMICAL OF**  
2 **CONCERN IF THE DEPARTMENT DETERMINES THAT THE CHEMICAL HAS BEEN**  
3 **IDENTIFIED BY AN AUTHORITATIVE GOVERNMENTAL ENTITY ON THE BASIS OF**  
4 **CREDIBLE SCIENTIFIC EVIDENCE AS:**

5           **(1) PERSISTENT AND BIOACCUMULATIVE;**

6           **(2) VERY PERSISTENT AND VERY BIOACCUMULATIVE;**

7           **(3) AN ENDOCRINE DISRUPTOR;**

8           **(4) A DEVELOPMENTAL TOXICANT; OR**

9           **(5) A CARCINOGEN, MUTAGEN, OR REPRODUCTIVE TOXICANT.**

10           **(C) THE DEPARTMENT MAY UPDATE THE LIST OF CHEMICALS OF**  
11 **CONCERN AS OFTEN AS NECESSARY.**

12 **6-1404.**

13           **(A) ON OR BEFORE JANUARY 1, 2013, THE DEPARTMENT, IN**  
14 **CONSULTATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,**  
15 **SHALL PUBLISH ON ITS WEB SITE A LIST OF PRIORITY CHEMICALS.**

16           **(B) THE DEPARTMENT MAY DESIGNATE A CHEMICAL OF CONCERN**  
17 **UNDER § 6-1403 OF THIS SUBTITLE AS A PRIORITY CHEMICAL IF THE CHEMICAL**  
18 **OF CONCERN HAS BEEN:**

19           **(1) FOUND, THROUGH BIOMONITORING, TO BE PRESENT IN**  
20 **HUMAN:**

21                   **(I) BLOOD, INCLUDING UMBILICAL CORD BLOOD;**

22                   **(II) BREAST MILK;**

23                   **(III) URINE; OR**

24                   **(IV) OTHER BODILY FLUIDS OR TISSUES;**

25           **(2) FOUND, THROUGH SAMPLING AND ANALYSIS, TO BE PRESENT**  
26 **IN:**

27                   **(I) CHILDREN'S PRODUCTS; OR**

1                   **(II) DUST, INDOOR AIR, DRINKING WATER, OR ELSEWHERE**  
2 **IN THE HOME OR SCHOOL ENVIRONMENT;**

3                   **(3) FOUND, THROUGH MONITORING, TO BE PRESENT IN FISH,**  
4 **WILDLIFE, OR THE NATURAL ENVIRONMENT; OR**

5                   **(4) IDENTIFIED AS A HIGH PRODUCTION VOLUME CHEMICAL BY**  
6 **THE U.S. ENVIRONMENTAL PROTECTION AGENCY.**

7                   **(C) THE DEPARTMENT SHALL DESIGNATE ELEMENTAL MERCURY AND**  
8 **MERCURY COMPOUNDS AS PRIORITY CHEMICALS.**

9                   **(D) ON OR BEFORE JANUARY 1, 2014, AND EVERY 2 YEARS**  
10 **THEREAFTER, THE DEPARTMENT SHALL UPDATE THE LIST OF PRIORITY**  
11 **CHEMICALS AND PUBLISH THE REVISED LIST ON ITS WEB SITE.**

12 **6-1405.**

13                   **(A) ON OR BEFORE 180 DAYS AFTER THE DATE THAT THE DEPARTMENT**  
14 **DESIGNATES A NEW PRIORITY CHEMICAL UNDER THIS SUBTITLE, THE**  
15 **MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PRODUCT THAT CONTAINS**  
16 **THE PRIORITY CHEMICAL SHALL PROVIDE A WRITTEN NOTICE TO THE**  
17 **DEPARTMENT IN ACCORDANCE WITH THIS SECTION.**

18                   **(B) A WRITTEN NOTICE UNDER SUBSECTION (A) OF THIS SECTION**  
19 **SHALL:**

20                   **(1) IDENTIFY THE:**

21                           **(I) CHILDREN'S PRODUCT;**

22                           **(II) PRIORITY CHEMICAL CONTAINED IN THE CHILDREN'S**  
23 **PRODUCT; AND**

24                           **(III) OTHER CHEMICALS CONTAINED IN THE CHILDREN'S**  
25 **PRODUCT;**

26                   **(2) STATE THE:**

27                           **(I) NUMBER OF UNITS OF THE CHILDREN'S PRODUCT SOLD**  
28 **OR DISTRIBUTED FOR SALE IN THE STATE AND NATIONALLY;**

