

2011 DRAFTING REQUEST

Bill

Received: **02/14/2012**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Kelda Helen Roys (608) 266-5340**

By/Representing: **Cecely Castillo**

May Contact:

Drafter: **mkunkel**

Subject: **Trade Regulation - other**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Roys@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosures of certain chemicals in children's bedding products

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mkunkel 02/23/2012	mduchek 02/24/2012	rschluet 02/24/2012	_____	lparisi 02/24/2012	lparisi 02/28/2012	

FE Sent For:

*atkins
3/16*

<END>

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/?	mkunkel	2/24/12 MS		Rstbm 2/24			
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FE Sent For:

<END>

Kunkel, Mark

From: Castillo, Cecely
Sent: Monday, February 13, 2012 2:38 PM
To: Kunkel, Mark
Subject: Rep. Roys drafting request

Mark,

Kelda would like a disclosure bill drafted.

conspicuously labeled

Goal of bill:

- Require disclosure on packaging (clearly marked) on bedding products for children age 3 and under for the following chemicals
 - PVC (polyvinyl chloride)
 - DEHP [Bis(2-ethylhexyl) phthalate]
 - PBDE (Polybrominated Diphenyl Ethers)

Fines: (mirror last session's BPA ban – just \$ fines – no incarceration)

- Manufacturers could be fined up to \$5,000 for first violation; required to pay an additional \$10,000 per violation
- Wholesaler/Retailers could face fines up to \$200 per violation

Give me a ring if you have any questions. Thanks!

Cecely Castillo
Office of Rep. Roys

KELDA ROYS
STATE REPRESENTATIVE

81st District ★ Wisconsin State Assembly
State Capitol ★ Room 113 North
P.O. Box 8953 ★ Madison, WI 53708
(608) 266-5340 ★ Fax (608) 282-3681
Rep.Roys@legis.wi.gov

Kunkel, Mark

From: Castillo, Cecely
Sent: Wednesday, February 22, 2012 10:59 AM
To: Kunkel, Mark
Subject: Baby Bedding disclosure bill

Mark,

To be sure we are on the same page Kelda's co-sponsorship memo. I think the "clearly marked" wording needs to be "conspicuously labeled".

Can you let us know the timeframe of the draft?

Thanks!

DRAFT

To: All Legislators
From: Rep. Roys & Sen. Lassa
Date: February 22, 2012
Re: Co-sponsorship: Baby Bedding Protection Act
Deadline: **5:00 pm on Friday, March 2, 2012**

This bill requires conspicuous labeling of baby bedding products (for children three years and under) sold in Wisconsin for three of the most noxious, harmful chemicals commonly found in baby bedding.

Last session, Sen. Lassa and I were incredibly proud to author the BPA-Free Kids Act, which banned a toxic chemical from baby bottles and cups. The BPA-Free Kids Act passed with near-unanimous bipartisan support. It bans the manufacture and sale in Wisconsin of children's bottles and cups that contain bisphenol-A (BPA) and requires them to be labeled "BPA Free." The passage of the BPA-Free Kids Act marked a great success in protecting babies from toxins – it prioritized children's health and safety over big chemical companies. There are still many baby products manufactured or sold in Wisconsin that contain harmful chemicals, however.

The Baby Bedding Protection Act builds upon our work to ensure child safety and protect infants and young children from toxic chemical exposure. Right now, many bedding products for babies contain harmful chemicals, and parents have no assurance or easy way of knowing whether particular bedding is safe for their babies or not. Since babies spend many hours exposed to bedding materials, parents deserve to have critical information about whether these materials contain chemicals that could harm their babies or negatively impact their development.

This bill is NOT a ban; it simply requires that products be conspicuously labeled if they contain any or all of these three toxic chemicals. We have a responsibility to protect the health and well-being of consumers, especially young children, who are more negatively impacted by chemical exposure than adults.

-

2/22/2012

What the Baby Bedding Protection Act does

- **Requires conspicuously marked labeling** on packaging of bedding products for children aged 3 and under if they contain any or all of the following chemicals
 - PVC (polyvinyl chloride)
 - DEHP [Bis(2-ethylhexyl) phthalate]
 - PBDE (Polybrominated Diphenyl Ethers)
- **Penalties** mirror last session's BPA ban forfeiture structure
 - Manufacturers could be fined up to \$5,000 for first violation; required to pay an additional \$10,000 per violation
 - Wholesaler/Retailers could face fines up to \$200 per violation

The LRB draft will be provided as soon as available.

