

SENATE . . . . . No. 195

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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:	
Joanne M. Comerford	Hampshire, Franklin and Worcester	
Cindy F. Friedman	Fourth Middlesex	2/10/2025
Mark C. Montigny	Second Bristol and Plymouth	1/29/2025
Adam Gómez	Hampden	2/4/2025
Jason M. Lewis	Fifth Middlesex	2/4/2025
James B. Eldridge	Middlesex and Worcester	2/10/2025
Patricia D. Jehlen	Second Middlesex	2/19/2025
Sal N. DiDomenico	Middlesex and Suffolk	2/20/2025
Michael O. Moore	Second Worcester	2/20/2025
John F. Keenan	Norfolk and Plymouth	2/20/2025
Liz Miranda	Second Suffolk	3/19/2025
Bruce E. Tarr	First Essex and Middlesex	4/2/2025
Rebecca L. Rausch	Norfolk, Worcester and Middlesex	4/4/2025
John C. Velis	Hampden and Hampshire	4/14/2025
Robyn K. Kennedy	First Worcester	4/25/2025
Pavel M. Payano	First Essex	4/28/2025
Patrick M. O'Connor	First Plymouth and Norfolk	4/29/2025
Carmine Lawrence Gentile	13th Middlesex	7/25/2025

*William J. Driscoll, Jr.*

*Norfolk, Plymouth and Bristol*

*9/1/2025*

**SENATE . . . . . No. 195**

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By Ms. Comerford, a petition (accompanied by bill, Senate, No. 195) of Joanne M. Comerford, Cindy F. Friedman, Mark C. Montigny, Adam Gomez and other members of the Senate for legislation to eliminate harmful chemicals from children's products. Consumer Protection and Professional Licensure.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2564 OF 2023-2024.]

**The Commonwealth of Massachusetts**

—————  
**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 of environmental protection, in consultation with the Toxics Use Reduction Institute  
7 at the University of Massachusetts Lowell, has identified as having expertise in the identification  
8 of chemicals causing cancer and other toxicity; provided, that these authoritative bodies shall  
9 include, but are not limited to: (i) the American Conference of Governmental Industrial

10 Hygienists; (ii) the federal Environmental Protection Agency; (iii) the European Chemicals  
11 Agency; (iv) the International Agency for Research on Cancer; (v) the National Toxicology  
12 Program; and (vi) the Occupational Safety and Health Administration.

13 “Chemical”, a substance with a distinct molecular composition and the breakdown  
14 products of the substance that form through decomposition, degradation or metabolism or a  
15 group of structurally related substances and the breakdown products of the substances that form  
16 through decomposition, degradation or metabolism.

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

19 “Children”, natural persons 12 years of age and under.

20 “Children’s product”, consumer products intended, made or marketed for use by children  
21 12 years of age or under, including: (i) toys; (ii) children’s clothing; (iii) children's cosmetics and  
22 personal care products; (iv) children's jewelry and novelty products; (v) children’s school  
23 supplies; (vi) children’s arts and crafts supplies, including model making supplies (vii) children’s  
24 bedding, furniture and furnishings; (viii) child car seats; (ix) products to help a child with  
25 sucking or teething, or to facilitate sleep, relaxation or the feeding of a child; (x) artificial turf  
26 fields installed on school properties, publicly owned properties or intended for use by children  
27 under the age of 18; (xi) products that meet any of the following conditions: represented in its  
28 packaging, display or advertising as appropriate for use by children, sold in conjunction with,  
29 attached to or packaged together with other products that are packaged, displayed or advertised  
30 as appropriate for use by children sold in a retail store, catalogue or online website, in which a  
31 person exclusively offers for sale products that are packaged, displayed or advertised as

32 appropriate for use by children, or sold in a discrete portion of a retail store, catalogue or online  
33 website, in which a person offers for sale products that are packaged, displayed or advertised as  
34 appropriate for use by children; provided, however, that “children’s product” shall not include:  
35 (i) batteries; (ii) slings and catapults; (iii) sets of darts with metallic points; (iv) toy steam  
36 engines; (v) bicycles and tricycles; (vi) video toys that can be connected to video screen and are  
37 operated at a nominal voltage exceeding twenty-four volts; (vii) chemistry sets; (viii) consumer  
38 and children's electronic products, including but not limited to personal computers, audio and  
39 video equipment, calculators, wireless phones, game consoles and handheld devices  
40 incorporating a video screen, used to access interactive software and their associated peripherals;  
41 (ix) interactive software, intended for leisure and entertainment, including computer games and  
42 their storage media, including compact disks; (x) BB guns, pellet guns and air rifles; (xi) snow  
43 sporting equipment, including skis, poles, boots, snow boards, sleds and bindings; (xii) roller  
44 skates; (xiii) scooters; (xiv) model rockets; (xv) athletic shoes with cleats or spikes; (xvi)  
45 pocketknives and multitools; (xvii) food and beverages and food and beverage packaging  
46 regulated by the United States Food and Drug Administration or the United States Department of  
47 Agriculture; (xviii) pharmaceutical products and biologics; and (xix) medical devices, as defined  
48 in the federal Food, Drug, and Cosmetic Act, U,S,C, 21 section 321(h).