1                   **(II) AMOUNT OF THE PRIORITY CHEMICAL CONTAINED IN**  
2 **THE CHILDREN'S PRODUCT; AND**

3                   **(III) INTENDED PURPOSE OF THE PRIORITY CHEMICAL IN**  
4 **THE CHILDREN'S PRODUCT; AND**

5                   **(3) CLEARLY IDENTIFY ANY INFORMATION IN THE WRITTEN**  
6 **NOTICE THAT THE MANUFACTURER OR DISTRIBUTOR CONSIDERS PROPRIETARY**  
7 **INFORMATION.**

8                   **(C) IN ADDITION TO THE INFORMATION REQUIRED UNDER SUBSECTION**  
9 **(B) OF THIS SECTION, THE DEPARTMENT MAY REQUIRE A MANUFACTURER OR**  
10 **DISTRIBUTOR TO INCLUDE THE FOLLOWING IN A NOTICE REQUIRED UNDER**  
11 **THIS SECTION:**

12                   **(1) INFORMATION RELATING TO:**

13                   **(I) THE LIKELIHOOD THAT THE PRIORITY CHEMICAL WILL**  
14 **BE RELEASED INTO THE ENVIRONMENT DURING THE LIFE CYCLE OF THE**  
15 **CHILDREN'S PRODUCT;**

16                   **(II) THE LIKELY ROUTES OF EXPOSURE TO CHILDREN; AND**

17                   **(III) THE EXTENT TO WHICH CHILDREN ARE LIKELY TO BE**  
18 **EXPOSED TO THE PRIORITY CHEMICAL OVER THE LIFE CYCLE OF THE**  
19 **CHILDREN'S PRODUCT; AND**

20                   **(2) AN ASSESSMENT OF ANY ALTERNATIVES TO THE PRIORITY**  
21 **CHEMICAL, INCLUDING:**

22                   **(I) A DESCRIPTION OF THE AVAILABILITY, COST,**  
23 **FEASIBILITY, AND PERFORMANCE OF ALTERNATIVES, INCLUDING THE**  
24 **POTENTIAL FOR HARM TO HUMAN HEALTH AND THE ENVIRONMENT POSED BY**  
25 **THE USE OF AN ALTERNATIVE; AND**

26                   **(II) AN EXPLANATION OF THE BASIS FOR THE**  
27 **MANUFACTURER'S OR DISTRIBUTOR'S DECISION TO USE THE PRIORITY**  
28 **CHEMICAL INSTEAD OF ANY IDENTIFIED ALTERNATIVES.**

29                   **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
30 **SUBSECTION, THE DEPARTMENT SHALL MAKE THE INFORMATION CONTAINED**  
31 **IN A NOTICE UNDER THIS SECTION AVAILABLE TO THE PUBLIC.**

1           **(2) (I) IF A MANUFACTURER OR DISTRIBUTOR IDENTIFIES**  
2 **INFORMATION IN THE NOTICE AS PROPRIETARY INFORMATION, THE**  
3 **DEPARTMENT SHALL:**

4                   **1. WITHIN 15 DAYS AFTER RECEIVING THE NOTICE,**  
5 **MAKE A FINAL DETERMINATION ABOUT WHETHER THE INFORMATION IS**  
6 **PROPRIETARY INFORMATION; AND**

7                   **2. NOTIFY THE MANUFACTURER OR DISTRIBUTOR**  
8 **OF THE DEPARTMENT'S DETERMINATION.**

9                   **(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS**  
10 **PARAGRAPH, IF THE DEPARTMENT DETERMINES THAT THE NOTICE UNDER THIS**  
11 **SECTION CONTAINS PROPRIETARY INFORMATION, THE DEPARTMENT MAY NOT**  
12 **RELEASE THE PROPRIETARY INFORMATION TO THE PUBLIC.**

13                   **(III) 1. THE DEPARTMENT MAY SHARE PROPRIETARY**  
14 **INFORMATION CONTAINED IN THE NOTICE WITH STATE AND FEDERAL**  
15 **AGENCIES TO IMPLEMENT THIS SUBTITLE.**

16                   **2. AGENCIES THAT RECEIVE PROPRIETARY**  
17 **INFORMATION UNDER THIS PARAGRAPH SHALL KEEP THE INFORMATION**  
18 **CONFIDENTIAL.**

19                   **(IV) THE DEPARTMENT MAY PUBLISH INFORMATION IN A**  
20 **REDACTED OR AGGREGATE FORM TO AVOID THE DISCLOSURE OF PROPRIETARY**  
21 **INFORMATION WHILE MAXIMIZING THE AMOUNT OF INFORMATION AVAILABLE**  
22 **TO THE PUBLIC.**

