

HOUSE No. 4357

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, August 7, 2025.

The committee on Consumer Protection and Professional Licensure, to whom was referred the petition (accompanied by bill, House, No. 384) of James K. Hawkins and others for legislation to direct the Department of Environmental Protection to publish a toxic chemicals of concern consumer products list, reports recommending that the accompanying bill (House, No. 4357) ought to pass.

For the committee,

TACKEY CHAN.

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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, as appearing in the 2022 Official
2 Edition, is hereby amended by inserting after section 28 the following new section:-

3 Section 29. (a) For the purposes of this section, the following terms shall have the
4 following meanings unless the context clearly requires otherwise:

5 “Authoritative body”, an agency or formally organized program or group which the
6 department, in consultation with the institute, has identified as having expertise in the
7 identification of chemicals causing cancer and other toxicity; provided, that these authoritative
8 bodies shall include, but are not limited to: (i) the American Conference of Governmental
9 Industrial Hygienists; (ii) the United States Environmental Protection Agency; (iii) the European
10 Chemicals Agency; (iv) the International Agency for Research on Cancer; (v) the National
11 Toxicology Program; and (vi) the Occupational Safety Health Administration.

12 “Chemical”, a substance with a distinct molecular composition and the breakdown
13 products of the substance that form through decomposition, degradation or metabolism or a

14 group of structurally related substances and the breakdown products of the substances that form
15 through decomposition, degradation or metabolism.

16 “Chemical class”, groupings that relate chemicals by similar features including
17 classifications by structure, physical properties or other factors.

18 “Children’s product”, consumer products intended, made or marketed for use by children
19 12 years of age or under, including: (i) toys; (ii) clothing; (iii) cosmetics and personal care
20 products; (iv) jewelry and novelty products; (v) school supplies; (vi) arts and crafts supplies,
21 including model making supplies (vii) bedding, furniture and furnishings; (viii) car seats; (ix)
22 products to help with sucking or teething, or to facilitate sleep, relaxation or feeding; (x) artificial
23 turf fields installed on school properties, publicly owned properties or intended for use by
24 children under the age of 18; (xi) products that meet any of the following conditions: represented
25 in its packaging, display or advertising as appropriate for use by children 12 years of age or
26 under, sold in conjunction with, attached to or packaged together with other products that are
27 packaged, displayed or advertised as appropriate for use by such children sold in a retail store,
28 catalogue or online website, in which a person exclusively offers for sale products that are
29 packaged, displayed or advertised as appropriate for use by such children or sold in a discrete
30 portion of a retail store, catalogue or online website, in which a person offers for sale products
31 that are packaged, displayed or advertised as appropriate for use by such children; provided,
32 however, that “children’s product” shall not include: (i) batteries; (ii) slings and catapults; (iii)
33 sets of darts with metallic points; (iv) toy steam engines; (v) bicycles and tricycles; (vi) off-
34 highway vehicles; (vii) video toys that can be connected to video screen and are operated at a
35 nominal voltage exceeding twenty-four volts; (viii) chemistry sets; (ix) consumer electronic
36 products, including but not limited to personal computers, audio and video equipment,

37 calculators, wireless phones, game consoles and handheld devices incorporating a video screen,
38 used to access interactive software and their associated peripherals; (x) interactive software,
39 intended for leisure and entertainment, including computer games and their storage media,
40 including compact disks; (xi) BB guns, pellet guns and air rifles; (xii) snow sporting equipment,
41 including skis, poles, boots, snow boards, sleds and bindings; (xiii) roller skates; (xiv) scooters;
42 (xv) model rockets; (xvi) athletic shoes with cleats or spikes; (xvii) pocketknives and multitools;
43 (xviii) food and beverages and food and beverage packaging regulated by the United States Food
44 and Drug Administration or the United States Department of Agriculture; (xix) pharmaceutical
45 products and biologics; and (xx) medical devices, as defined in the federal Food, Drug, and
46 Cosmetic Act, U.S.C, 21 section 321(h).

47 “Contaminant”, trace amounts of chemicals that are incidental to manufacturing and that
48 serve no intended function in the product component, including, but not limited to: (i) unintended
49 by-products of chemical reactions during the manufacture of the product component; (ii) trace
50 impurities in feedstock; and (iii) incompletely reacted chemical mixtures.

