

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 229

(Delegate Hubbard, *et al.*)

Health and Government Operations

Finance

**Public Health - Child Care Products Containing Flame-Retardant Chemicals -
TDCPP - Prohibition**

This bill prohibits a person from importing, selling, or offering for sale any child care product that contains more than one-tenth of 1% (by mass) of tris (1, 3-dichloro-2-propyl) phosphate, or TDCPP. A person that violates the prohibition is subject to a civil penalty of up to \$1,000 for a first violation and \$2,500 for each subsequent violation. A court may also enjoin any action prohibited by the bill.

The Department of Health and Mental Hygiene (DHMH) must adopt regulations to implement the bill by January 1, 2015.

Fiscal Summary

State Effect: Minimal increase in general fund revenues beginning in FY 2015 due to the bill’s civil penalty provision. DHMH can use existing resources to adopt the required regulations.

Local Effect: Enforcement can likely be handled with existing resources, assuming enforcement is complaint-based. However, if complaint volume is high, local health department workloads may increase. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law: A “child care product” is a consumer product – including a baby product, toy, car seat, nursing pillow, crib mattress, or stroller – intended for use

by a child younger than age three. The prohibition does not apply to the sale or distribution of a child care product that is resold, offered for resale, or distributed by a consumer for consumer use. The Secretary of Health and Mental Hygiene may suspend implementation of the prohibition if the Secretary determines that the fire safety benefits of TDCPP are greater than the associated health risks. The same prohibition and penalties apply to the sale of child care products containing more than one-tenth of 1% (by mass) of tris (2-chloroethyl) phosphate (TCEP).

Background: TDCPP (along with TCEP) is one of several phosphorus-based flame retardants referred to as “TRIS” chemicals. “TRIS” denotes a chemical compound that features three parts of equal structure.

The U.S. Consumer Product Safety Commission (CPSC) prohibited the use of TRIS in children’s clothing in 1977, citing laboratory tests that demonstrated a causal link between TRIS and cancer in animals. CPSC has since identified TRIS as a “probable human carcinogen.”

TDCPP, also known as chlorinated TRIS, remains in use 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.

A 2011 study found that more than 80% of the products tested (101 commonly used baby products) contained a halogenated flame retardant additive. The most common flame retardant detected was TDCPP (detected in 36% of samples tested). The study noted that these products could be sources of flame retardant exposures in indoor environments, particularly to infants that come in close contact with these products.

In 2011, New York became the first state to prohibit the sale of certain child care products containing TRIS. In 2013, Vermont banned the sale of any children’s product for children ages 12 or younger or residential upholstered furniture containing TCEP or TDCPP.

Small Business Effect: Potential meaningful decrease in revenues for small retailers that will not be allowed to sell child care products in their existing stock that contain TDCPP on or after October 1, 2014. The bill does not provide for any phasing out of existing stock.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *Identification of Flame Retardants in Polyurethane Foam Collected from Baby Products*, Stapleton, H.M., *et al.*, *Environmental Science & Technology*, May 18, 2011; Department of Health and Mental Hygiene; Maryland Association of Counties; Department of Legislative Services

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