23           **(E) THE SECRETARY MAY WAIVE ALL OR PART OF THE NOTICE**  
24 **REQUIREMENTS UNDER THIS SECTION FOR SPECIFIC USES OF A PRIORITY**  
25 **CHEMICAL IF THE SECRETARY DETERMINES THAT:**

26                   **(1) SUBSTANTIALLY EQUIVALENT INFORMATION IS ALREADY**  
27 **PUBLICLY AVAILABLE;**

28                   **(2) THE INFORMATION IS NOT NEEDED FOR THE PURPOSES OF**  
29 **THIS SUBTITLE; OR**

30                   **(3) THE USES OF THE PRIORITY CHEMICAL ARE MINOR IN**  
31 **VOLUME.**

32           **(F) A TRADE ORGANIZATION MAY PROVIDE THE NOTICE REQUIRED**  
33 **UNDER THIS SECTION ON BEHALF OF A MEMBER MANUFACTURER OR**



1 DISTRIBUTOR IF THE MANUFACTURER OR DISTRIBUTOR PROVIDES WRITTEN  
2 AFFIRMATION THAT THE NOTICE IS ACCURATE.

3 (G) THE DEPARTMENT MAY EXTEND THE DEADLINE TO PROVIDE  
4 NOTICE UNDER THIS SECTION.

5 (H) (1) THE DEPARTMENT MAY, BY REGULATION, IMPOSE A FEE ON A  
6 MANUFACTURER OR DISTRIBUTOR IN AN AMOUNT SUFFICIENT TO COVER THE  
7 DEPARTMENT'S REASONABLY INCURRED COSTS IN IMPLEMENTING THE  
8 PROVISIONS OF THIS SECTION.

9 (2) A FEE IMPOSED BY THE DEPARTMENT UNDER THIS  
10 SUBSECTION SHALL BE DUE AT THE TIME NOTICE IS FILED UNDER THIS  
11 SUBTITLE.

12 6-1406.

13 (A) (1) THE DEPARTMENT MAY ADOPT REGULATIONS TO PROHIBIT  
14 THE MANUFACTURE, SALE, OFFER FOR SALE, OR DISTRIBUTION OF CHILDREN'S  
15 PRODUCTS THAT CONTAIN A PRIORITY CHEMICAL IF THE DEPARTMENT  
16 DETERMINES THAT:

17 (I) THE CHILDREN'S PRODUCT WILL CAUSE AN  
18 UNACCEPTABLE LEVEL OF EXPOSURE TO THE PRIORITY CHEMICAL IN  
19 CHILDREN; AND

20 (II) ALTERNATIVES TO THE PRIORITY CHEMICAL ARE  
21 AVAILABLE AT A COMPARABLE COST.

22 (2) A REGULATION ADOPTED UNDER THIS SUBSECTION SHALL  
23 SPECIFY AN EFFECTIVE DATE FOR A PROHIBITION THAT IS AT LEAST 12 MONTHS  
24 AFTER THE DATE THAT THE NOTICE OF THE PROPOSED REGULATION IS  
25 PUBLISHED IN THE MARYLAND REGISTER.

26 (B) ON OR BEFORE JANUARY 1, 2014, AND EVERY 2 YEARS  
27 THEREAFTER, THE DEPARTMENT SHALL IDENTIFY AT LEAST TWO PRIORITY  
28 CHEMICALS WHOSE PRESENCE IN A CHILDREN'S PRODUCT WILL TRIGGER A  
29 PROHIBITION UNDER SUBSECTION (A) OF THIS SECTION.

30 (C) (1) THE DEPARTMENT MAY REQUIRE THE USE OF SPECIFIC  
31 ACCEPTABLE ALTERNATIVES TO A PRIORITY CHEMICAL IN A CHILDREN'S  
32 PRODUCT IN ORDER FOR THE CHILDREN'S PRODUCT TO AVOID THE  
33 PROHIBITION UNDER THIS SECTION BASED ON THE ALTERNATIVES THAT ARE  
34 LEAST TOXIC TO HUMAN HEALTH OR THE ENVIRONMENT.

