

SENATE No. 207

The Commonwealth of Massachusetts

PRESENTED BY:

Cindy F. Friedman

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:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>

SENATE No. 207

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 207) of Cindy F. Friedman and Joanne M. Comerford for legislation relative to the disclosure of toxic chemicals in children’s products. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 149 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 is hereby amended by inserting after
2 section 27 the following section:-

3 Section 28. (a) For the purposes of this section, the following terms shall have the
4 following meanings unless the context clearly requires otherwise:

5 “Board”, the science advisory board of the Toxics Use Reduction Institute at the
6 University of Massachusetts Lowell.

7 “Children”, natural persons under the age of 12.

8 “Children’s product”, consumer products for use by children, including: (i) toys; (ii)
9 children’s clothing; (iii) children's cosmetics and personal care products; (iv) children's jewelry

10 and novelty products; (v) children’s school supplies; (vi) children’s bedding, furniture, and
11 furnishings; (vii) child car seats; (viii) products to help a child with sucking or teething, or to
12 facilitate sleep, relaxation, or the feeding of a child; (ix) products that meet any of the following
13 conditions: represented in its packaging, display, or advertising as appropriate for use by
14 children, sold in conjunction with, attached to, or packaged together with other products that are
15 packaged, displayed, or advertised as appropriate for use by children sold in a retail store,
16 catalogue, or online website, in which a person exclusively offers for sale products that are
17 packaged, displayed, or advertised as appropriate for use by children, or sold in a discrete portion
18 of a retail store, catalogue, or online website, in which a person offers for sale products that are
19 packaged, displayed, or advertised as appropriate for use by children.

20 “Council”, the administrative council on toxics use reduction established in section 4 of
21 chapter 21I.

22 “De minimis level”, (i) for a chemical that is an intentionally added chemical in a
23 component of a consumer product, the practical quantification limit; (ii) for a chemical that has a
24 contaminant present in a component of a consumer product, a concentration of 100 parts per
25 million; or (iii) for an engineered nanoobject, there shall be no de minimis level.

26 “Department”, the department of environmental protection.

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

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

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

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

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

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

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

43 (b) The department, in consultation with the council and the board, shall maintain and
44 publish a list of toxic chemicals of concern in children’s products, hereinafter referred to as “the
45 chemicals of concern list”, which shall be available to the public on the department’s website.

46 The chemicals of concern list shall include:

47 (1) chemicals recognized as carcinogens, mutagens and reproductive toxins;

48 (2) chemicals recognized as persistent, bioaccumulative and toxic chemicals;

49 (3) chemicals recognized as endocrine disruptors;

50 (4) any chemicals listed in the State of Vermont State Chemicals of Concern, State of
51 Oregon Chemicals of Concern, State of New York Chemicals of Concern, Washington State list
52 of Chemicals of Concern and the State of Maine List of Chemicals of High Concern; and

53 (5) any other chemicals of equivalent concern, as determined by the institute, in
54 consultation with the board.

55 In developing the chemicals of concern list, the department may also consult additional
56 published authoritative lists of chemical categorizations, including, but not limited to, the
57 Canadian Domestic Substances List Categorization, the European Commission list of Substances
58 of Very High concern, the California Safer Consumer Products list of Chemicals of Concerns,
59 and the International Agency for Research on Cancer list of carcinogens.

60 As needed, but not less frequently than every 4 years, the department, in consultation
61 with the council and the board, shall update the chemicals of concern list to incorporate new
62 scientific information and data and shall publish the revised list on the department's website.

63 (c) A manufacturer of a children's product for sale in the commonwealth that contains a
64 chemical that is included on the current chemicals of concern list under subsection (b) in an
65 amount greater than a de minimis level shall notify the department in writing on a biennial basis;
66 provided, however, if the children's product contains a listed chemical that is an engineered
67 nanoobject, the manufacturer shall notify the department in writing on a biennial basis regardless
68 of the amount of chemical present. The manufacturer's written notice to the department shall
69 include:

70 (1) the name of the chemical used or produced and its chemical abstracts service registry
71 number;

72 (2) a brief description of the product or product component containing the chemicals,
73 including the Global Product Classification product brick description;

74 (3) the brand name, product model, and the universal product code if the product has such
75 a code;

76 (4) a description of the function of the chemical in the product;

77 (5) the amount of the chemical used in each unit of the product or product component,
78 which may be reported in ranges, rather than the exact amount;

79 (6) the name and address of the manufacturer and the name, address, and phone number
80 of a contact person for the manufacturer; and

81 (7) the function of the chemical in the product.

82 (d) The department shall make information reported under subsection (c) regarding
83 chemicals of concern in children's products available to the public via the IC2 database. At a
84 minimum, the IC2 database shall include:

85 (1) chemical names;

86 (2) chemical abstracts service registry numbers;

87 (3) product name;

88 (4) model and universal product code;

89 (5) manufacturer;

90 (6) concentration of the chemical in the product, which can be expressed in a range; and

91 (7) any other information that the department deems relevant.

92 In creating the IC2 database, the department may cooperate with other states that have
93 made similar data publicly available.

94 SECTION 2. Not later than September 1, 2021, the department of environmental
95 protection shall promulgate regulations and fees necessary for the implementation and
96 enforcement of Section 1.

97 SECTION 3. Not later than December 1, 2021, the department of environmental
98 protection, in consultation with the science advisory board of the Toxics Use Reduction Institute
99 at the University of Massachusetts Lowell and the administrative council on toxics use reduction
100 established in section 4 of chapter 21I of the General Laws, shall submit a report on the toxic
101 chemicals of concern in children's products to the joint committee on public health, the joint
102 committee on the environment, natural resources and agriculture, the house and senate
103 committees on global warming and climate change and any other appropriate standing
104 committees of the legislature. The report shall include policy recommendations for addressing
105 toxic chemicals in children's products, including, but not limited to: (i) ways, in addition to the
106 Interstate Chemicals Clearinghouse, to inform consumers about toxic chemicals in children's
107 products; (ii) policies to protect children from toxic chemical exposures; (iii) criteria for
108 designating certain chemicals on the chemicals of concern list established in subsection (b) of
109 section 28 of chapter 21I of the General Laws as dangerous chemicals that should be banned in
110 children's products; and (iv) any proposed regulations and legislation necessary to carry out the
111 report's recommendations. The department shall make the report available on its website and
112 may publicize it through any other appropriate channels.