SENATE DOCKET, NO. 1411 FILED ON: 1/21/2011

SENATE . . . . . No. 397

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Tolman

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 for a competitive economy through safer alternatives to toxic chemicals.

.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven A. Tolman	
Alice Hanlon Peisch	*14th Norfolk*
Ellen Story	*3rd Hampshire*
Peter V. Kocot	*1st Hampshire*
James M. Cantwell	*4th Plymouth*
Denise Provost	*27th Middlesex*
Brian M. Ashe	*2nd Hampden*
Harold P. Naughton, Jr.	*12th Worcester*
Eileen M. Donoghue	
Thomas A. Golden, Jr.	*16th Middlesex*
Cheryl A. Coakley-Rivera	*10th Hampden*
Cory Atkins	*14th Middlesex*
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
Daniel B. Winslow	*9th Norfolk*
Katherine M. Clark	*Middlesex and Essex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Carlo Basile	*1st Suffolk*

Harriette L. Chandler	
Cynthia S. Creem	
Kenneth J. Donnelly	
James B. Eldridge	
Patricia D. Jehlen	
Michael O. Moore	
Stanley C. Rosenberg	*Hampshire and Franklin*
James E. Timilty	
Martha M. Walz	*8th Suffolk*
Sal N. DiDomenico	*Middlesex, Suffolk, and Essex*
Sonia Chang-Diaz	
Tackey Chan	*2nd Norfolk*
Susan C. Fargo	
Thomas M. McGee	*Third Essex and Middlesex*
Marc R. Pacheco	
Mark C. Montigny	
Brian A. Joyce	*Norfolk, Bristol, and Plymouth*
Kevin G. Honan	*17th Suffolk*
Karen E. Spilka	

SENATE DOCKET, NO. 1411 FILED ON: 1/21/2011

SENATE . . . . . No. 397

By Mr. Tolman, petition (accompanied by bill, Senate, No. 397) of Naughton, Ashe, Provost and other members of the General Court for legislation for a healthy Massachusetts: safer alternatives to toxic chemicals [Joint Committee on Environment, Natural Resources and Agriculture].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *442* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act for a competitive economy through safer alternatives to toxic chemicals.
□.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish safer alternatives to toxic chemicals, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and safety;, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 2 of chapter 21I of the Massachusetts General Laws, as appearing
2 in the 2008 Official Edition, is hereby amended, in line 2, by inserting after the word “meanings”
3 the following words:-- “unless defined otherwise in section 24 for the purposes of sections 24
4 through 28, inclusive.”

5 SECTION 2. Section 3 of said chapter 21I, as so appearing, is hereby amended, in line
6 61, by inserting after the word “reduction“ the following words:- “, substitution of safer
7 alternatives.”

8 SECTION 3. Section 6 of said chapter 21I, as so appearing, is hereby further amended,
9 in lines 75 through 77, inclusive, by inserting the following paragraph after paragraph (J):

10 (J) The institute shall establish a technical assistance grant program to assist
11 organizations of consumers or workers focused on the impact of substitutions of safer
12 alternatives in specific products, sectors, or uses. The grants may provide assistance for
13 activities that may include but are not limited to securing information on chemical substances
14 and their impact on workers, consumers and the environment; hiring independent technical
15 support regarding chemical substances, production processes and work organization; and paying
16 for training programs to assist affected groups in analyzing the changes.

17 SECTION 4. Section 4 said chapter 21I, as so appearing, is hereby amended, in line 62,
18 by inserting after paragraph (G) the following paragraph:--

19 (H) In accordance with procedures that it may adopt, the advisory committee may
20 provide comment to the council on all aspects of the safer alternatives program, including
21 recommendations for chemical substances to be designated as priority chemical substances, and
22 comments relative to chemical action plans, safer alternatives assessment reports, and the
23 composition of the chemical list created in paragraph (a) of section 24. All written official
24 comment shall be considered a matter of public record. Upon written request from the advisory
25 committee, and for no more than three chemical substances annually, the council shall provide a

26 written statement to the advisory committee explaining why a chemical substance has not been
27 chosen for assessment according to the provisions of section 25.

