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HOUSE . . . . . No. 757

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act for a competitive economy through safer alternatives to toxic chemicals..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sum set forth in this section is hereby appropriated from the General Fund unless specifically designated otherwise in this act for the several purposes and subject to the conditions specified in this act and subject to the laws regulating the disbursement of public funds for the fiscal year ending 2010. Such sum shall be in addition to any amounts previously appropriated and made available for the purposes of said item.

SECTION 2.

2020-0200 The secretary of energy and environmental affairs shall expend for the purposes of carrying out this act, and amount not to exceed $4,200,000 from funds raised throught the Safer Alternatives in products Fee ; provided that funds shall be expended for the programs and duties of the office of technical assistance and the department of environmental protection pertaining to this act, including business assistance and development, provided further that the secretary may contract with the executive office of housing and economic development

in order to provide retraining benefits; and provided further that the department of environmental protection shall annually file a report with the house and senate committees on ways and means as well as with the joint committee on environment, natural resources and agriculture detailing expenditures under this item in the preceding fiscal year…….$4,200,000.

Annually, the secretary of energy and environmental affairs shall expend from funds raised through the Safer Alternatives in Products Fee, an amount not to exceed $4,200,000; provided, that

provided further, that the next 26 per cent of the revenue collected, but not more than $1.560,000 per year, shall be allocated by the Administrative Council for activities considered appropriate to carry out chemical action plans, grants for business assistance and worker retraining;

provided further, that 25 per cent of revenue, but not more than $1,500,000 per year, shall be expended by the Office of Technical Assistance for activities related to safer alternatives to toxic chemicals;

provided further, that the final 19 per cent of revenue, but not more than $1,140,000 per year, shall be expended by the Department of Environmental Protection for activities related to safer alternatives to toxic chemicals;

and provided further, that the department of environmental protection shall annually file a report with the house and senate committees on ways and means detailing the expenditures under this item in the preceding fiscal year.

7100-0301 The state treasurer shall disburse 30 per cent, but not more than $1,800,000, from funds collected through the Safer Alternatives in Products Fee, for the Safer Alternatives activities of the Toxics Use Reduction Institute at the University of Massachusetts at Lowell, a portion of which may be subcontracted to the University of Massachusetts at Worcester and for the University of Massachusetts at Amherst for assistance with assessment reports and toxics research; provided further that the institute shall annually file a report detailing expenditures under this item with the chairs of the house and senate committees on ways and means as well as with the joint committee on environment, natural resources and agriculture…….$1,800,000

Annually, the state treasurer shall disburse from funds raised through the Safer Alternatives in Products Fee, 30 per cent of the total, but not to exceed $1,800,000, for the Safer Alternatives activities of the Toxics Use Reduction Institute at the University of Massachusetts at Lowell, a portion of which may be subcontracted to the University of Massachusetts at Worcester and for the University of Massachusetts at Amherst for assistance with assessment reports and toxics research.

SECTION 3. Section 2 of chapter 21I of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of “Agency” the following definition:“Alternative”, an activity, technology, material or method of equivalent function which can be substituted for the use of a particular chemical.

SECTION 4. Said section 2 of said chapter 21I, as so appearing, is hereby further amended by inserting after the definition of “Manufacture” the following definitions:--

“Manufacturer”, for the purposes of section 24 through 35 of this chapter, manufacturer shall mean any person, firm, association, partnership, corporation, governmental entity, organization, combination or joint venture which is last in the production or assembly process of a new product, or in the case of an imported product, the importer or domestic distributor of the products; provided that, if a company from who an importer or domestic distributor purchases the merchandise has a presence or assets in the United States, that company shall be considered the manufacturer and the distributor as defined in chapter 93B shall not be considered the manufacturer.

"Proven technologies" means technologies in use by some users within similar firms in a user sector within or outside of the Commonwealth.

“User of a priority toxic substance”, for sections 24 to 27 inclusive means a person or legal entity that uses a priority toxic substance in manufacturing, products or services delivered, sold or conducted within the Commonwealth

"Feasible" means capable of being accomplished within a reasonable period of time with proven technologies.