The deadline for co-sponsorship is Friday March 2, 2012 at 5:00 PM. To cosponsor this bill please contact the Rep. Roys office at 266-5340 – or respond to this e-mail.

KELDA ROYS
STATE REPRESENTATIVE
81st District « Wisconsin State Assembly
State Capitol « Room 113 North
P.O. Box 8953 « Madison, WI 53708
(608) 266-5340 « Fax (608) 282-3681
Rep.Roys@legis.wi.gov

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Give me a ring if you have any questions. Thanks!

Cecely Castillo
Office of Rep. Roys

2/22/2012

KELDA ROYS
STATE REPRESENTATIVE

81st District ★ Wisconsin State Assembly
State Capitol ★ Room 113 North
P.O. Box 8953 ★ Madison, WI 53708
(608) 266-5340 ★ Fax (608) 282-3681
Rep.Roys@legis.wi.gov

Kunkel, Mark

From: Kunkel, Mark
Sent: Wednesday, February 22, 2012 3:21 PM
To: Kunkel, Mark
Subject: wikipedia entries

Polyvinyl chloride, commonly abbreviated **PVC**, is the third most widely produced plastic, after polyethylene and polypropylene.^[2] PVC is widely used in construction because it is durable, cheap, and easily worked. PVC production is expected to exceed 40 million tonnes by 2016.

It can be made softer and more flexible by the addition of plasticizers, the most widely used being phthalates. In this form, it is used in clothing and upholstery, electrical cable insulation, inflatable products and many applications in which it replaces rubber.

Bis(2-ethylhexyl)phthalate, commonly abbreviated **DEHP**, is an organic compound with the formula $C_6H_4(C_8H_{17}COO)_2$. It is sometimes called **dioctyl phthalate** and abbreviated **DOP**. It is the most important "phthalate," being the diester of phthalic acid and the branched-chain 2-ethylhexanol. This colourless viscous liquid is soluble in oil, but not in water. It possesses good plasticizing properties. Being produced on a massive scale by many companies, it has acquired many names and acronyms, including **BEHP** and **di-2-ethyl hexyl phthalate**.

Polybrominated diphenyl ethers or **PBDE**, are organobromine compounds that are used as flame retardants. Like other brominated flame retardants, PBDEs have been used in a wide array of products, including building materials, electronics, furnishings, motor vehicles, airplanes, plastics, polyurethane foams, and textiles. They are structurally akin to the PCBs and other polyhalogenated compounds, consisting of two halogenated aromatic rings. PBDEs are classified according to the average number of bromine atoms in the molecule. The health hazards of these chemicals have attracted increasing scrutiny, and they have been shown to reduce fertility in humans at levels found in households.^[1] Their chlorine analogs are polychlorinated diphenyl ethers (PCDEs). Because of their toxicity and persistence, their industrial production is to be eliminated under the Stockholm Convention, a treaty to control and phase out major persistent organic pollutants (POP).



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4111/1

MDK:/:....

med

O-note

2011 BILL

Friday
2-24

1 AN ACT ^{Gen}...; relating to: children's bedding containing certain chemicals and
2 providing penalties.

Conspicuously

or three

FDO
SPELLING

Analysis by the Legislative Reference Bureau

This bill requires in-state manufacturers, wholesale sellers, and retailers of children's bedding that contains a specified chemical to ensure that the retail packaging for the children's bedding is labelled with a statement ^{that} the children's bedding contains the chemical. The bill defines "children's bedding" as any mattress, upholstered spring, comforter, pad, cushion, or pillow that is designed and manufactured for the purpose of sleeping or reclining and that is primarily intended by the manufacturer for use by children ^{or three} 3 years of age or younger. The chemicals that are subject to the bill's labelling requirement are bis(2-ethylhexyl)phthalate, polybrominated diphenyl ethers, and polyvinyl chloride. A manufacturer who violates the bill is subject to a forfeiture of ~~no less than \$100 and no more than \$10,000~~ for each violation. A wholesale seller or retailer who violates the bill is subject to a forfeiture of no more than \$200 for each violation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Subsequent

no more than \$5,000 for a first violation and

BILL

^x
1 **SECTION 1.** 100.2095 (1) of the statutes is renumbered 100.2095 (1) (intro.) and

2 amended to read:

3 100.2095 (1) DEFINITIONS. (intro.) In this section, "bedding":

4 (a) "Bedding" means any mattress, upholstered spring, comforter, pad,
5 cushion, or pillow designed and manufactured for the purpose of sleeping or
6 reclining.