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

53 “De minimis level”, (i) for a chemical that is an intentionally added chemical in a  
54 component of a consumer product, the practical quantification limit; (ii) for a chemical that has a

55 contaminant present in a component of a consumer product, a concentration to be set by the  
56 department of environmental protection in rulemaking; or (iii) for an engineered nanoobject,  
57 there shall be no de minimis level.

58 “Department”, the department of environmental protection.

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

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

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

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

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

70 “Known or reasonably ascertainable”, all information in a person's possession or control,  
71 plus all information that a reasonable person similarly situated might be expected to possess,  
72 control, or know.

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

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

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

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

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

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

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

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

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

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

101 (i) a carcinogen or mutagen;

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

103 (iii) an endocrine disruptor;

104 (iv) a reproductive or developmental toxicant;

105 (v) a neurotoxicant;

106 (vi) a respiratory or skin sensitizer; and

107 (vii) any other chemical of equivalent concern, as determined by the department, in  
108 consultation with the institute.

109 In developing the chemicals of concern list, the department shall consult published  
110 authoritative lists of chemical categorizations, including, but not limited to, the Maine Chemicals  
111 of Concern List, New York Chemicals of Concern List, Oregon Chemicals of Concern List,  
112 Vermont Chemicals of Concern List, Canadian Domestic Substances List Categorization, the  
113 European Commission list of Substances of Very High Concern and the International Agency for  
114 Research on Cancer list of carcinogens. The department may adopt the New York State

115 Chemicals of Concern list, as specified in Title 9, Section 37-0905, of New York law, as the  
116 initial chemicals of concern list for Massachusetts.

117 (d) As needed, but not less frequently than every 3 years, the department, in consultation  
118 with the institute, shall update the chemicals of concern list.

119 (e) The department, in consultation with the institute, may include a class of chemicals on  
120 the list. If the department includes a class of chemicals, the department may exclude from the list  
121 specific members of the class of chemicals, or a subclass of chemicals, that do not share the same  
122 hazards as the other members of the class of chemicals.

123 (f) In establishing by rule the practical quantification limits for chemicals or classes of  
124 chemicals on the list, the department shall consider guidance developed by other federal, state  
125 and nongovernmental organizations with the applicable expertise.

126 (g) Not later than 180 days after a chemical or a class of chemicals are added to the  
127 chemicals of concern list established under subsection (c), and biennially thereafter, a  
128 manufacturer of a children's product for sale in the commonwealth that contains a chemical in an  
129 amount greater than a de minimis level shall notify the department in writing; provided,  
130 however, if the children's product contains a listed chemical that is an engineered nanoobject, the  
131 manufacturer shall notify the department in writing regardless of the amount of chemical present.  
132 The manufacturer's written notice shall be submitted electronically in a format to be specified by  
133 the department, in consultation with the institute, and shall include:

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

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

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

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

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

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

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

149 (h) The department shall make information reported under subsection (g) available to the  
150 public via the department's website and via linkage to relevant databases on the IC2 website.

151 (i) (1) Not less than 3 years after a chemical or a class of chemicals are added to the  
152 chemicals of concern list required by subsection (c), a manufacturer must remove or make a  
153 substitution for the chemical if the chemical is present in a children's product that is:

154 (i) Mouthable;

155 (ii) A children's personal care product or cosmetic; or

156 (iii) Made for, marketed for use by or marketed to children under 3 years of age.

157 (2) A manufacturer with 25 or fewer employees may apply for a 2-year extension of the  
158 date specified in paragraph (1) of this subsection to meet the requirements of this section.

159 (3) Manufacturers are exempt from meeting the requirements of this section for  
160 children's products described in paragraph (1) of this subsection that contain chemicals of  
161 concern for children's health used in children's products at levels that are at or below allowable  
162 levels for children's products as established by the Consumer Product Safety Improvement Act  
163 of 2008, P.L. 110-314, 122 Stat. 3016, as in effect on Jan 17, 2025.

164 (4) The department may adopt rules providing for additional exemptions from the  
165 requirements of this section.

