

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 727 (Delegates Waldstreicher and Hubbard)  
Health and Government Operations

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**Healthy Kids, Healthy Maryland - Toxic Chemical Identification and Reduction**

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This bill requires the Maryland Department of the Environment (MDE) – in consultation with the Department of Health and Mental Hygiene – to, by January 1, 2014, publish on its website (1) a list of chemicals of concern, which MDE may update as often as necessary; and (2) a list of chemicals of high concern, which MDE may update by January 1, 2015, and every two years thereafter. The bill applies to child car seats and containers or packaging for food or beverages that are specifically marketed or intended for use by a minor age 12 or younger.

MDE may adopt regulations to implement the bill.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$100,000 in FY 2013 for MDE to contract with a toxicology consultant to develop the required lists. General fund expenditures may increase, likely by lesser amounts, in future years if MDE elects to update the lists and cannot do so with existing staff and resources.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** Except as otherwise specified, the bill does not apply to chemicals in used children's products, motor vehicles and their component parts, chemicals in a combustible fuel or generated solely as a byproduct of combustion, containers or

packaging for food or beverages, retailers, or specified telecommunications service providers.

MDE may designate a chemical as a chemical of concern if the department determines that the chemical has been identified by an authoritative governmental entity on the basis of credible scientific evidence as (1) a carcinogen, a reproductive or developmental toxicant, or an endocrine disrupter; (2) persistent, bioaccumulative, and toxic; or (3) very persistent and very bioaccumulative.

MDE may designate a chemical as a chemical of high concern if the department determines that there is credible scientific evidence that the chemical is a reproductive or developmental toxicant, an endocrine disrupter, or a human carcinogen, and there is strong credible scientific evidence that the chemical has been (1) found, through biomonitoring, to be present in human blood, breast milk, urine, or other bodily fluids or tissues; (2) found, through sampling and analysis, to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or (3) added to or present in a consumer product used or present in the home.

“Credible scientific evidence” means the results of a study that (1) has an experimental design and conduct that has undergone independent scientific peer review; and (2) is published in a peer-reviewed journal or a publication of an authoritative federal or international governmental agency.

**Current Law/Background:** Since 1976, the U.S. Toxic Substances Control Act (TSCA) has functioned as the primary mechanism for regulating chemicals in consumer products in the United States. Under TSCA, the U.S. Environmental Protection Agency (EPA) is charged with ensuring that chemicals manufactured, imported, processed, or distributed in commerce, or used or disposed of in the United States, do not pose any unreasonable risks to human health or the environment. Although there are approximately 84,000 chemicals in EPA’s chemical substance inventory, it is very rare for a chemical to be subject to a total prohibition.

On December 2, 2009, a group of 13 states, including Maryland, released the *States’ Principles on Reform of the Toxic Substances Control Act*. The document included eight recommendations for reforming chemical policy, including requiring manufacturers to demonstrate that their products and the chemicals they use are safe for the public and the environment, prioritizing the regulation of the most problematic chemicals, promoting safer alternatives, and increasing the availability of information on chemicals and safety. EPA, the National Conference of State Legislatures, and the national Safer Chemicals/Healthy Families campaign, have each also developed principles to guide TSCA reform.

Although TSCA reform bills were introduced in 2011 (as well as in several of the preceding years), the U.S. Congress has not yet passed any of the TSCA reform measures. In 2008, however, Congress enacted the Consumer Product Safety Improvement Act to regulate lead, cadmium, and certain chemicals known as phthalates, in children's products.

In addition, in 2000, EPA launched the Voluntary Children's Chemical Evaluation Program (VCCEP) as a pilot program to gather information on 23 chemicals to which children have a high likelihood of exposure. EPA requested companies that manufacture or import any of the 23 chemicals to voluntarily provide information, including the health effects, exposure, risk, and additional data needed to fully characterize the risk that the chemicals present to children. In response to EPA's request, 35 companies and 10 consortia volunteered to sponsor assessments of 20 of the 23 chemicals. EPA's website provides links to the chemical assessments, peer evaluations, and EPA's decisions as to whether additional data are needed. EPA has conducted an interim evaluation of the pilot program and plans modifications, including revising the chemical selection process so that future VCCEP candidate chemicals will be selected from those identified as high priority and of special concern for potential risks to children in EPA's Chemical Assessment and Management Program.

At the state level, California, Maine, Minnesota, and Washington have enacted comprehensive chemical policy legislation in some form. Several other states, including Maryland, have regulated specific chemicals or specified uses of toxic chemicals (particularly in products for children), including mercury, cadmium, bisphenol-A, phthalates, lead, and flame retardants.

**State Expenditures:** According to MDE, the lists required to be published under the bill must be carefully developed through a thorough review of available evidence and using a methodology that is transparent and scientifically sound. MDE advises that it does not currently have the resources or toxicological expertise necessary to develop the required lists. Thus, Legislative Services advises that general fund expenditures increase by approximately \$100,000 in fiscal 2013 for MDE to contract with a toxicology consultant to develop the lists. Legislative Services further advises that general fund expenditures may increase (likely to a lesser extent) in future years if MDE elects to update the lists and cannot do so with existing staff and resources.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Environmental Protection Agency, National Conference of State Legislatures, Maryland Department of the Environment, Department of Health and Mental Hygiene, Maryland Association of Counties, Department of Legislative Services

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