“Distributor” means any person or legal entity which distributes products to retail establishments on a wholesale basis, and also includes any legal entity which owns retail establishments and distributes such products to more than five retail establishments of its own within the Commonwealth. Distribution or sales include, but are not limited to, transactions conducted through sales outlets, catalogs or the internet, a product under its own brand or sales of a product by others under their own brand or label.

SECTION 5. Said section 2 of said chapter 21I, as so appearing, is hereby further amended by inserting after the definition of ““POTW (publicly-owned treatment works) operators” the following 2 definitions:-

“Priority toxic substance”, a chemical substance designated by the council from the list of chemicals of high concern, “Priority toxic substance use”, a use of a priority toxic substance designated as such by the council pursuant to section 25.

SECTION 6. Said section 2 of said chapter 21I, as so appearing, is hereby further amended by inserting after the definition of ““Resource conservation” the following 2 definitions:- “Safer alternative”, an option, including a change in toxic substance, material, product, process, function, system or other action, to replace a toxic substance currently in use and which would be effective in reducing the overall potential for harm to human health or the environment. “Safer alternatives assessment report”, the alternatives assessment completed for each priority toxic substance by the Institute.

SECTION 7. Said section 2 of said chapter 21I, as so appearing, is hereby further amended by inserting after the definition of “State agency” the following definition:- “Substitution”, the replacement or reduction of a hazardous substances by selecting a less hazardous or nonhazardous substance or by changing a production process, product function or design.

SECTION 8. Said section 2 of said chapter 21I, as so appearing, is hereby further amended by striking out the definition of “Toxic or hazardous substance” and inserting in place thereof the following definition:-Toxic or hazardous substance”, a substance in any form which is identified on the toxic or hazardous substance list established pursuant to section 9; provided,

however, that a toxic or hazardous substance shall not be subject to sections 1 to 23, inclusive, when it is: (1) present in an article; (2) used as a structural component of a facility; (3) present in a product used for routine janitorial or facility grounds maintenance; (4) present in food, drugs, cosmetics or other personal items used by employees or other persons at a facility; (5) present in a product used for the purpose of maintaining motor vehicles operated by a facility; (6) present in process water or noncontact cooling water as drawn from the environment or from municipal sources, or present in air used either as compressed air or as part of combustion; (7) present in a pesticide or herbicide when used in agricultural applications (8) present in crude, lubricating or fuel oils or other petroleum materials being held for direct wholesale or retail sale; or (9) present in fuels used in combustion to produce electricity, steam or heat, except when production of electricity, steam or heat is the primary business of a facility; and provided further, that a toxic or hazardous substance shall not be subject to sections 24 to 28, inclusive, when it is: (1) present in fuel oils or petroleum materials being held for direct wholesale or retail sale; (2) present in fuels used in combustion to produce electricity, steam or heat; or (3) present as a naturally-occurring substance in fuels and in emissions or byproducts as a result of the combustion of fuels 4) present or used in the manufacturing of a product manufactured in Massachusetts by a contractor or subcontractor pursuant to a contract with the Department of Defense or the Department of Homeland Security.

SECTION 9. Section 3 of said chapter 21I, as so appearing, is hereby amended by inserting after the word “reduction”, in line 61, the following words:- , substitution of safer alternatives.

SECTION 10. Said section 3 of said chapter 21I, as so appearing, is hereby further amended by striking out paragraph (J) and inserting in place thereof the following paragraph:-(J)

The office of technical assistance shall establish technical assistance grants to organizations of consumers or workers focused on the impact of substitutions of safer alternatives in specific sections. The grants may include assistance in securing information on technologies and their impact on workers, consumers and the environment; hiring independent technical support regarding technologies, processes and work organization; and paying for training programs to assist affected groups in analyzing the changes.

SECTION 11. Section 4 said chapter 21I, as so appearing, is hereby amended by adding the following paragraph f, in line 57, by inserting after the word “organization.” the following words:--the advisory committee may provide comment to the administrative council on all aspects of the safer alternatives program, including comments relative to chemical action plans, safer alternatives assessment reports, and the composition of the chemical list created in paragraph (a) of section 24. All such official comment shall be considered a matter of public record. The advisory committee may recommend substances to be selected by the council for assessment. If the administrative council rejects this recommendation, the council shall provide a written statement to the advisory committee and to the house and senate committees on ways and means and to the house and senate chairs of the joint committee on environment, natural resources and agriculture, communicating the reasons for the rejection thereby.