History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

7 **SECTION 2.** 100.2095 (1) (b) of the statutes is created to read:

8 100.2095 (1) (b) "Children's bedding" means bedding primarily intended by the
9 manufacturer for use by children 3 years of age or younger.

10 **SECTION 3.** 100.2095 (1) (c) of the statutes is created to read:

11 100.2095 (1) (c) "DEHP" means bis(2-ethylhexyl)phthalate.

12 **SECTION 4.** 100.2095 (1) (d) of the statutes is created to read:

13 100.2095 (1) (d) "PBDE" means polybrominated diphenyl ethers.

14 **SECTION 5.** 100.2095 (1) (e) of the statutes is created to read:

15 100.2095 (1) (e) "PVC" means polyvinyl chloride.

16 **SECTION 6.** 100.2095 (2) (title) of the statutes is created to read:

17 100.2095 (2) (title) ALL BEDDING.

18 **SECTION 7.** 100.2095 (2) (a) and (b) of the statutes are renumbered 100.2095

19 (2) (am) 1. and 2., and 100.2095 (2) (am) 2., as renumbered, is amended to read:

20 100.2095 (2) (am) 2. For the purpose of labeling bedding under ~~par. (a) subd.~~
21 1., the label shall be not less than 3 inches by 4.5 inches in size and shall be sewed
22 to the bedding and the print appearing on the label shall be not less than one-eighth
23 of an inch in height.

History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

24 **SECTION 8.** 100.2095 (2m) of the statutes is created to read:

BILL

1 100.2095 (2m) CHILDREN'S BEDDING. (a) No person may manufacture in this
2 state children's bedding intended for retail sale that contains PVC, DEHP, or PBDE
3 unless the person ensures that the retail packaging of the children's bedding is
4 conspicuously labelled with a statement that the children's bedding contains PVC,
5 DEHP, or PBDE. FIX SPELLING

6 (b) No person may sell, or offer for sale, at wholesale or retail in this state
7 children's bedding that contains PVC, DEHP, or PBDE unless the person ensures
8 that the retail packaging of the children's bedding is conspicuously labelled with a
9 statement that the children's bedding contains PVC, DEHP, or PBDE.

10 **SECTION 9.** 100.2095 (3) of the statutes is renumbered 100.2095 (2) (bm) and
11 amended to read:

12 100.2095 (2) (bm) No person in the business of manufacturing, distributing or
13 selling bedding may manufacture, distribute, sell, offer for sale, consign for sale or
14 possess with intent to distribute, sell, offer for sale or consign for sale any article of
15 bedding unless the bedding is labeled as provided in sub. (2) par. (am).

16 History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

17 **SECTION 10.** 100.2095 (4) of the statutes is renumbered 100.2095 (2) (c).

18 **SECTION 11.** 100.2095 (5) of the statutes is renumbered 100.2095 (2) (d).

19 **SECTION 12.** 100.2095 (6) (title) of the statutes is created to read:

20 100.2095 (6) (title) ENFORCEMENT; PENALTIES.

21 **SECTION 13.** 100.2095 (6) (a) of the statutes is amended to read:

22 100.2095 (6) (a) Any person suffering pecuniary loss because of a violation of
23 sub. (3), (4) or (5) (2) (bm), (c), or (d) may commence an action for the pecuniary loss
and if the person prevails, the person shall recover twice the amount of the pecuniary

BILL

1 loss or \$200 for each violation, whichever is greater, together with costs, including
2 reasonable attorney fees.