166 (5) For purposes of this subsection, any consumer product safety standard adopted under  
167 federal law that establishes allowable levels for children's products of a high priority chemical of  
168 concern for children's health used in children's products is presumed to establish the maximum  
169 allowable level of the chemical that may be used in children's products that are sold or offered  
170 for sale in this state.

171 The department may not require a manufacturer in compliance with the federal standard  
172 to also comply with the provisions of this section unless the department establishes in the  
173 rulemaking process that a lower maximum allowable level for children's products of a high  
174 priority chemical of concern for children's health used in children's products than the allowable  
175 level set by the federal standard is necessary to protect human health and welfare.

176 (j) The department, in consultation with the institute, shall maintain and publish a list of  
177 high priority chemicals in children's products, which shall be available to the public on the  
178 department's website.

179 The department may identify a chemical as a high priority chemical if, upon such review:  
180 (i) the chemical or its metabolites have been found through biomonitoring to be present in  
181 humans; (ii) the chemical has been found through sampling and analysis to be present in  
182 household dust, indoor air, drinking water or elsewhere in the home environment; (iii) the  
183 chemical has been scientifically demonstrated to release from the product, resulting in likely  
184 exposure to children; or (iv) the sale or use of the chemical or a children's product containing the  
185 chemical has been restricted in another state or states within the United States.

186 The department, in consultation with the institute, may remove a chemical from the high  
187 priority chemicals list if, upon review, it determines based on substantial scientific evidence that  
188 such chemical no longer meets the criteria for listing under this subsection.

189 Not later than 180 days after a chemical is added to the high priority chemicals list,  
190 manufacturers of a children's product containing such high priority chemical shall notify persons  
191 that offer the children's product for sale or distribution in the state that the product contains a  
192 high priority chemical and shall provide such persons with information regarding toxicity and  
193 risk management. Notification shall be provided in a form specified by the department.

194 Not later than 3 years after a chemical is added to the high priority chemicals list, no  
195 person shall distribute, sell or offer for sale in the commonwealth any children's product  
196 containing the high priority chemical, unless a prohibition on the distribution, sale or offer for  
197 sale of the children's product would be preempted by federal law or the commissioner exempts

198 the children's product from such prohibition because, in the commissioner's judgment, the lack of  
199 availability of the children's product could pose an unreasonable risk to public health, safety or  
200 welfare.

201 The department, in consultation with the institute, shall update the high priority chemicals  
202 list at least once every 3 years.

203 (k) The department, in consultation with the institute, may periodically publish a list of  
204 safer alternative chemicals that may be substituted for the chemicals listed on the chemicals of  
205 concern list established in subsection (c) or the high priority chemicals list established in  
206 subsection (j). Manufacturers of children's products containing chemicals of concern or high  
207 priority chemicals may redesign products to eliminate the need for chemicals of concern or high  
208 priority chemicals or they may substitute a chemical from the safer alternatives list.

209 Manufacturers may not replace chemicals on the high priority chemicals list established  
210 in subsection (j) with any chemical that is on the chemicals of concern list established in  
211 subsection (c) or any chemical that has been identified by a government entity or other  
212 authoritative body or is identified based on scientific evidence as having the characteristics of a  
213 chemical of concern as described in subsection (c).

214 (l) Manufacturers that seek to replace chemicals on the chemicals of concern list  
215 established in subsection (c) or high priority chemicals list established in subsection (j) with  
216 chemicals that are not on the safer alternative chemicals list established in this subsection shall  
217 disclose to the department and to the institute the chemical substitutes that the manufacturer will  
218 use. The manufacturer shall conduct a hazard assessment that explains how the children's  
219 product, and any substitute chemical the children's product contains, are less hazardous than

220 before the substitution was made. The department shall establish the methodology that a  
221 manufacturer must use, and the standards that a children's product must meet, to comply with the  
222 hazard assessment requirements. Upon the request of the department, manufacturers must submit  
223 a hazard assessment to the department for review.

224 If the department, in consultation with the institute, requests a hazard assessment, the  
225 department, in consultation with the institute, may approve or disapprove a hazard assessment  
226 within 180 days after its submission. If the department fails to act within 180 days, the hazard  
227 assessment is deemed approved, and the manufacturer may continue to sell or offer for sale in  
228 this state the children's product for which the manufacturer submitted a hazard assessment for a  
229 period of 3 years after the date of submittal of the hazard assessment. If the department  
230 disapproves a hazard assessment, the manufacturer may submit a revised hazard assessment for  
231 consideration within 180 days after the department's disapproval.