1           **(2) FOR THE PURPOSE OF IDENTIFYING ACCEPTABLE**  
2 **ALTERNATIVES UNDER THIS SUBSECTION, THE DEPARTMENT MAY, IN THE**  
3 **ABSENCE OF PERSUASIVE EVIDENCE TO THE CONTRARY, PRESUME THAT:**

4                   **(I) AN ALTERNATIVE IS ACCEPTABLE IF IT IS NOT A**  
5 **PRIORITY CHEMICAL; AND**

6                   **(II) AN ACCEPTABLE ALTERNATIVE IS AVAILABLE IF:**

7                           **1. THE SALE OF THE CHILDREN'S PRODUCT**  
8 **CONTAINING THE PRIORITY CHEMICAL HAS BEEN BANNED BY ANOTHER STATE;**

9                           **2. AN ALTERNATIVE IS ALREADY SOLD IN THE**  
10 **UNITED STATES; OR**

11                           **3. THE CHILDREN'S PRODUCT CONTAINING THE**  
12 **PRIORITY CHEMICAL IS AN ITEM OF APPAREL OR NOVELTY.**

13 **6-1407.**

14           **(A) ON OR BEFORE 180 DAYS AFTER THE EFFECTIVE DATE OF A**  
15 **PROHIBITION OF A CHILDREN'S PRODUCT ADOPTED UNDER § 6-1406 OF THIS**  
16 **SUBTITLE, THE MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PRODUCT**  
17 **SUBJECT TO THE PROHIBITION SHALL FILE A COMPLIANCE PLAN WITH THE**  
18 **DEPARTMENT OR SEEK A WAIVER UNDER § 6-1409 OF THIS SUBTITLE.**

19           **(B) A COMPLIANCE PLAN FILED UNDER THIS SECTION SHALL:**

20                   **(1) IDENTIFY THE AFFECTED CHILDREN'S PRODUCT;**

21                   **(2) SPECIFY WHETHER COMPLIANCE WILL BE ACHIEVED BY:**

22                           **(I) SUBSTITUTING AN ALTERNATIVE FOR THE PRIORITY**  
23 **CHEMICAL; OR**

24                           **(II) DISCONTINUING THE MANUFACTURE, SALE, OR**  
25 **DISTRIBUTION OF THE CHILDREN'S PRODUCT IN THE STATE; AND**

26                           **(3) IF COMPLIANCE WILL BE ACHIEVED BY THE USE OF AN**  
27 **ALTERNATIVE, IDENTIFY THE ALTERNATIVE AND SPECIFY A TIMETABLE FOR**  
28 **THE SUBSTITUTION OF THE ALTERNATIVE.**

29 **6-1408.**

1           **THE MANUFACTURER OR DISTRIBUTOR OF A CHILDREN’S PRODUCT**  
2 **SUBJECT TO A PROHIBITION ESTABLISHED UNDER § 6–1406 OF THIS SUBTITLE**  
3 **SHALL NOTIFY RETAIL SELLERS AND DISTRIBUTORS OF THE CHILDREN’S**  
4 **PRODUCT OF THE REQUIREMENTS OF THIS SUBTITLE.**

5 **6–1409.**

6           **(A) THE MANUFACTURER OR DISTRIBUTOR OF A CHILDREN’S PRODUCT**  
7 **CONTAINING A PRIORITY CHEMICAL MAY APPLY TO THE DEPARTMENT FOR A**  
8 **WAIVER OF THE REQUIREMENTS OF THIS SUBTITLE FOR SPECIFIC USES OF THE**  
9 **PRIORITY CHEMICAL.**

10           **(B) AN APPLICATION FOR A WAIVER UNDER THIS SECTION SHALL:**

11                   **(1) IDENTIFY:**

12                           **(i) THE SPECIFIC USES OF THE CHILDREN’S PRODUCT FOR**  
13 **WHICH THE WAIVER IS SOUGHT; AND**

14                           **(ii) ANY AVAILABLE ALTERNATIVES TO THE PRIORITY**  
15 **CHEMICAL;**

16                   **(2) EXPLAIN THE BASIS FOR CONCLUDING THAT THE USE OF AN**  
17 **ALTERNATIVE IS NOT FEASIBLE; AND**

18                   **(3) DESCRIBE ANY STEPS THAT HAVE OR WILL BE TAKEN TO**  
19 **MINIMIZE THE USE OF THE PRIORITY CHEMICAL.**

20           **(C) (1) THE DEPARTMENT MAY GRANT A WAIVER OR PARTIAL**  
21 **WAIVER FROM THE REQUIREMENTS OF THIS SUBTITLE IF THE DEPARTMENT**  
22 **DETERMINES THAT:**