51 “De minimis level”, (i) the practical quantification limit for a chemical that is an
52 intentionally added chemical in a component of a consumer product; or (ii) a concentration to be
53 set by the department in a rulemaking for a chemical that has a contaminant present in a
54 component of a consumer product; provided, however, there shall be no de minimis level for an
55 engineered nanoobject.

56 “Department”, the department of environmental protection.

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

58 “Government entity”, a federal or state government agency.

59 “Intentionally added PFAS”, PFAS that is added to a product, or is in or on the product
60 due to the manufacturing or processing of that product, and the addition of PFAS is known or
61 reasonably ascertainable by the manufacturer and its suppliers, including the use of PFAS or
62 precursors as a processing agent, or mold release agent, and the creation of PFAS via chemical
63 reactions, such as occurs during the fluorination of plastic containers.

64 “IC2”, the Interstate Chemicals Clearinghouse.

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

66 "Known or reasonably ascertainable”, all information in a person's possession or control,
67 plus all information that a reasonable person similarly situated might be expected to possess,
68 control or know.

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

72 “Mouthable”, when used to describe a children’s product or any part of a children’s
73 product, means that an intended use of the product or any part of the product includes being
74 placed in the mouth for any purpose.

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

76 “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”, substances that include any
77 member of the class of fluorinated organic chemicals containing at least one fully fluorinated
78 carbon atom.

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

85 “Safer alternative”, an alternative whose potential to harm human health is less than that
86 of the use of a high priority chemical that it could replace.

87 “Toy”, a product designed or intended by the manufacturer to be used by a child 12 years
88 of age or under at play.

89 (b) No manufacturer, wholesaler or retailer shall knowingly sell, offer for sale or
90 distribute for use a children’s product or product component containing intentionally added
91 PFAS. PFAS in a children’s product or product component shall be measured in total organic
92 fluorine at a threshold level to be determined by the department.

93 (c) The department, in consultation with the institute, shall maintain and publish a list of
94 toxic chemicals of concern in children’s products, which shall be available to the public on the
95 department’s website.

96 The chemicals of concern list shall include chemicals identified by a government entity
97 or other authoritative body or identified based on scientific evidence as being:

98 (i) a carcinogen or mutagen;

99 (ii) persistent or bio-accumulative and toxic;

- 100 (iii) an endocrine disruptor;
- 101 (iv) a reproductive or developmental toxicant;
- 102 (v) a neurotoxicant;
- 103 (vi) a respiratory or skin sensitizer; and
- 104 (vii) any other chemical of equivalent concern, as determined by the department, in
105 consultation with the institute.

106 As needed, but not less frequently than every 3 years, the department, in consultation
107 with the institute, shall update the chemicals of concern list.

108 (d) The department, in consultation with the institute, may include a class of chemicals on
109 the list. If the department includes a class of chemicals, the department may exclude from the list
110 specific members of the class of chemicals, or a subclass of chemicals, that do not share the same
111 hazards as the other members of the class of chemicals.

112 In establishing by rule the practical quantification limits for chemicals or classes of
113 chemicals on the list, the department shall consider guidance developed by other federal, state
114 and nongovernmental organizations with the applicable expertise.

115 (e) Not later than 180 days after a chemical or a class of chemicals are added to the
116 chemicals of concern list established under subsection (c), and biennially thereafter, a
117 manufacturer of a children's product for sale in the commonwealth that contains a chemical in an
118 amount greater than a de minimis level shall notify the department in writing; provided,
119 however, if the children's product contains a listed chemical that is an engineered nanoobject, the
120 manufacturer shall notify the department in writing regardless of the amount of chemical present.

121 The manufacturer's written notice shall be submitted electronically in a format to be specified by
122 the department, in consultation with the institute, and shall include:

123 (i) the name of the chemical used or produced and its chemical abstracts service registry
124 number;

125 (ii) a brief description of the product or product component containing the chemicals,
126 including the Global Product Classification product brick description;

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

129 (iv) a description of the function of the chemical in the product;

130 (v) the amount of the chemical used in each unit of the product or product component,
131 which may be reported in ranges, rather than the exact amount; and

132 (vi) the name and address of the manufacturer and the name, address and phone number
133 of a contact person for the manufacturer.