28 SECTION 5. Chapter 21I is hereby further amended by inserting after section 6 the
29 following section:-

30 Section 6A.

31 (a) In addition to any other requirements of this chapter, the institute shall seek to reduce
32 the presence of priority chemical substances in consumer products and the workplace by
33 promoting safer alternatives to such substances. The institute may develop recognition programs
34 to promote the priority chemical substance reduction achievements of industry and communities.
35 The institute may establish fees for its safer alternatives programs. When feasible, the institute
36 shall coordinate the programs and responsibilities relative to the substitution of safer alternatives
37 for priority chemical substances with its other programs and responsibilities described in this
38 chapter.

39 (b) Without limitation, and through such programs, the institute may:

40 (1) provide general information about chemical substances and actively publicize the
41 advantages of and developments in safer alternatives and the requirements of this chapter, which
42 shall include, but not be limited to, providing information about public health, environmental and
43 economic issues associated with toxics use and toxics use reduction;

44 (2) establish courses, seminars, conferences and other events and provide reports,
45 updates, guides and other publications and other means of providing technical information for
46 consumers and, as appropriate, work in coordination with the office;

47 (3) develop and provide curriculum and training for higher education students and faculty
48 on priority chemical substances and potential safer alternatives;

49 (4) sponsor or engage in research to identify potential priority chemical substances and
50 potential safer alternatives to such substances;

51 (5) sponsor research or pilot projects to develop and demonstrate innovative technologies
52 for implementing safer alternatives to priority chemical substances;

53 (6) develop in consultation with the department and office, a safer alternatives curriculum
54 and training program to supplement the toxics use reduction planner training program; and

55 (7) provide safer alternatives implementation training and assistance to citizens,
56 community groups, nonprofit organizations and institutions, workers, labor representatives,
57 businesses, consumer product supply chains and state and local government boards and officials;
58 provided, however, that such training and assistance shall provide such individuals and groups
59 with an understanding of the public health and environmental impacts of the presence of
60 chemical substances, the methods and strategies for substituting safer alternatives for priority
61 chemical substances and the requirements of this chapter.

62 (c) No later than eighteen months after enactment of this Act , the institute shall publish a
63 list of chemical substances commonly used in Massachusetts industry or in consumer products
64 sold in Massachusetts. In consultation with the science advisory board, the institute shall
65 categorize chemicals on said list into one of four categories: chemicals of high concern,
66 chemicals of concern, chemicals of unknown concern, and chemicals of low concern. In
67 preparing this categorization, the institute shall rely on published government lists of chemical
68 categorizations such as, but not limited to, the Canadian Domestic Substances List

69 Categorization, the European Commission's list of substances of very high concern, Washington
70 State's list of persistent, bioaccumulative and toxic chemicals, and the International Agency for
71 Research on Cancer's list of carcinogens. However, the chemicals of high concern category
72 shall include chemicals recognized as carcinogens, mutagens and reproductive toxins; chemicals
73 recognized as persistent, bioaccumulative and toxic chemicals; chemicals recognized as very
74 persistent and very bioaccumulative chemicals; chemicals recognized as endocrine disruptors;
75 and other chemicals of equivalent concern. The institute may create subcategories within these
76 four categories. These categories may be adjusted to take account of current chemical lists and
77 additional information, including information on emerging materials. From time to time, but at
78 least every 4 years, the institute, in consultation with the board, shall refine the list to incorporate
79 new scientific information and data, and publish a revised version of the list, as needed. Failure
80 to refine the list shall not invalidate the list.

81 SECTION 6. Section 7 of said chapter 21I, as appearing in the 2008 Official Edition, is
82 hereby amended by inserting at the end thereof the following 2 paragraphs:-

83 (K). When sufficient funds are appropriated, the office shall oversee an "Assist Business
84 to Compete Fund" (the ABC Fund) facilitating transitions to safer alternatives to the use of
85 priority chemical substances in Massachusetts workplaces and in consumer products. In
86 developing the program, the office shall determine where business assistance and financial
87 investment can be most effectively used to protect public health and strengthen the
88 Commonwealth's economy by focusing on the development, application and promotion of safer
89 alternatives.

90 The office shall provide technical assistance consistent with sections 6 and 7 of this
91 chapter for developing and implementing safer alternatives and including, but not limited to:

92 (1) direct grants and loans to businesses for costs required to implement safer
93 alternatives;

94 (2) technical support focused on individual companies or user sectors;

95 (3) technical assistance in assessing safer alternatives and assistance with forming
96 consortiums to assess and develop safer alternatives;

97 (4) market development programs, to create demand for safer alternatives;

98 (5) seminars and workshops to assist businesses in adopting safer substitutes; and

99 (6) publications focused on particular user sectors.