SECTION 12. Said chapter 21I is hereby further amended by inserting after section 6 the following section:-Section 6A. (a) In addition to any other requirements of this chapter, the institute shall seek to reduce the presence of toxic or hazard substances in products manufactured for use and sale in the commonwealth by promoting safer alternatives to such substances. The institute may develop recognition programs to promote the priority toxic substance reduction achievements of industry and communities. The institute may establish fees for its safer

alternatives programs. When feasible, the institute shall coordinate the programs and responsibilities relative to the substitution of safer alternatives for priority toxic substances with those programs and responsibilities described in this chapter. (b) Through such programs, the institute may:(1) provide general information about toxic or hazardous substances and actively publicize the advantages of and developments in safer alternatives and the requirements of this chapter, which shall include, but not be limited to, providing information about public health, environmental and economic issues associated with toxics use and toxics use reduction;(2) establish courses, seminars, conferences and other events and provide reports, updates, guides and other publications and other means of providing technical information for consumers and, as appropriate, work in coordination with the office;(3) develop and provide curriculum and training for higher education students and faculty on priority toxic substances and potential safer alternatives;(4) sponsor or engage in research to identify potential priority toxic substances and potential safer alternatives to such substances;(5) sponsor research or pilot projects to develop and demonstrate innovative technologies for implementing safer alternatives to priority toxic substances;(6) subject to appropriation, develop in consultation with the department and office, a safer alternatives curriculum and training program to supplement the toxics use reduction planner training program; and(7) subject to appropriation, provide safer alternatives implementation training and assistance to citizens, community groups, nonprofit organizations and institutions, workers, labor representatives, businesses, product supply chains and state and local government boards and officials; provided, however, that such training and assistance shall provide such individuals and groups with an understanding of the public health and environmental impacts of the presence of toxic or hazardous substances, the methods and strategies for substituting safer alternatives for priority toxic substances and the requirements of this chapter.

(c) No later than July 1, 2010, the Institute shall publish a chemicals categorization list for chemicals commonly used in Massachusetts industry or in products sold in Massachusetts. The institute will rely on the Science Advisory Board to categorize chemicals on the chemicals categorization list into one of four categories: chemicals of high concern, chemicals of concern, chemicals of unknown concern, and chemicals of low concern. In preparing this categorization the Science Advisory Board will rely on published government lists of chemical categorizations such as, but not limited to, the Canadian Domestic Substances List Categorization, the European Commission's list of substances of very high concern, Washington State's list of persistent, bioaccumulative and toxic chemicals, the International Agency for Research on Cancer's list of carcinogens. However, the chemicals of high concern category must include those chemicals recognized as carcinogens, mutagens and reproductive toxins; chemicals recognized as persistent, bioaccumulative and toxic chemicals; chemicals recognized as very persistent and very bioaccumulative chemicals; chemicals recognized as endocrine disruptors; and other chemicals of equivalent concern. The institute may create subcategories within these four categories. These categories may be adjusted to take account of current chemical lists and additional information, including information on emerging materials. At periodic points, but at least every 4 years, and within 4 years after publication of the list, the institute and the Science Advisory Board shall refine the list to incorporate new scientific information and data, and publish a refined version of the list.

SECTION 13. Section 7 of said chapter 21I, as appearing in the 2006 Official Edition, is hereby amended by adding the following 2 paragraphs:-

(K). The Office of Technical Assistance shall oversee an "Assist Business to Compete Fund" (the ABC Fund) facilitating transitions to safer alternatives to toxic chemicals and

business development opportunities in manufacturing safer alternatives and products containing safer alternatives. In developing the program, the Office shall determine where business assistance and financial investment can be most effectively used to protect public health and strengthen the Commonwealth's economy by focusing on application and promotion of safer alternatives.

The office of technical assistance shall provide technical assistance to businesses for developing and implementing safer alternatives consistent with sections 6 and 7 of this chapter and including

direct grants and loans to businesses for costs required to implement safer alternatives

technical support focused on individual companies or user sectors;

technical assistance in assessing safer alternatives and assistance with forming consortiums to assess and develop safer alternatives

market development programs, to create demand for safer alternatives;

seminars and workshops to assist businesses in adopting safer substitutes; and

publications focused on particular user sectors.