134 The department may direct submission of such reports to the IC2 and may otherwise
135 provide for reciprocal data sharing with other states which require reporting of the same
136 information. The department shall specify procedures for the provision of such notice by
137 manufacturers to the IC2.

138 (f) The department shall make information reported under subsection (e) available to the
139 public via the department's website.

140 (g) The department, in consultation with the institute, shall maintain and publish a list of
141 high priority chemicals in children’s products, which shall be available to the public on the
142 department’s website. The department may designate chemicals or chemical classes on the
143 chemicals of concern list as a high priority chemical if, upon such review: (i) the chemical or its
144 metabolites have been found through biomonitoring to be present in humans; (ii) the chemical
145 has been found through sampling and analysis to be present in household dust, indoor air,
146 drinking water or elsewhere in the home environment; (iii) the chemical has been scientifically
147 demonstrated to release from the product, resulting in likely exposure to children 12 years of age
148 or under; or (iv) the sale or use of the chemical or a children's product containing the chemical
149 has been restricted in another state or states within the United States.

150 The department, in consultation with the institute, shall update the high priority chemicals
151 list at least once every 3 years; and may remove a chemical from the high priority chemicals list
152 if, upon review, it determines based on substantial scientific evidence that such chemical no
153 longer meets the criteria for listing under this subsection.

154 (h)(1) Not later than 180 days after a chemical is added to the high priority chemicals list,
155 manufacturers of a children’s product containing such high priority chemical shall notify persons
156 that offer the children’s product for sale or distribution in the state that the product contains a
157 high priority chemical and shall provide such persons with information regarding toxicity and
158 risk management. Notification shall be provided in a form specified by the department.

159 (2) Not later than 3 years after a chemical or class of chemicals are added to the high
160 priority chemicals of concern list required by subsection (g), a manufacturer shall remove or
161 make a substitution for the chemical if the chemical is present in a children’s product that is: (i)

162 mouthable; (ii) a personal care product or cosmetic; or (iii) made for, or marketed for use by or
163 marketed to children under 3 years of age.

164 (3) Not later than 5 years after a chemical is added to said high priority chemicals list, no
165 person shall distribute, sell or offer for sale in the commonwealth any children's product
166 containing the high priority chemical, unless a prohibition on the distribution, sale or offer for
167 sale of the children's product would be preempted by federal law or the commissioner exempts
168 the children's product from such prohibition because, in the commissioner's judgment, the lack of
169 availability of the children's product could pose an unreasonable risk to public health, safety or
170 welfare.

171 (i) The department, in consultation with the institute, may periodically publish a list of
172 safer alternative chemicals that may be substituted for the chemicals listed on the high priority
173 chemicals list established in subsection (g). Manufacturers of children's products containing high
174 priority chemicals may redesign products to eliminate the need for high priority chemicals or
175 they may substitute a chemical from the safer alternatives list.

176 Manufacturers may not replace chemicals on the high priority chemicals list established
177 in subsection (g) with any chemical that is on the chemicals of concern list established in
178 subsection (c) or any chemical that has been identified by a government entity or other
179 authoritative body or is identified based on scientific evidence as having the characteristics of a
180 chemical of concern as described in subsection (c).

181 (j) Manufacturers that seek to replace chemicals on the high priority chemicals list
182 established in subsection (g) with chemicals that are not on the safer alternative chemicals list
183 established in this subsection shall disclose to the department and to the institute the chemical

184 substitutes that the manufacturer will use. The manufacturer shall conduct a hazard assessment
185 that explains how the children's product, and any substitute chemical the children's product
186 contains, are less hazardous than before the substitution was made. The department shall
187 establish the methodology that a manufacturer must use, and the standards that a children's
188 product must meet, to comply with the hazard assessment requirements. Upon the request of the
189 department, manufacturers must submit a hazard assessment to the department for review.

