

SENATE No. 207

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 toxic-free kids.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>4/16/2021</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>5/10/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>5/10/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>5/25/2021</i>

SENATE No. 207

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 207) of Cindy F. Friedman and Joanne M. Comerford for legislation relative to the disclosure of toxic chemicals in children's products. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 149 OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to toxic-free kids.

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 27 the following section:-

3 Section 28. (a) For the purposes of this section, the following terms shall have the
4 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: (i) toys; (ii)
9 children’s clothing; (iii) children's cosmetics and personal care products; (iv) children's jewelry

and novelty products; (v) children’s school supplies; (vi) children’s bedding, furniture, and furnishings; (vii) child car seats; (viii) products to help a child with sucking or teething, or to facilitate sleep, relaxation, or the feeding of a child; (ix) 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 sold in a 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 sold in 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.

“Council”, the administrative council on toxics use reduction established in section 4 of chapter 21I.

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

“Department”, the department of environmental protection.

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

“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.

31 “Institute”, the Toxics Use Reduction Institute established in section 6 of chapter 21I.

32 “Manufacturer”, any person, firm, association, partnership, corporation, governmental
33 entity, organization, combination or joint venture which produces a children’s product or an
34 importer or domestic distributor of a children’s product that is produced in a foreign country.

35 “Nanoscale”, size range from approximately 1 nanometers to 100 nanometers.

36 “Practical quantification limit”, the lowest concentration of a chemical that can be
37 reliably measured within specified limits of precision, accuracy, representativeness,
38 completeness and comparability during routine laboratory operating conditions; provided, that
39 the practical quantification limit is based on scientifically defensible, standard analytical
40 methods; and provided further, that the practical quantification limit for a given chemical may be
41 different depending on the matrix and the analytical method used.

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

43 (b) The department, in consultation with the council and the board, shall maintain and
44 publish a list of toxic chemicals of concern in children’s products, hereinafter referred to as “the
45 chemicals of concern list”, which shall be available to the public on the department’s website.

46 The chemicals of concern list shall include:

47 (1) chemicals recognized as carcinogens, mutagens and reproductive toxins;

48 (2) chemicals recognized as persistent, bioaccumulative and toxic chemicals;

49 (3) chemicals recognized as endocrine disruptors;

(4) any chemicals listed in the State of Vermont State Chemicals of Concern, State of Oregon Chemicals of Concern, State of New York Chemicals of Concern, Washington State list of Chemicals of Concern and the State of Maine List of Chemicals of High Concern; and

(5) any other chemicals of equivalent concern, as determined by the institute, in consultation with the board.

In developing the chemicals of concern list, the department may also consult 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.

As needed, but not less frequently than every 4 years, the department, in consultation with the council and the board, shall update the chemicals of concern list to incorporate new scientific information and data and shall publish the revised list on the department's website.

(c) A manufacturer of a children's product for sale in the commonwealth that contains a chemical that is included on the current chemicals of concern list under subsection (b) in an amount greater than a de minimis level shall notify the department in writing on a biennial basis; provided, however, if the children's product contains a listed chemical that is an engineered nanoobject, the manufacturer shall notify the department in writing on a biennial basis regardless of the amount of chemical present. The manufacturer's written notice to the department shall include:

(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 chemicals,
including the Global Product Classification product brick description;

(3) the brand name, product model, and the universal product code if the product has such
a code;

(4) a description of the function of the chemical in the product;

(5) 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;

(6) the name and address of the manufacturer and the name, address, and phone number
of a contact person for the manufacturer; and

(7) the function of the chemical in the product.

(d) The department shall make information reported under subsection (c) regarding
chemicals of concern in children's products available to the public via the IC2 database. At a
minimum, the IC2 database shall include:

(1) chemical names;

(2) chemical abstracts service registry numbers;

(3) product name;

(4) model and universal product code;

(5) manufacturer;

(6) concentration of the chemical in the product, which can be expressed in a range; and

(7) any other information that the department deems relevant.

In creating the IC2 database, the department may cooperate with other states that have made similar data publicly available.

SECTION 2. Not later than September 1, 2021, the department of environmental protection shall promulgate regulations and fees necessary for the implementation and enforcement of Section 1.

SECTION 3. Not later than December 1, 2021, the department of environmental protection, in consultation with the science advisory board of the Toxics Use Reduction Institute at the University of Massachusetts Lowell and the administrative council on toxics use reduction established in section 4 of chapter 21I of the General Laws, shall submit a report on the toxic chemicals of concern in children's products 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 report shall include policy recommendations for addressing toxic chemicals in children's products, including, but not limited to: (i) ways, in addition to the Interstate Chemicals Clearinghouse, to inform consumers about toxic chemicals in children's products; (ii) policies to protect children from toxic chemical exposures; (iii) criteria for designating certain chemicals on the chemicals of concern list established in subsection (b) of section 28 of chapter 21I of the General Laws as dangerous chemicals that should be banned in children's products; and (iv) any proposed regulations and legislation necessary to carry out the report's recommendations. The department shall make the report available on its website and may publicize it through any other appropriate channels.