The ABC Fund shall be developed with assistance and collaboration with the department of labor and industries, department of economic development, the office of technical assistance of the executive office of environmental affairs, department of labor and workforce development, and the institute.(L) The office shall work with the institute, in consultation with the implementing agencies to establish an innovative business leaders program to encourage early substitution of high hazard and priority toxic substances. The program shall assist users of

chemicals of high concern and priority toxic substances to complete substitution plans. The program may include priority targeted financial and technical assistance and support for research, information gathering and implementation.

SECTION 14. Said chapter 21I is hereby amended by adding the following 5 sections:Section 24. (a) Annually, the council shall identify, on the basis of available funds, available institute resources, 2 to 5 priority toxic substances from the list of chemicals of high concern, and direct the institute to prepare and publish a safer alternatives assessment report that evaluates the availability of safer alternatives for each selected substance. In identifying priority toxic substances, the council shall prioritize substances that adversely impact human health with highest priority given to preventing adverse impacts on children, infants, developing fetuses, and workers, and other vulnerable populations. In selecting priority toxic substances the council may consider opportunities that strengthen the Commonwealth's economy.

The council, in consultation with the institute, shall establish a schedule for the development of each safer alternatives assessment report.(b) For each safer alternatives assessment report, the institute shall:(1) identify the uses and functions of the priority toxic substance and select a subset of uses and functions for further study based on uses in products and facilities and other relevant factors that are consistent with the criteria set forth in Section 24 (a)

(2) identify whether alternatives are available for the selected uses and functions of the priority substance;(3) identify whether any of the existing uses of the substance are of a clearly unnecessary nature; (4) research and study relevant factors to characterize feasible alternatives; (5) provide a qualitative discussion of the economic viability, opportunities or costs associated

with adopting and implementing any safer alternatives; provided, however, that such discussion may include a qualitative characterization of the economic impacts and benefits of substitution the extent of human exposure to the priority toxic substance that could be eliminated through substitution or other actions and potential public health benefits or reductions in health care costs ; (6) identify uses of substances that do not currently have a feasible safer alternative available and make recommendations for promoting research and development of such alternatives; and(7) use the chemicals categorization list and other lists, including government lists of substances used in industry or in consumer products, in order to identify potential safer alternatives. (c) The institute shall seek comments from the science advisory board, the advisory committee and members of the public, including all regions of the commonwealth, in developing each safer alternatives assessment report. (d) The institute shall publish the results of the safer alternatives assessment report for each substance assessed.(e) Following publication of a safer alternatives assessment report for a selected priority toxic substance, the institute shall review its findings with the advisory committee and the council on a periodic basis, but not less than once every 5 years, and shall revise such report as necessary to update it and to address new recommendations. Revised reports shall be made available to the public for comment, and final revised reports shall be published.(f) In the event that a substance to be assessed is a pesticide, the institute shall contract with resources at the University of Massachusetts at Amherst, including the Cooperative Extension Service, for assistance and guidance in assessing agricultural uses of such substance.(g) In the event that a substance to be assessed is used for medical purposes, the institute shall contract with resources at the University of Massachusetts at Worcester for assistance and guidance in assessing medical uses of such substance.

(h) No later than 120 days following the designation by the Council of a priority toxic substance, any person or legal entity that manufactures or distributes a product in the Commonwealth which the manufacturer or distributor knows or has reason to suspect to contain a priority toxic substance shall file a notice with the department identifying the product, the approximate number of units distributed in the Commonwealth, an estimate of the amount or concentration of the priority toxic substance contained in each unit, if known, purpose for including the priority toxic substance, the name and address of the manufacturer, and the name, address, and phone number of a contact person. The department shall prescribe a notification form for such notices to be filed, and a means of filing such notices electronically. The department shall establish procedures to assure compliance and penalties for noncompliance. In addition the department shall establish a de minimis threshold for priority toxic substance content in a product below which this provision does not apply

(i) Distribution of information. Public disclosure of confidential business information submitted to the department pursuant to this section shall be governed by the requirements of section 10 of chapter 66 of the general laws.

(ii) Preemption. Any product containing a priority toxic substance for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this section.

(iii) With the approval of the department, a manufacturer, distributor or trade group may supply the information required above for a product category rather than an individual product. The submitter shall update and revise the information in the notification whenever there is significant change in the information or when requested by the department.