190 If the department, in consultation with the institute, requests a hazard assessment, the
191 department, in consultation with the institute, may approve or disapprove a hazard assessment
192 within 180 days after its submission. If the department fails to act within 180 days, the hazard
193 assessment is deemed approved, and the manufacturer may continue to sell or offer for sale in
194 this state the children's product for which the manufacturer submitted a hazard assessment for a
195 period of 3 years after the date of submittal of the hazard assessment. If the department
196 disapproves a hazard assessment, the manufacturer may submit a revised hazard assessment for
197 consideration within 180 days after the department's disapproval.

198 (k) If the department, in consultation with the institute, determines that a hazard
199 assessment as described in subsection (j) is incomplete, the department may obtain the
200 assessment from another party. The manufacturer that submitted the assessment that was
201 determined to be incomplete shall pay for the assessment performed by the other party.

202 A hazard assessment approved or deemed approved is valid for a period of 3 years after
203 the date of submittal of the hazard assessment. A manufacturer must submit an updated hazard
204 assessment, with any additional relevant information, at the end of the 3-year period.

205 (1)(1) The department may grant a temporary or permanent waiver to manufacturers of
206 children's products that request a waiver from the requirement to remove or substitute high
207 priority chemicals. The manufacturer applying for a waiver must demonstrate that the high
208 priority chemical is not reasonably anticipated to result in exposure based upon an analysis of
209 leachability and bioavailability of the high priority chemical of concern. The department shall
210 establish requirements and fees for waiver requests.

211 (2) A manufacturer with 25 or fewer employees may apply for a 2-year extension of the
212 dates specified in subsection (h) to meet the requirements of this section.

213 (3) Any consumer product safety standard adopted under federal law that establishes
214 allowable levels for children's products of a high priority chemical of concern is presumed to
215 establish the maximum allowable level of the chemical that may be used in children's products
216 that are sold or offered for sale in the commonwealth. The department may not require a
217 manufacturer in compliance with the federal standard to also comply with the provisions of this
218 section unless the department establishes in the rulemaking process that a lower maximum
219 allowable level of a high priority chemical of concern used in children's products than the
220 allowable level set by the federal standard is necessary to protect human health and welfare.

221 (5) The department may adopt rules providing for additional exemptions from the
222 requirements of this section.

223 (m) The department may conduct testing of children's products sold or offered for sale in
224 the state in order to determine compliance with this act.

225 (n) The manufacturer shall pay a fee upon submission of a report of chemical use
226 pursuant to subsection (j) and upon submission of a waiver request pursuant to subsection (l).

227 The department shall establish a fee schedule to cover the department's and the institute's
228 reasonable costs in the administration and enforcement of this title. The department shall enter
229 into an interagency agreement with the institute to cover the institute's reasonable costs in the
230 administration and enforcement of this title. Exclusive of fines and penalties, the state shall only
231 recover its actual cost of administration and enforcement.

232 (o) This section shall apply to chemicals in children's products sold or distributed as new
233 and shall not apply to used children's products that are sold or distributed for free at secondhand
234 stores, yard sales, on the internet or donated to charities.

235 (p) A manufacturer that produces, sells or distributes a product prohibited from
236 manufacture, sale or distribution in the commonwealth under this section shall recall the product
237 and reimburse the retailer or any other purchaser for the product.

238 (q) A manufacturer of products in violation of this section shall be subject to a civil
239 penalty not to exceed \$5,000 for each violation in the case of a first offense. Manufacturers who
240 are repeat violators are subject to a civil penalty not to exceed \$10,000 for each repeat offense.

241 (r) If there are grounds to suspect that a children's product is being offered for sale in
242 violation of this section, the department may request the manufacturer of the children's product
243 to provide a statement of compliance on a form provided by the department within 10 days of
244 receipt of a request from the department. The statement of compliance shall: (i) attest that the
245 children's product does not contain the dangerous chemical; (ii) attest and provide the
246 department with documentation that notification of the presence of the high priority chemical has
247 been provided to the department or provide notice as required by subsection (h); or (iii) attest

248 that the manufacturer has notified persons that sell the product in this state that the sale of the
249 children's product is prohibited.

250 Retailers who unknowingly sell products that are restricted from sale under this section
251 are not liable under this section.

