

SENATE No. 1139

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth J. Donnelly

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the disclosure of toxic chemicals in children’s products.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

Sal N. DiDomenico

Middlesex and Suffolk

Daniel J. Ryan

2nd Suffolk

Timothy J. Toomey, Jr.

26th Middlesex

SENATE No. 1139

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 1139) of Kenneth J. Donnelly, Jay R. Kaufman, Kathleen O'Connor Ives, Stephen Kulik and other members of the General Court for legislations relative to the disclosure of toxic chemicals in children’s products. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the disclosure of toxic chemicals in children’s products.

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

1 SECTION 1. Chapter 21A of the General Laws is hereby amended by inserting after
2 section 23 the following sections:-

3 Section 24. For the purposes of sections 24 through 28, the following terms shall have the
4 following meanings:-

5 “Board”, the science advisory board of the Toxics Use Reduction Institute at the
6 University of Massachusetts Lowell.

7 “Children”, natural persons under the age of 12.

8 “Children’s product”, consumer products for use by children including: toys; children's
9 cosmetics; children's jewelry; a product to help a child with sucking or teething, to facilitate
10 sleep, relaxation, or the feeding of a child, or to be worn as clothing by a child; or child car seats.
11 This includes products that meet any of the following conditions: represented in its packaging,

12 display, or advertising as appropriate for use by children; sold in conjunction with, attached to, or
13 packaged together with other products that are packaged, displayed, or advertised as appropriate
14 for use by children; or sold in any of the following: retail store, catalogue, or online web site, in
15 which a person exclusively offers for sale products that are packaged, displayed, or advertised as
16 appropriate for use by children; or a discrete portion of a retail store, catalogue, or online web
17 site, in which a person offers for sale products that are packaged, displayed, or advertised as
18 appropriate for use by children.

19 “Consumer product”, any item or formulation sold for residential or commercial use,
20 including any component, part, or packaging, provided that consumer product shall not mean
21 items made available for use in Massachusetts for the sole purpose of redistribution, sale, supply,
22 or lease for use outside of Massachusetts.

23 “Council”, the Administrative Council of the Toxics Use Reduction Act as established in
24 chapter 21I of the General Laws.

25 “Department”, the department of environmental protection.

26 “De minimis level”, (a) For a hazardous chemical that is an intentionally added chemical
27 in a component of a consumer product, the practical quantification limit; or, (b) For a hazardous
28 chemical that has a contaminant present in a component of a children's product, a concentration
29 of 100 parts per million.

30 “Formulated product”, a consumer product that consists of a chemical mixture including,
31 but not limited to, laboratory chemicals, cleaning products, cosmetics and coating materials that
32 are sold as consistent mixtures of chemicals.

33 “IC2”, the Interstate Chemicals Clearinghouse, an association of state, local, and tribal
34 governments that promotes a clean environment, healthy communities, and a vital economy
35 through the development and use of safer chemicals and products.

36 “Manufacturer”, any person, firm, association, partnership, corporation, governmental
37 entity, organization, combination or joint venture which produces a consumer product containing
38 a chemical listed on the Toxic Chemicals in Consumer Products list or an importer or domestic
39 distributor of a consumer product containing a chemical listed on the Toxic Chemicals in
40 Consumer Products list and that is produced in a foreign country. In the case of a consumer
41 product made with components made by different manufacturers, the manufacturer is the
42 manufacturer who produced the component containing the chemical listed on the Toxic
43 Chemicals in Consumer Products list or alternatives assessment substance. If the consumer
44 product or component is produced in a foreign country, the manufacturer is the importer or
45 domestic distributor; provided, however, that if a company from whom an importer purchases
46 the consumer product or component has a United States presence or assets, that company shall be
47 considered to be the manufacturer.

48 “Practical quantification limit”, the lowest concentration of a chemical that can be
49 reliably measured within specified limits of precision, accuracy, representativeness,
50 completeness and comparability during routine laboratory operating conditions. The practical
51 quantification limit is based on scientifically defensible, standard analytical methods. The
52 practical quantification limit for a given chemical may be different depending on the matrix and
53 the analytical method used.