3 History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

SECTION 14. 100.2095 (6) (b) of the statutes is amended to read:

4 100.2095 (6) (b) The department may commence an action in the name of the
5 state to restrain by temporary or permanent injunction a violation of sub. (3), (4) or
6 (5) (2) (bm), (c), or (d) or (2m). Before entry of final judgment, the court may make
7 any necessary orders to restore to any person any pecuniary loss suffered by the
8 person because of the violation.

9 History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

SECTION 15. 100.2095 (6) (c) of the statutes is amended to read:

10 100.2095 (6) (c) The department or any district attorney may commence an
11 action in the name of the state to recover a forfeiture to the state of not less than \$100
12 nor more than \$10,000 for each violation of sub. (3), (4) or (5) (2) (bm), (c), or (d) or

13 (2m) (a). *INSERT Y-14*

14 History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

SECTION 16. 100.2095 (6) (c) of the statutes is created to read:

15 100.2095 (6) (c) The department or any district attorney may commence an
16 action in the name of the state to recover a forfeiture to the state of not more than
17 \$200 for each violation of sub. (2m) (b).

SECTION 17. 100.2095 (6) (d) of the statutes is amended to read:

18 100.2095 (6) (d) A person who violates sub. (3), (4) or (5) (2) (bm), (c), or (d) may
19 be fined not more than \$10,000 or imprisoned for not more than 9 months or both.
20 Each day of violation constitutes a separate offense.
21

22 History: 1997 a. 260; 1999 a. 32 s. 169; 2001 a. 109.

SECTION 18. Effective date.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4111/1dn
MDK:.....

Date

med

Representative Roys:

make plain

1. The bill defines children's bedding, in part, as bedding as defined under current law, which is "any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and manufactured for the purpose of sleeping or reclining." See s. 100.2095 (1). Is that okay, or should additional products be included?

2. Current law imposes certain labelling requirements for all bedding. This bill requires retail packaging for children's bedding, rather than the bedding itself, to be labelled regarding PVC, DEHP, and PBDE. However, children's bedding must also comply with labelling required under current law. Is that okay, or do you want the children's bedding to be labelled, instead of the retail packaging?

FK SPELLING

3. I included the bill's requirements in s. 100.2095, which deals with labelling of bedding. Do you want to include in the bill any provisions comparable to s. 100.335, which pertains to child's containers containing bisphenol A? For example, s. 100.335 does not apply to the sale of used child's containers. See s. 100.335 (6). Do you want to revise the bill to include an exemption for the sale of used children's bedding? Also, s. 100.335 (5) allows DATCP to issue recall orders. Do you want to include similar authority in the bill? In addition, s. 100.335 (7) requires a court to impose a surcharge, in addition to a fine or forfeiture, for a violation. The surcharge is appropriated to DATCP for enforcement of s. 100.335. Do want a similar surcharge for enforcement of the bill?

4. The bill creates forfeitures, rather than fines, for violations. The difference is that a forfeiture is assessed in a civil proceeding and a fine is assessed in a criminal proceeding, which has a higher burden of proof than a civil proceeding. Is that okay?

*5. I delayed ^{the} effective date by approximately 3 months to give manufacturers, wholesale sellers, and retailers time to comply with the bill. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4111/lins
MDK:.....

1
2
3
4
5
6

✓
INSERT 4-14:

SECTION 1. 100.2095 (6) (cg) of the statutes is created to read:

✓
100.2095 (6) (cg) The department or any district attorney may commence an
action in the name of the state to recover a forfeiture to the state of not more than
\$5,000 for a first violation, and not more than \$10,000 for each subsequent violation,
✓
of sub. (2m) (a).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4111/1dn

MDK:med:rs

February 24, 2012

Representative Roys:

1. The bill defines children's bedding, in part, as bedding as defined under current law, which is "any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and manufactured for the purpose of sleeping or reclining." See s. 100.2095 (1). Is that okay, or should additional products be included?
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5. I delayed the effective date by approximately 3 months to give manufacturers, wholesale sellers, and retailers time to comply with the bill. Is that okay?

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Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Parisi, Lori

From: Castillo, Cecely

Sent: Tuesday, February 28, 2012 10:28 AM

To: LRB.Legal

Subject: Draft Review: LRB 11-4111/1 Topic: Disclosures of certain chemicals in children's bedding products

Please Jacket LRB 11-4111/1 for the ASSEMBLY.

2/28/2012