100 The ABC Fund shall be developed with assistance from and collaboration with the
101 department of labor and industries, the department of economic development, the office, the
102 department of labor and workforce development, and the institute.

103 (L) The office shall consult with the institute, and other agencies to establish an
104 innovative business leaders program to encourage early substitution of priority chemical
105 substances. The program shall assist users of priority chemical substances to complete
106 substitution plans. The program may include priority targeted financial and technical assistance
107 and support for research, information gathering and implementation.

108 SECTION 7. Chapter 21I is hereby amended by inserting after section 23 the following 5
109 sections:

110 Section 24. Safer Alternatives Definitions

111 For the purposes of sections 24 through 28, the following terms shall have the following
112 meanings:--

113 “Alternative”, a chemical substance, material, product, process, function, system, or other
114 action of equivalent function which can be substituted for the use of a particular chemical
115 substance.

116 “Article” means a manufactured item, other than an item which is manufactured at the
117 facility, and which:

118 (a) is formed to a specific shape or design during manufacture;

119 (b) has end use functions dependent in whole or in part upon its shape or design during
120 end use; and

121 (c) does not release a chemical substance under normal conditions of processing or use of
122 that item at the facility or establishments.

123 “Chemical substance”, any element, chemical, compound, mixture of elements and/or
124 compounds, or class of compounds, provided that a chemical substance shall not be subject to
125 the provisions of sections 24 through 28, inclusive, when it is: (1) present in crude, lubricating,
126 or fuel oils or petroleum materials being held for direct wholesale or retail sale; (2) present in
127 fuels used in combustion to produce electricity, steam, or heat; (3) present as a naturally-
128 occurring substance in fuels and in emissions or byproducts as a result of the combustion of
129 fuels; or (4) required to be present or used in the manufacturing of a product manufactured in

130 Massachusetts by a contractor or subcontractor pursuant to a contract with the Department of
131 Defense or the Department of Homeland Security.

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

136 “Feasible”, means meets the technical requirements for the use with a technology that has
137 been confirmed by the institute to be successfully used within or outside of the Commonwealth.

138 “Manufacturer”, any person, firm, association, partnership, corporation, governmental
139 entity, organization, combination or joint venture which produces a consumer product containing
140 a priority chemical substance or an importer or domestic distributor of a consumer product
141 containing a priority chemical substance and that is produced in a foreign country. In the case of
142 a consumer product made with components made by different manufacturers, the manufacturer is
143 the manufacturer who produced the component containing the priority chemical substance. If the
144 consumer product or component is produced in a foreign country, the manufacturer is the
145 importer or domestic distributor; provided, however, that if a company from whom an importer
146 purchases the consumer product or component has a United States presence or assets, that
147 company shall be considered to be the manufacturer.

148 "Safer Alternative”, an alternative, including a change in chemical substance, material,
149 product, process, function, system or other action, that replaces a chemical substance currently in
150 use and that would be effective in reducing the chemical substance’s harm to human health or the

151 environment without causing equivalent or greater harm to workers, consumers or the
152 environment.

153 “Substitute”, to replace a chemical substance by using a safer alternative.

154 “Substitution”, the replacement of a chemical substance through the use of a safer
155 alternative.

156 “User of a priority chemical substance” or “users of a priority chemical substance”,
157 means a person who owns or operates a facility or business that manufactures, processes, or
158 otherwise uses a priority chemical substance for non-residential purposes in the Commonwealth,
159 provided that this definition shall not apply to an article containing a priority chemical substance.

160 Section 25. Designation and Assessment of Priority Chemical Substances

161 (a) No later than twelve months after enactment of this section, the council shall
162 promulgate regulations that (i) establish processes and procedures for designating priority
163 chemical substances in accordance with subsection (b); and (ii) require notification by businesses
164 to the institute and the department in accordance with subsection (d).

165 (b) With the enactment of this section, the council shall designate cadmium,
166 trichloroethylene and nonylphenol ethoxylates as priority chemical substances.

167 (c) Upon the appropriation of sufficient resources, the council by regulation shall
168 designate 2 to 4 chemical substances annually from the list of chemicals of high concern,
169 established pursuant to section 7 (c), as priority chemical substances.

170 (d) In designating the number of priority chemical substances, the council shall consider
171 institute resources for performing safer alternatives assessment reports.