Section 25. (a) Based upon each completed safer alternatives assessment report, the council shall designate priority toxic substance uses if the safer alternatives assessment report concludes that an assessed substance poses a significant hazard of harm to human health or the environment and that safer alternatives can be feasibly substituted for specific uses of such substance. (b) Not later than 1 year after the council identifies priority toxic substance uses, the department, in consultation with the institute, office of technical assistance, and the advisory committee, shall complete a chemical action plan for that substance, focusing on priority uses, including uses in products. The goal of the chemical action plan shall be to coordinate state agency activities and to require users of priority toxic substances to act as expeditiously as possible to ensure substitution of the priority toxic substances with safer alternatives, while also where possible seeking to strengthen Massachusetts business, and develop job opportunities. The chemical action plan shall identify specific actions that users of priority toxic substances shall be required to implement, on a schedule to be established in the plan, to: (i) substitute a safer alternative for the priority toxic substance in specific uses when feasible; and (ii) reduce human exposure to and environmental contamination from such substance. Substitution of a safer alternative shall be required whenever the safer alternatives assessment report determines that there are safer alternatives that are feasible for specific uses of a priority toxic substance use. Efforts to reduce human exposure and environmental contamination shall be required where the department determines that appropriate safer alternatives are not available. (c) In preparing the chemical action plan, the department shall consider the potential impacts to human health and the environment of the continued use of the priority toxic substance. The chemical action plan shall include: (1) schedules, timelines and deadlines for achieving substitution of the priority toxic substance with safer alternatives, for specified priority uses;

(2) identification of department and other state agency regulations that shall be required to ensure substitution of the priority toxic substance in products and used by toxics users, and to implement other agency actions identified in the chemical action plan.

(3) in cases where safer alternatives are feasible, but require significant and prohibitive costs to business, such as capital expenditure or training, the chemical action plan shall include a targeted ABC Fund program. The chemical action plan shall set a timetable for completing substitutions as expeditiously as possible, taking into consideration the financial needs of the users.(4) identification of other state agency actions that should be implemented to reduce human exposure to the priority toxic substance in a particular use and to reduce the potential for environmental contamination from such substance; provided, however, that such actions may include, but shall not be limited to:(i) technical assistance to product manufacturers and users;

(ii) substitution planning requirements on users;

(iii) research and development into safer alternatives to the use of a priority toxic substance;(iv) product labeling and other notification to users that a product contains a priority toxic substance and advice on the proper handling and disposal to minimize human exposure to the priority toxic substance;(v) registering the use of a priority toxic substance with the department;(vi) limitations on certain continued uses of the priority toxic substance to specific applications; and(vii) incorporation of reduction measures in toxic use reduction plans submitted to the department pursuant to section 11; and(d) After the department has developed a chemical action plan, it shall be presented to the council for adoption; provided, however, that the council shall seek public comment on each plan and, within 6 months, adopt a plan. Upon adoption of a chemical action plan by the council, all state agencies shall take any required implementing

actions as set forth in the chemical action plan and this chapter. (e) Based on a chemical action plan as adopted by the council, the department shall, promulgate regulations to restrict the use of priority toxic substances for specified uses and within consumer products. Such regulations shall establish a substitution deadline, substitution planning requirements for specific of each priority toxic substance use, and specify acceptable alternatives.

Section 26. In implementing the chemical action plan, the department shall:

(1) require toxics users and other persons to file with the department a certification of compliance with any substitution or other requirement promulgated by the department, or(2) authorize the filing with the department of an application to use an alternative substance that has not been identified as an acceptable alternative, documenting with toxicity and exposure data how the proposed alternative substance would ensure protection of health and the environment and, in response to such request, the department shall determine whether such alternative is acceptable, or (3) authorize the filing with the department of an application for a waiver of a substitution deadline, certifying that there is no safer alternative that is technically or economically feasible for a particular use of the substance; provided, however, that such waiver application shall include:

(i) identification of the specific use of the priority toxic substance for which a waiver is sought;(ii) identification of all alternatives considered and their cost and feasibility considerations;(iii) the basis for finding that there is no feasible safer alternative;(iv) documentation of any efforts to be taken to minimize the use of the priority toxic substance and of human and environmental exposures to such substance until safer alternatives are found and

implemented; and(v) the steps the applicant shall take to identify safer alternatives in the following 3 years;

