

SENATE No. 1191

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>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/26/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/26/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/26/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/26/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/26/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/26/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/30/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/30/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/30/2017</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>1/31/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>1/31/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>

<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/3/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/3/2017</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>	<i>2/3/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/3/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>2/3/2017</i>

SENATE No. 1191

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 1191) of Kenneth J. Donnelly, Jay R. Kaufman, Sean Garballey, Michael J. Barrett and other members of the General Court for legislation relative to the disclosure of toxic chemicals in children’s products. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 26 the following sections:-

3 Section 27. For the purposes of sections 27 through 31, inclusive, the following terms
4 shall have the following meanings unless the context clearly requires otherwise:-

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 website, 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
17 website, 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; (b) For a hazardous
28 chemical that has a contaminant present in a component of a consumer product, a concentration
29 of 100 parts per million; or (c) For an engineered nanoobject there shall be no de minimis level.

30 “Engineered nanoobject”, a material with 1, 2 or 3 external dimensions in the nanoscale.

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

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

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

49 “Nanoscale”, Size range from approximately 1 nanometers to 100 nanometers.

50 “Practical quantification limit”, the lowest concentration of a chemical that can be
51 reliably measured within specified limits of precision, accuracy, representativeness,
52 completeness and comparability during routine laboratory operating conditions. The practical

53 quantification limit is based on scientifically defensible, standard analytical methods. The
54 practical quantification limit for a given chemical may be different depending on the matrix and
55 the analytical method used.

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

58 “Toy”, a product designed or intended by the manufacturer to be used by a child at play.

59 Section 28. Toxic Chemicals List.

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

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

74 (c) In preparing the list, the institute may rely on additional published authoritative lists
75 of chemical categorizations including, but not limited to, the Canadian Domestic Substances List
76 Categorization, the European Commission list of Substances of Very High concern, the
77 California Safer Consumer Products list of Chemicals of Concerns, and the International Agency
78 for Research on Cancer list of carcinogens.

79 Section 29. Not later than July 31, 2016, the department shall promulgate regulations that
80 require a person who is a manufacturer or distributor of a children's product or a formulated
81 product for sale in the commonwealth that contains a chemical that is included on the list in an
82 amount greater than a de minimis level to notify the department in writing on an annual basis. If
83 the listed chemical is an engineered nanoobject then there shall be no de minimis level for the
84 notification threshold and notification of the intentional manufacture or addition of nanoobjects
85 is required regardless of amount. This written notice must include the following information: (1)
86 the name of the chemical used or produced and its chemical abstracts service registry number;
87 (2) a brief description of the product or product component containing the substance; (3) a
88 description of the function of the chemical in the product; (4) the amount of the chemical used in
89 each unit of the product or product component, which may be reported in ranges, rather than the
90 exact amount; (5) the name and address of the manufacturer and the name, address, and phone
91 number of a contact person for the manufacturer; and (6) any other information the manufacturer
92 deems relevant to the appropriate use of the product.

93 Section 30. (a) By January 1, 2019, the department shall make reported information about
94 toxic chemicals in consumer products available to the public via the IC2 database. The
95 department may authorize the IC2 to maintain information on behalf of Massachusetts including,
96 but not limited to, information regarding chemicals contained in consumer products pursuant to

97 section 28 of this chapter. At a minimum, the IC2 database shall include chemical names,
98 chemical abstracts service registry numbers, product categories, manufacturer, concentration of
99 the chemical in the product, which can be expressed in a range, and other information that the
100 department determines. In creating this database the department may co-operate with other states
101 that have made similar data publicly available.

102 (b) Beginning in 2019, the department shall submit a report on a biennial basis, not later
103 than July 1, on the toxic chemicals in consumer products and the children's products or product
104 categories and formulated products or product categories they identify to the joint committee on
105 public health, joint committee on the environment, natural resources and agriculture, the house
106 and senate committees on global warming and climate change and any other appropriate standing
107 committees of the legislature. The department shall also make the report available on its website
108 and may publicize it through any other appropriate channels. The report shall include policy
109 options for addressing children's products that contain chemicals included on the toxic chemicals
110 in consumer products list, including recommendations for additional ways to inform consumers
111 about toxic chemicals in products, policies to protect consumers from hazardous chemical
112 exposures, and chemicals for which it would be beneficial to conduct alternatives assessments.

113 Section 31. The department shall promulgate regulations and fees pertaining to the
114 enforcement of this act. These regulations and fees shall be issued no later than July 31, 2018.