172 (i). in designating priority chemical substances, the council shall prioritize substances that
173 adversely impact human health and/or the environment with highest priority given to preventing
174 adverse impacts on children, infants, developing fetuses, and workers, and other vulnerable
175 populations. In designating priority chemical substances the council may consider opportunities
176 that strengthen the Commonwealth's economy.

177 (ii). Each designation of a priority chemical substance shall include appropriate de
178 minimis thresholds below which the requirements of section 25(d)(i) and section 25(d)(ii) shall
179 not apply.

180 (c) No consumer product containing a priority chemical substance shall be sold, offered
181 for sale, or distributed for use in the Commonwealth unless the product's manufacturer has
182 submitted notification to the institute and the department in accordance with section 25(d). No
183 priority chemical substance shall be used within the Commonwealth unless the user of a priority
184 chemical substance has submitted notification to the institute and the department in accordance
185 with section 25(d).

186 (d) Manufacturers and users of a priority chemical substance shall notify the institute
187 and the department within six months of the designation of that substance in accordance with the
188 following:

189 (i) Manufacturers shall file a notice with the institute and the department identifying the
190 consumer product, the approximate number of units distributed in the Commonwealth, an
191 estimate of the amount or concentration of the priority chemical substance contained in each
192 unit, the purpose for including the priority chemical substance, and the name, address, and phone
193 number of a contact person, and other relevant information the department may require. The

194 department may allow a manufacturer, distributor or trade group to supply the information
195 required above for a consumer product category rather than an individual consumer product.
196 The manufacturer shall update and revise the notification whenever there is a significant change
197 in the information or when requested by the department.

198 (ii) Users of a priority chemical substance shall file notice with the institute and the
199 department identifying the name and address of each facility where the priority chemical
200 substance is manufactured, processed, or otherwise used, the mass of each priority chemical
201 substance manufactured, processed, or otherwise used, the purpose for using the priority
202 chemical substance, and the name, address, and phone number of a contact person, and other
203 relevant information the department may require. The user of a priority chemical substance shall
204 update and revise the notification whenever there is a significant change in the information or
205 when requested by the department. Large quantity toxics users and other toxics users within a
206 designated priority user segments already subject to reporting on a priority chemical substance
207 under section 10 shall be exempt from the requirements of this section for that priority chemical
208 substance.

209 (iii) The department shall prescribe forms for such notices to be filed and a means by
210 which the submitted information shall be made available to the public.

211 (iv) The department shall establish procedures to assure compliance with the
212 requirements of this section and penalties for noncompliance.

213 (v) Distribution of information:

214 i. Public disclosure of confidential business information submitted to the institute and the
215 department pursuant to subsection (d) shall be governed by the requirements of section 10 of
216 chapter 66.

217 ii. Manufacturers of a consumer product containing a priority chemical substance shall
218 provide notice to any person who sells, offers to sell, or distributes such product for use in the
219 Commonwealth, identifying the priority chemical substance, its purpose in the consumer
220 product, any measures that should be undertaken to reduce a user's exposure to the priority
221 chemical substance, and proper management for discarding the consumer product safely at the
222 end of its useful life. Any person who sells, offers to sell, or distributes such a consumer
223 product for use in the commonwealth shall provide such notice to all purchasers of the product.

224 iii. Users of a priority chemical substance shall provide notice to workers in their facility
225 or business regarding the use of the priority chemical substance.

226 b. Preemption. Any consumer product containing a priority chemical substance for which
227 federal law governs notice in a manner that preempts state authority shall be exempt from the
228 requirements of subsection (d).

229 (e) The institute shall prepare a Safer Alternatives Assessment Report for each substance
230 designated by the council as a priority chemical substance. The council shall establish a
231 schedule for the development of each safer alternatives assessment report, in consultation with
232 the institute. For each safer alternatives assessment report, the institute shall:

233 (i). identify the uses and functions of the priority chemical substance (including its
234 incorporation into consumer products), focusing on uses and functions in the Commonwealth.
235 Uses and functions shall be identified and selected for further study and action, with highest

236 priority given to uses that adversely impact children, infants, developing fetuses, and workers,
237 and other vulnerable populations, consistent with the criteria set forth in section 25(b)(ii).

