

April 11, 2018

Executive Office of Governor Phil Scott
109 State Street, Pavilion
Montpelier, VT 05609

Dear Gov. Scott,

We write to encourage you to sign **S.103** into law. It is our understanding that you are now considering whether to sign or veto this pending legislation.

As you may know, we are among the gubernatorial appointees to the Chemicals of High Concern to Children Working Group, established under Act 188. Our task under law is to provide the Commissioner of Health with advice and recommendations regarding implementation of the requirements of Act 188. Our interest is in protecting children from chemical exposures that could cause them harm.

Children are uniquely vulnerable to toxic chemicals in their environment. This can include toxins in toys and other products marketed specifically for use by children. The science is clear that exposure to toxic chemicals early in life can trigger otherwise avoidable disease and dysfunction in children and adults. These negative outcomes can be prevented by avoiding chemical exposure in the first place.

In order to help safeguard children from environmental harm, the General Assembly passed Act 188 in 2014. Under this law, manufacturers of children's products are required to file reports with the State about their use of specific toxic chemicals in their manufacturing process. The law also establishes a process by which a children's product containing one or more of the toxins could be regulated.

However, the law as it stands includes certain provisions that may act as unnecessary barriers to regulatory action that could otherwise protect children from harm. This problem was recognized by a diverse working group established after the discovery of PFOA in drinking water wells in Bennington County. The working group (established under Act 154) made a number of recommendations on ways to prevent public exposure to toxic chemicals. Some of those important recommendations are now included in S.103.

The Role of the Working Group

Chief among those recommendations is one that will give Vermont's Commissioner of Health greater authority to act when a chemical threat to children is identified under Act 188. Current law prevents the Commissioner of Health from taking action to regulate or ban a children's product containing one of the toxins listed under the law unless and until the Chemicals of High Concern to Children Working Group – the group on which we serve – initiates the rulemaking process.

In contrast, under the bill we urge you to support (S.103), the Health Commissioner could act after consulting with the Working Group. We believe that this process will allow any concerns or questions from the Working Group to be raised and considered. The rest of the rulemaking process will provide further opportunities for broad public engagement.

Such a change will not undermine the value of the Working Group. We are confident that our opinions and those of our appointed colleagues will be heard. But even more importantly, the Health Commissioner will not be unnecessarily hindered or delayed from initiating reasonable steps to protect children from a product containing a known toxic chemical.

The Question of Children's Exposure to Toxins

Additional provisions in S.103 will address other concerns brought forward by a majority of the working group convened under Act 154. One worth noting would change the current requirement that the Health Commissioner determine that children "will be" exposed to a chemical of high concern before regulatory action can be initiated, to "may be" exposed.

Requiring a formal determination that children "will be exposed" is an unreasonably high bar that could cause unnecessary delays in action to protect children. A more precautionary approach would focus on the reasonable question of whether there "may be" exposure to the toxin in the children's product.

Conclusion

The proposed changes to Vermont law that are included in S.103 will, in our opinion, provide greater opportunities to prevent children from suffering avoidable harm due to chemical exposures. For this reason, we urge you to sign this bill into law.

Thank you for your consideration.

Sincerely,

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