252 (s) Every 3 years, the department, in consultation with the institute, shall submit a report
253 on toxic chemicals in children's products to the clerks of the house and the senate, the joint
254 committee on public health, the joint committee on the environment and natural resources, the
255 joint committee on consumer protection and professional licensure and the joint committee on
256 children, families and persons with disabilities. The report shall include general information and
257 policy recommendations for addressing toxic chemicals in children's products, including, but not
258 limited to: (i) ways, in addition to the IC2, to inform and educate consumers about toxic
259 chemicals in children's products; (ii) ways to protect children from toxic chemical exposures;
260 (iii) progress and challenges in implementing this section; (iv) updated lists of chemicals of
261 concern, high priority chemicals of concern and safer alternative chemicals; (v) results of
262 reporting, including the number and types of children's products with chemicals of concern or
263 high priority chemicals, amounts used, and the most frequently disclosed chemicals; (vi)
264 information on waiver requests made and granted and compliance and enforcement activities,
265 including testing and penalties; and (vii) any proposed regulations or legislation necessary to
266 carry out the report's recommendations. The department shall make the report available on its
267 website.

268 (t) The department shall promulgate rules and regulations necessary for the
269 implementation and enforcement of this section.

270 SECTION 2. The department of environmental protection, in consultation with the
271 Toxics Use Reduction Institute established in section 6 of chapter 21I of the General Laws, shall
272 promulgate regulations to implement section 29 of chapter 21A of the General Laws, as inserted
273 by this act, no later than 18 month after the effective date of this act.

274 SECTION 3. (a) Notwithstanding any general or special law to the contrary, the
275 department of environmental protection, in consultation with the Toxics Use Reduction Institute
276 established in section 6 of chapter 21I of the General Laws, shall publish an initial list of toxic
277 chemicals of concern in children's products, as required by subsection (c) of section 29 of
278 chapter 21A of the General Laws, as inserted by this act, not later than 18 month after the
279 effective date of this act.

280 (b) In developing the chemicals of concern list, the department shall consult published
281 authoritative lists of chemical categorizations, including, but not limited to, the Maine Chemicals
282 of Concern List, New York Chemicals of Concern List, Oregon Chemicals of Concern List,
283 Vermont Chemicals of Concern List, Canadian Domestic Substances List Categorization, the
284 European Commission list of Substances of Very High concern and the International Agency for
285 Research on Cancer list of carcinogens. The department may adopt the New York State
286 Chemicals of Concern list, as specified in Title 9, Section 37-0905, of New York law, as the
287 initial chemicals of concern list for Massachusetts.

288 SECTION 4. (a) Notwithstanding any general or special law to the contrary, the
289 department of environmental protection, in consultation with the Toxics Use Reduction Institute
290 established in section 6 of chapter 21I of the General Laws, shall publish: (i) a list of high
291 priority chemicals of concern in children's products, as required by subsection (g) of section 29

292 of chapter 21A of the General Laws, as inserted by this act; and (ii) a list of safer alternative
293 chemicals in children’s products, as required by subsection (i) of section 29 of chapter 21A of
294 the General Laws, as inserted by this act, not later than 18 months after the effective date of this
295 act.

296 (b) In developing the high priority chemicals of concern list, the department shall consult
297 published authoritative lists of chemical categorizations, including, but not limited to, the Maine
298 Chemicals of High Concern to Children List, New York List of Dangerous Chemicals to
299 Children, Oregon Chemicals of High Priority to Children List, Vermont Chemicals of High
300 Concern to Children List, Washington State Chemicals of High Concern to Children, Canadian
301 Domestic Substances List Categorization, the European Commission list of Substances of Very
302 High Concern and the International Agency for Research on Cancer list of carcinogens. The
303 department may adopt Oregon Administrative Rule 333-016-2020 Chemicals of High Concern to
304 Children as the initial high priority chemicals of concern list for Massachusetts.

305 SECTION 5. Notwithstanding any general or special law to the contrary, the department
306 of environmental protection, in consultation with the Toxics Use Reduction Institute established
307 in section 6 of chapter 21I of the General Laws, shall submit its first report, as required by
308 subsection (s) of section 29 of chapter 21A of the General Laws, as inserted by this act, not later
309 than 3 years after the effective date of this act.

310 SECTION 6. subsection (b) of section 29 of chapter 21A of the General Laws, as inserted
311 by this act, shall take effect not later than 1 year after the effective date of this act.