54 “Institute”, the Toxics Use Reduction Institute as established in chapter 211 of the
55 General Laws.

56 "Toy", a product designed or intended by the manufacturer to be used by a child at play.

57 Section 25. Toxic Chemicals List

58 (a) No later than 180 days after effective date of this section, in consultation with the
59 board, the committee, and the institute, the council shall publish the toxic chemicals in
60 children’s consumer products list, heretofore referred to as the list, which shall be available to
61 the public on the department’s website.

62 (b) Criteria for listing such toxic chemicals in consumer products pursuant to subsection

63 (a) shall include chemicals recognized as carcinogens, mutagens and reproductive toxins;
64 chemicals recognized as persistent, bioaccumulative and toxic chemicals; chemicals recognized
65 as endocrine disruptors; and other chemicals of equivalent concern as determined by the institute
66 in consultation with the science advisory board. At a minimum, the list shall include the
67 chemicals listed in the Washington State list of Chemicals of Concern and the State of Maine
68 List of Chemicals of High Concern, excluding mercury. At least every 4 years, the council, in
69 consultation with the board and the advisory committee, shall refine the list to incorporate new
70 scientific information and data, and the council shall publish a revised version of the list, as
71 needed. Failure to refine the list shall not invalidate the list.

72 (c) In preparing the list, the institute may also rely on additional published authoritative
73 lists of chemical categorizations such as, but not limited to, the Canadian Domestic Substances
74 List Categorization, the European Commission list of substances of very high concern, the

75 California Safer Consumer Products list of Chemicals of Concerns, and the International Agency
76 for Research on Cancer list of carcinogens.

77 Section 26. Not later than July 31, 2016, the department shall promulgate regulations that
78 require a person who is a manufacturer or distributor of a children's product or a formulated
79 product for sale in the Commonwealth that contains a chemical that is included on the list in an
80 amount greater than a de minimis level to notify the department in writing on an annual basis.
81 This written notice must include the following information: (1) the name of the chemical used or
82 produced and its chemical abstracts service registry number; (2) a brief description of the product
83 or product component containing the substance; (3) a description of the function of the chemical
84 in the product; (4) the amount of the chemical used in each unit of the product or product
85 component, which may be reported in ranges, rather than the exact amount; (5) the name and
86 address of the manufacturer and the name, address, and phone number of a contact person for the
87 manufacturer; and (6) any other information the manufacturer deems relevant to the appropriate
88 use of the product.

89 Section 26.

90 (a) By January 1, 2017, the department shall make reported information about toxic
91 chemicals in consumer products available to the public via the IC2 database. The department
92 may authorize the IC2 to maintain information on behalf of Massachusetts including but not
93 limited to information regarding chemicals contained in consumer products pursuant to section
94 25 of this act. The data IC2 shall include at a minimum chemical names, chemical abstracts
95 service registry numbers, product categories, manufacturer, concentration of the chemical in the
96 product, which can be expressed in a range, and other information that the department

97 determines. In creating this database the department may co-operate with other states who have
98 made similar data publicly available.

99 (b) By July 1, 2017, and every 2 years after that, the department shall submit a report on
100 the toxic chemicals in consumer products and the children's products or product categories and
101 formulated products or product categories they identify to the appropriate standing committees of
102 the legislature. The department shall also make the report available on its website and may
103 publicize it through any other appropriate channels. The report shall include policy options for
104 addressing children's products that contain chemicals included on the toxic chemicals in
105 consumer products list, including recommendations for additional ways to inform consumers
106 about toxic chemicals in products, policies to protect consumers from hazardous chemical
107 exposures, and chemicals for which it would be beneficial to conduct alternatives assessments.

108 Section 27. The department shall promulgate regulations pertaining to the enforcement of
109 this act. These regulations shall be issued no later than July 31, 2016.