238 (ii). identify whether alternatives are available for those selected uses and functions of the
239 priority chemical substance;

240 (iii). identify whether any of the selected uses of the priority chemical substance are of a
241 clearly unnecessary nature;

242 (iv). research and study relevant factors to characterize feasible alternatives;

243 (v). provide a qualitative discussion of the economic viability, opportunities and costs
244 associated with adopting and implementing any safer alternatives. Such discussion may include a
245 qualitative characterization of the economic impacts and benefits of substitution, the extent of
246 human exposure to the priority chemical substance that could be eliminated through substitution
247 or other actions and potential public health benefits or reductions in health care costs;

248 (vi). identify selected uses of the priority chemical substance that do not currently have a
249 feasible safer alternative available and make recommendations for promoting research and
250 development of such alternatives; and any interim actions that may be taken to reduce human
251 exposure to the priority chemical substance until a feasible alternative is available;

252 (vii). use the chemicals categorization list developed by the institute and other published
253 chemical lists, including government lists of substances used in industry or in consumer
254 products, to assist in identifying potential safer alternatives;

255 (viii). seek comments from the science advisory board, the advisory committee and
256 members of the public, including all regions of the commonwealth;

257 (ix). publish the results of the safer alternatives assessment report; and

258 (x). periodically review the safer alternative assessment report and its findings with the
259 advisory committee and the council and revise such report as necessary to update it and to
260 address new recommendations. Revised reports shall be made available to the public for
261 comment, and final revised reports shall be published. Such periodic reviews shall be conducted
262 no less frequently than once every five years.

263 (f) In the event that a priority chemical substance to be assessed is a pesticide, the
264 institute shall contract with resources at the University of Massachusetts at Amherst, including
265 the Cooperative Extension Service, for assistance and guidance in assessing agricultural uses of
266 such substance.

267 (g) In the event that a priority chemical substance to be assessed is used for medical
268 purposes, the institute shall contract with resources at the University of Massachusetts at
269 Worcester for assistance and guidance in assessing medical uses of such substance.

270 Section 26. Designation of Priority Chemical Substance Uses

271 (a) The institute shall present each completed safer alternatives assessment report to the
272 council. The council shall use the completed report to identify uses of the priority chemical
273 substance that pose a significant hazard to human health or the environment, with highest
274 priority given to uses that adversely impact children, infants, developing fetuses, and workers,
275 and other vulnerable populations. In identifying such uses of the priority chemical substance, the
276 council shall consider both uses of the priority chemical substance itself as well as uses of
277 consumer products that contain the priority chemical substance. The council shall designate any
278 such uses as priority chemical substance uses.

279 (b) Based on the information and recommendations of the completed safer alternatives
280 assessment report, the council shall also determine whether one or more feasible safer
281 alternatives exist for a priority chemical substance in a priority chemical substance use, and shall
282 identify all such feasible safer alternatives in its designation.

283 Section 27. Chemical Action Plans

284 (a) Not later than eighteen months after the council identifies priority chemical substance
285 uses, the department, in consultation with the institute, the office, the advisory committee, and
286 other agencies as appropriate, shall prepare a chemical action plan for the priority chemical
287 substance, which addresses the priority chemical substance use(s) designated by the council.
288 The chemical action plan shall include draft regulations, for review by the council and members
289 of the public.

290 (b) A chemical action plan addressing a priority chemical substance for which feasible
291 safer alternatives have been identified for one or more designated priority uses shall establish a
292 goal of accomplishing the substitution of the identified safer alternative(s) for the priority
293 chemical substances in those designated priority chemical substance uses as expeditiously as
294 possible. The chemical action plan shall establish requirements through which manufacturers
295 and users of such priority chemical substance shall accomplish this goal, and shall also describe
296 actions to be undertaken by appropriate state agencies to ensure the goal of the plan is met.

297 (i) Where possible, the chemical action plan shall seek to strengthen Massachusetts
298 business and develop job opportunities, and to coordinate state activities to accomplish this goal.
299 In preparing the chemical action plan, the department shall consult with the institute, the office,

300 and other relevant state agencies and authorities to identify and plan for coordinated actions of
301 these agencies and authorities to achieve the plan's goal.

302 (ii) To accomplish the goals established in section 27(b) and section 27(b)(i), a chemical
303 action plan for a priority chemical substance use with feasible alternatives shall:

304 (a) identify specific actions that manufacturers and users of priority chemical substances
305 shall be required to implement;

306 (b) require substitution of a safer alternative;

307 (c) establish schedules, timelines, and deadlines for achieving substitution of the priority
308 chemical substance with safer alternatives, for specified priority uses;

309 (d) where appropriate, require manufacturers and/or users of priority chemical substances
310 to prepare and submit to the department plans to effect the substitution(s); and

311 (e) provide for technical assistance to manufacturers and users of priority chemical
312 substances.