23                   **(i) THERE IS:**

24                           **1. A NEED FOR THE CHILDREN’S PRODUCT**  
25 **CONTAINING THE PRIORITY CHEMICAL; AND**

26                           **2. NO FEASIBLE ALTERNATIVE IS AVAILABLE FOR**  
27 **USE IN THE CHILDREN’S PRODUCT; OR**

28                   **(ii) THE LACK OF THE CHILDREN’S PRODUCT COULD POSE**  
29 **AN UNREASONABLE RISK TO THE PUBLIC’S HEALTH, SAFETY, OR WELFARE.**

1                   **(2) (I) THE TERM OF A WAIVER GRANTED UNDER THIS**  
2 **SECTION IS 5 YEARS.**

3                   **(II) THE DEPARTMENT MAY RENEW A WAIVER GRANTED**  
4 **UNDER THIS SECTION FOR ADDITIONAL 5 YEAR TERMS ON WRITTEN**  
5 **APPLICATION BY A MANUFACTURER OR DISTRIBUTOR.**

6                   **(III) THE DEPARTMENT MAY NOT GRANT AN APPLICATION**  
7 **TO RENEW A WAIVER UNLESS THE APPLICANT DEMONSTRATES TO THE**  
8 **SATISFACTION OF THE DEPARTMENT THAT TECHNICALLY OR ECONOMICALLY**  
9 **FEASIBLE ALTERNATIVES TO THE PRIORITY CHEMICAL REMAIN UNAVAILABLE.**

10                   **(3) THE DEPARTMENT SHALL GRANT OR DENY THE APPLICATION**  
11 **WITHIN 60 DAYS OF THE DATE THAT THE DEPARTMENT RECEIVES AN**  
12 **APPLICATION FOR A WAIVER MADE UNDER THIS SECTION.**

13 **6-1410.**

14                   **(A) IF THE DEPARTMENT HAS REASONABLE GROUNDS TO SUSPECT**  
15 **THAT A CHILDREN'S PRODUCT CONTAINING A PRIORITY CHEMICAL IS BEING**  
16 **MANUFACTURED, SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN VIOLATION**  
17 **OF A PROHIBITION UNDER § 6-1406 OF THIS SUBTITLE, THE DEPARTMENT MAY**  
18 **REQUIRE THE MANUFACTURER OR DISTRIBUTOR OF THE CHILDREN'S PRODUCT**  
19 **TO FILE A CERTIFICATE OF COMPLIANCE WITH THE DEPARTMENT IN**  
20 **ACCORDANCE WITH THIS SECTION.**

21                   **(B) WITHIN 10 DAYS AFTER RECEIVING A REQUEST FOR A CERTIFICATE**  
22 **OF COMPLIANCE FROM THE DEPARTMENT, A MANUFACTURER OR DISTRIBUTOR**  
23 **SUBJECT TO THIS SUBTITLE SHALL:**

24                   **(1) FILE A WRITTEN AFFIRMATION WITH THE DEPARTMENT THAT**  
25 **THE CHILDREN'S PRODUCT DOES NOT CONTAIN THE PRIORITY CHEMICAL THAT**  
26 **WAS THE BASIS OF THE PROHIBITION UNDER § 6-1406 OF THIS SUBTITLE; OR**

27                   **(2) (I) NOTIFY INDIVIDUALS WHO SELL THE CHILDREN'S**  
28 **PRODUCT THAT THE SALE OR OFFER FOR SALE OF THE CHILDREN'S PRODUCT IS**  
29 **PROHIBITED; AND**

30                   **(II) PROVIDE A LIST OF THE NAMES AND ADDRESSES OF**  
31 **THE INDIVIDUALS NOTIFIED UNDER THIS PARAGRAPH TO THE DEPARTMENT.**

32 **6-1411.**

1           **(A) THE DEPARTMENT MAY PARTICIPATE IN AN INTERSTATE CHEMICAL**  
2 **CLEARINGHOUSE THAT:**

3                   **(1) COLLECTS AND DISSEMINATES INFORMATION RELATING TO**  
4 **CHEMICAL HAZARDS IN CHILDREN’S PRODUCTS;**

5                   **(2) ASSESSES ALTERNATIVES TO THESE CHEMICALS; AND**

6                   **(3) EDUCATES THE PUBLIC.**

7           **(B) IF THE DEPARTMENT PARTICIPATES IN AN INTERSTATE CHEMICAL**  
8 **CLEARINGHOUSE UNDER THIS SECTION, THE CLEARINGHOUSE MAY MAINTAIN**  
9 **INFORMATION ON BEHALF OF THE STATE RELATING TO PRIORITY CHEMICALS.**

10 **6-1412.**

11           **THE DEPARTMENT MAY ADOPT REGULATIONS AS NECESSARY TO**  
12 **IMPLEMENT THIS SUBTITLE.**

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2011.