In granting such waivers, the department shall, in consultation with the department of public health and the department of economic development, consider whether: (i) there is a need for the use of the substance; (ii) there is no safer alternative feasibly available, (iii) the availability of ABC Fund assistance to the applicant and (iv) the impact on the economic viability of Massachusetts businesses. Waivers shall not be granted for more than 3 years.(d) This section shall apply to a person who manufactures, sells, offers for sale or distributes products containing a priority toxic substance in the commonwealth.(e) Within the time of a substitution deadline established by the department, the department shall require any regulated entity to certify that substitution of the substance has been completed.Section 27. Certain functions provided for in this chapter may be transferred to or carried out in cooperation with an interstate entity. The interstate entity may, among other functions: compile and categorize chemical lists, produce alternatives assessment reports; develop model chemical action plans and house product or chemical use registries. The department may promulgate regulations to carry out this section. Section 28. (a) Except as otherwise provided in subsection (b), violations of sections 24 to 26, inclusive, may be punished by a fine of not more than $25,000 per day for each day a violation exits. In addition, the department may prohibit the sale or distribution of products when a distributor or manufacturer has failed to comply with this chapter.(b) End users of consumer products shall not be subject to enforcement action under subsection (a).

SECTION 15. Notwithstanding any general or special law to the contrary, an employer separating one or more individuals from employment as a result of this act shall notify the Department at the time of separation. The local Workforce Investment Board shall work with the

Rapid Response Team set aside program within the Department of Workforce Development to determine a separated individuals eligibility for benefits under the set aside program. The Rapid Response Team shall establish criteria to determine eligibility for benefits under the set aside program. Any individual deemed eligible for benefits under this act shall be entitled to receive re training, subject to the approval of the Rapid Response Team, sufficient to qualify the individual to re employment at a wage not less than the wage he or she was receiving at the time of separation from employment. Any individual deemed eligible for re training benefits under this act shall also be eligible to receive unemployment benefits during the entire period that he or she remains enrolled in and in compliance with the requirements of, any such approved retraining program.

SECTION 16. The TURA Administrative Council shall, in consultation with the Department of Environmental Protection, develop a Safer Alternatives in Products Fee, separate from the Toxics Use Fee structure for large quantity toxics users. This fee shall be placed on wholesale sellers or distributors of products containing priority toxic substances to entities in Massachusetts, whether or not such wholesale sellers or distributors are located within the Commonwealth. The fee shall initially be set at a level sufficient to raise $2.0 million in the year following enactment of this law, $4.0 million in the second year after the enactment of this law, $6.0 million the third year and at least $6.0 million in each subsequent year thereafter. The fee shall be adjusted every three years to reflect changes in the Consumer Price Index. 75% of the fee shall be collected from larger distributors and 25% from smaller distributors, based on criteria the council shall establish. In addition the department shall establish a de minimis threshold for products, services and toxic substances below which no fee shall be assessed.

SECTION 17. The report required to be submitted by the administrative council on toxics use reduction to the clerks of the senate and house of representatives and the house and senate chairs of the joint committee on environment, natural resources and agriculture pursuant to Paragraph (H) of section 4 of chapter 21I of the General Laws shall be filed not later than January 1, 2011.

SECTION 18. The safer alternatives curriculum and training program required to be established pursuant to clause (6) of subsection (b) of section 6A of chapter 21I of the General Laws shall be established not later than July 1, 2009.

SECTION 19. Nothing in this act shall require actions which are preempted by federal law. Nothing in this act shall require the adoption of occupational safety and health standards or the issuance of orders on an occupational safety and health matter on which the federal Occupational Safety and Health Administration has established a standard. Nothing in this chapter shall convey rights to discharge priority toxic substances into the environment, to cause potential harm to individuals or the environment or to create a nuisance. Nothing in this chapter shall limit the authority of local governments to restrict or prohibit the use or discharge of toxic substances. Any product containing a priority toxic substance for which federal law governs notice in a manner that affects state authority to act with respect to that product shall be exempt from the requirements of this act to the extent required to satisfy the limits imposed by the federal law with respect to state action regarding the product.