313 (iii) In establishing deadlines and schedules for substituting safer alternatives for
314 priority chemical substances, the department shall consider the potential impacts to human health
315 and the environment of the continued use of the priority chemical substance. If children or
316 workers will continue to be exposed to one or more priority chemical substances during the
317 period in which substitution is being implemented, then the chemical action plan shall include
318 measures a manufacturer or user of a priority chemical substance, as appropriate, shall take to
319 eliminate or reduce exposure of a priority chemical substance to those populations.

320 (iv) For uses where safer alternatives are feasible, but where substitution will require
321 manufacturers or users of priority chemical substances to make significant expenditures, such as
322 for consumer product reformulation, new equipment or training, the chemical action plan shall
323 include a targeted ABC Fund program. The timetable for completing substitutions established in
324 a chemical action plan shall take into consideration the financial needs of the manufacturers and
325 users of the priority chemical substance.

326 (v) Where substitution planning requirements are imposed on large quantity toxics users
327 or toxics users within priority user segments, those toxics users shall be exempt from the
328 requirements of section 12 of this chapter for that particular priority chemical substance for as
329 long as the substitution requirements are in effect.

330 (c) Where the council has not identified feasible safer alternatives for one or more
331 priority uses of a priority chemical substance, the chemical action plan shall: identify steps that
332 manufacturers and users of a priority chemical substance, state agencies and others (as
333 appropriate) shall take to identify or develop a feasible safer alternative for the priority chemical
334 substance use; shall require manufacturers and users of priority chemical substances to reduce
335 human exposure to and environmental contamination from the priority chemical substance in that
336 use; where possible seek to strengthen Massachusetts business and develop job opportunities;
337 and coordinate state activities to accomplish this goal. In preparing the chemical action plan, the
338 department shall consult with the institute, the office, and other relevant state agencies and
339 authorities to develop a plan that coordinates the actions of these agencies and authorities to
340 achieve the plan's goal. The department shall consider the potential impacts to human health and
341 the environment of the continued and unmitigated use of the priority chemical substance. The

342 chemical action plan for priority uses of a priority chemical substance for which the council has
343 not identified a feasible safer alternative may include, but shall not be limited to, the following:

344 (i). research into and development of safer alternatives to the use of a priority chemical
345 substance (such investigations may address specific priority chemical substance uses or specific
346 applications within a consumer product category);

347 (ii). where appropriate, requirements for handling, storage and/or waste management, as
348 appropriate to reduce exposure to workers and consumers to the priority chemical substance in
349 priority uses;

350 (iii). requirements for consumer product labeling and other notification to users that a
351 consumer product contains a priority chemical substance and advice on the proper handling and
352 disposal to minimize human exposure to the priority chemical substance; and

353 (iv). limitations on certain continued uses of the priority chemical substance in specific
354 applications, as appropriate.

355 (d) Each chemical action plan shall include draft regulations required for implementation.
356 Such regulations shall include appropriate requirements for manufacturers and users of priority
357 chemical substances to file with the department plans to achieve compliance, periodic reports
358 about progress toward implementation or about continued use of the priority chemical substance,
359 and periodic certifications of compliance with any substitution or risk reduction requirements, or
360 alternatively:

361 (i). authorize the filing with the department of an application to use an alternative
362 substance that has not been identified as an acceptable alternative, documenting with toxicity and

363 exposure data how the proposed alternative substance would ensure protection of health and the
364 environment and, in response to such request, the department, in consultation with the institute,
365 shall determine whether such alternative is acceptable, or

366 (ii). authorize the filing with the department of an application for a waiver of a
367 substitution deadline, certifying that there is no safer alternative that is technically or
368 economically feasible for a particular use of the substance; provided, however, that such waiver
369 application shall include:

370 (a) identification of the specific use of the priority chemical substance for which a waiver
371 is sought;

372 (b) identification of all alternatives considered and their cost and feasibility
373 considerations;

374 (c) the basis for finding that there is no feasible safer alternative;

375 (d) documentation of any efforts to be taken to minimize the use of the priority chemical
376 substance and of human and environmental exposures to such substance until safer alternatives
377 are found and implemented; and

378 (e) the steps the applicant shall take to identify safer alternatives in the following 3 years;

379 (e) In deciding whether to grant a waiver, the department shall consider: (i) whether there
380 is a need for the use of the substance; (ii) whether no safer alternative is feasibly available, (iii)
381 whether ABC Fund assistance is available to the applicant and (iv) the impact on the economic
382 viability of Massachusetts businesses. Waivers shall not be granted for more than three years. In

383 deciding whether to grant a waiver application, the department may consult with the institute, the
384 office, and the department of economic development.