232 (m) If the department, in consultation with the institute, determines that a hazard  
233 assessment as described in subsection (l) is incomplete, the department may obtain the  
234 assessment from another party. The manufacturer that submitted the assessment that was  
235 determined to be incomplete must pay for the assessment performed by the other party.

236 (n) A hazard assessment approved or deemed approved is valid for a period of 3 years  
237 after the date of submittal of the hazard assessment. A manufacturer must submit an updated  
238 hazard assessment, with any additional relevant information, at the end of the 3-year period.

239 (o) The department may grant a temporary or permanent waiver to manufacturers of  
240 children's products that request a waiver from the requirement to remove or substitute high  
241 priority chemicals. The manufacturer applying for a waiver must demonstrate that the high

242 priority chemical is not reasonably anticipated to result in exposure based upon an analysis of  
243 leachability and bioavailability of the chemical of concern. The department shall establish  
244 requirements and fees for waiver requests.

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

247 (q) The manufacturer shall pay a fee upon submission of a report of chemical use  
248 pursuant to subsection (g) and upon submission of a waiver request pursuant to subsection (o).  
249 The department shall establish a fee schedule to cover the department's reasonable costs in the  
250 administration and enforcement of this title. Exclusive of fines and penalties, the state shall only  
251 recover its actual cost of administration and enforcement.

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

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

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

261 (u) If there are grounds to suspect that a children's product is being offered for sale in  
262 violation of this section, the department may request the manufacturer of the children's product

263 to provide a statement of compliance on a form provided by the department within 10 days of  
264 receipt of a request from the department. The statement of compliance shall: (i) attest that the  
265 children's product does not contain the dangerous chemical; (ii) attest and provide the  
266 department with documentation that notification of the presence of the high priority chemical has  
267 been provided to the department or provide notice as required by subsection (g); or (iii) attest  
268 that the manufacturer has notified persons that sell the product in this state that the sale of the  
269 children's product is prohibited.

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

272           (v) Every 3 years, the department, in consultation with the institute, shall submit a report  
273 on the toxic chemicals of concern in children's products to the clerks of the house and the senate,  
274 the joint committee on public health, the joint committee on the environment and natural  
275 resources, the joint committee on consumer protection and professional licensure and the joint  
276 committee on children, families and persons with disabilities. The report shall include general  
277 information and policy recommendations for addressing toxic chemicals in children's products,  
278 including, but not limited to: (i) ways, in addition to the IC2, to inform and educate consumers  
279 about toxic chemicals in children's products; (ii) ways to protect children from toxic chemical  
280 exposures; (iii) progress and challenges in implementing this section; (iv) updated lists of  
281 chemicals of concern, high priority chemicals and safer alternative chemicals; (v) results of  
282 reporting, including the number and types of children's products with chemicals of concern or  
283 high priority chemicals, amounts used, and the most frequently disclosed chemicals; (vi)  
284 information on waiver requests made and granted and compliance and enforcement activities,  
285 including testing and penalties; and (vii) any proposed regulations or legislation necessary to

286 carry out the report's recommendations. The department shall make the report available on its  
287 website and may publicize it through any other appropriate channels.

288 (w) The department shall promulgate rules and regulations necessary for the  
289 implementation and enforcement of this section, including the need for funding for department  
290 and institute staffing, website development and management, reporting, and testing and  
291 enforcement.

292 SECTION 2. The department of environmental protection, in consultation with the  
293 Toxics Use Reduction Institute established in section 6 of chapter 21I of the General Laws, shall  
294 promulgate regulations to implement section 29 of chapter 21A of the General Laws, as inserted  
295 by this act, no later than 1 year after the effective date of this act.

296 SECTION 3. Notwithstanding any general or special law to the contrary, the department  
297 of environmental protection, in consultation with the Toxics Use Reduction Institute established  
298 in section 6 of chapter 21I of the General Laws, shall publish an initial list of toxic chemicals of  
299 concern in children's products, as required by subsection (c) of section 29 of chapter 21A of the  
300 General Laws, as inserted by this act, not later than 1 year after the effective date of this act.

301 SECTION 4. Notwithstanding any general or special law to the contrary, the department  
302 of environmental protection, in consultation with the Toxics Use Reduction Institute established  
303 in section 6 of chapter 21I of the General Laws, shall publish (i) a list of high priority chemicals  
304 in children's products, as required by subsection (j) of section 29 of chapter 21A of the General  
305 Laws, as inserted by this act and (ii) list of safer alternative chemicals in children's products, as  
306 required by subsection (k) of section 29 of chapter 21A of the General Laws, as inserted by this  
307 act, not later than 3 years after the effective date of this act.

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