SENATE DOCKET, NO. 1518 FILED ON: 1/17/2019

SENATE . . . . . No. 149

The Commonwealth of Massachusetts

PRESENTED BY:

Cindy F. Friedman

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:	
Cindy F. Friedman	*Fourth Middlesex*	
Mike Connolly	*26th Middlesex*	*1/28/2019*
Jack Patrick Lewis	*7th Middlesex*	*1/28/2019*
Carmine Lawrence Gentile	*13th Middlesex*	*1/30/2019*
Sal N. DiDomenico	*Middlesex and Suffolk*	*1/31/2019*
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*2/1/2019*
James K. Hawkins	*2nd Bristol*	*2/6/2019*
Julian Cyr	*Cape and Islands*	*3/7/2019*
Paul R. Feeney	*Bristol and Norfolk*	*4/29/2019*
James B. Eldridge	*Middlesex and Worcester*	*5/30/2019*
Cynthia Stone Creem	*First Middlesex and Norfolk*	*7/9/2019*
Mindy Domb	*3rd Hampshire*	*7/10/2019*

SENATE DOCKET, NO. 1518 FILED ON: 1/17/2019

SENATE . . . . . No. 149

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 149) of Cindy F. Friedman, Mike Connolly, Jack Patrick Lewis, Carmine Lawrence Gentile and other members of the General Court for legislation relative to the disclosure of toxic chemicals in children's products. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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:

SECTION 1. Chapter 21A of the General Laws is hereby amended by inserting after section 26 the following sections:-

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

"Board", the science advisory board of the Toxics Use Reduction Institute at the University of Massachusetts Lowell.

"Children", natural persons under the age of 12.

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

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

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

"Council", the administrative council of the toxics use reduction act as established in chapter 21I of the General Laws.

"Department", the department of environmental protection.

"De minimis level", (a) for a hazardous chemical that is an intentionally added chemical in a component of a consumer product, the practical quantification limit; (b) for a hazardous chemical that has a contaminant present in a component of a consumer product, a concentration of 100 parts per million; or (c) for an engineered nanoobject there shall be no de minimis level.

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

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

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

"Manufacturer", any person, firm, association, partnership, corporation, governmental entity, organization, combination or joint venture which produces a consumer product containing a chemical listed on the toxic chemicals in consumer products list, as established in section 28, or an importer or domestic distributor of a consumer product containing a chemical listed on the toxic chemicals in consumer products list and that is produced in a foreign country. In the case of a consumer product made with components made by different manufacturers, the manufacturer is the manufacturer who produced the component containing the chemical listed on the toxic chemicals in consumer products list or alternatives assessment substance. If the consumer product or component is produced in a foreign country, the manufacturer is the importer or domestic distributor; provided, however, that if a company from whom an importer purchases the consumer product or component has a United States presence or assets, that company shall be considered to be the manufacturer.

"Nanoscale", size range from approximately 1 nanometers to 100 nanometers.

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

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

"Institute", the Toxics Use Reduction Institute as established in chapter 21I of the General Laws.

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

Section 28. Toxic Chemicals in Consumer Products List.

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

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

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

Section 29. Not later than July 31, 2020, the department shall promulgate regulations that require a manufacturer, as defined in section 27, of a children's product or a formulated product for sale in the commonwealth that contains a chemical that is included on the list in an amount greater than a de minimis level to notify the department in writing on an annual basis. If the listed chemical is an engineered nanoobject then there shall be no de minimis level for the notification threshold and notification of the intentional manufacture or addition of nanoobjects is required regardless of amount. This written notice must include the following information: (1) the name of the chemical used or produced and its chemical abstracts service registry number; (2) a brief description of the product or product component containing the substance; (3) a description of the function of the chemical in the product; (4) the amount of the chemical used in each unit of the product or product component, which may be reported in ranges, rather than the exact amount; (5) the name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and (6) any other information the manufacturer deems relevant to the appropriate use of the product.

Section 30. (a) By January 1, 2021, the department shall make reported information about toxic chemicals in consumer products available to the public via the IC2 database. The department may authorize the IC2 to maintain information on behalf of Massachusetts including, but not limited to, information regarding chemicals contained in consumer products pursuant to

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

(b) Beginning in 2021, the department shall submit a report on a biennial basis, not later than July 1, on the toxic chemicals in consumer products and the children's products or product categories and formulated products or product categories they identify to the joint committee on public health, the joint committee on the environment, natural resources and agriculture, the house and senate committees on global warming and climate change and any other appropriate standing committees of the legislature. The department shall also make the report available on its website and may publicize it through any other appropriate channels. The report shall include policy options for addressing children's products that contain chemicals included on the toxic chemicals in consumer products list, including recommendations for additional ways to inform consumers about toxic chemicals in products, policies to protect consumers from hazardous chemical exposures, and chemicals for which it would be beneficial to conduct alternatives assessments.

Section 31. The department shall promulgate regulations and fees pertaining to the enforcement of this act. These regulations and fees shall be issued no later than July 31, 2020.