385 (f) After the department has prepared a draft chemical action plan, including draft
386 regulations, the draft plan shall be submitted to the council, and to the public for comment
387 pursuant to chapter 30A. The final chemical action plan (which shall contain the department's
388 final regulations) shall be approved by the council prior to promulgation of the regulations by the
389 department.

390 (g) A chemical action plan may be updated and amended from time to time by the
391 department to reflect new scientific and/or technical information about the hazards posed by a
392 priority chemical substance, the availability a safer alternatives for a priority chemical substance
393 in a particular priority use, the feasibility of substituting a safer alternative for a priority chemical
394 substance, new priority uses of a priority chemical substance, and other information without
395 limitation. Any such revised chemical action plan shall contain draft implementing regulations
396 prepared by the department. Once a final revised chemical action plan is approved by the
397 council, the department shall promulgate final implementing regulations.

398 Section 28. Interstate Cooperation in Chemical Substance Regulation

399 Certain functions provided for in this chapter may be transferred to or carried out in
400 cooperation with an interstate entity. The interstate entity may, among other functions: compile
401 and categorize chemical lists, produce alternatives assessment reports; develop model chemical
402 action plans and consumer product or chemical use registries. The department may promulgate
403 regulations to carry out this section.

404 SECTION 8 Violations of the Safer Alternatives Act

405 (a) Paragraph (B) of section 21 of chapter 21I of the General Laws as so appearing in the
406 2008 Official Edition is hereby amended by inserting in line XX after the word "twenty," the
407 following words: "or any person who violates any requirement of sections 24 through 28,
408 inclusive,"

409 (b) Section 21 of chapter 21I of the General Laws as so appearing in the 2008 Official
410 Edition is hereby amended by adding after subsection (C) the following subsection:

411 (D) End users of consumer products shall not be subject to enforcement action under this
412 chapter.

413 SECTION 9. Notwithstanding any general or special law to the contrary, an employer
414 separating one or more individuals from employment as a result of this act shall notify the
415 Department of Workforce Development at the time of separation. The local Workforce
416 Investment Board shall work with the Rapid Response Team set aside program within the
417 Department of Workforce Development to determine a separated individual's eligibility for
418 benefits under the set aside program. The Rapid Response Team shall establish criteria to
419 determine eligibility for benefits under the set aside program. Any individual deemed eligible for
420 benefits under this act shall be entitled to receive re-training, subject to the approval of the Rapid
421 Response Team, sufficient to qualify the individual for re-employment at a wage not less than
422 the wage he or she was receiving at the time of separation from employment. Any individual
423 deemed eligible for re-training benefits under this act shall also be eligible to receive
424 unemployment benefits during the entire period that he or she remains enrolled in, and in
425 compliance with, the requirements of any such approved retraining program.

426 SECTION 10. Study of Funding Mechanisms for the Safer Alternatives in Products
427 Program

428 (a) No later than one year after enactment of this section , the institute, in consultation
429 with the department and the office, shall complete a study on alternative funding mechanisms for
430 the safer alternatives in products program including, but not limited to, fees on manufacturers or
431 distributors of products containing priority chemical substances. The report shall be submitted to
432 the Joint Committee on Environment, Natural Resources and Agriculture. The institute shall
433 consider potential revenues generated by the fees, existing models for applying fees to consumer
434 products, the expected impact of fees on manufacturers and suppliers of products containing
435 toxic substances, and relationship to existing toxics user fees, the funding required for the
436 program to meet its statutory obligations and other relevant subjects. In preparing its report, the
437 institute shall consult with the administrative council and an ad hoc advisory committee,
438 including representatives from the legislature, business, environmental advocacy, public health
439 and labor communities.

440 (b) Following receipt of the report from the institute, the Joint Committee shall make
441 recommendation to the full House and Senate on the structure of the proposed fee with a vote to
442 be taken on the recommendation within one year.

443 SECTION 11. Nothing in this act shall require actions preempted by federal law.