

SENATE No. 00397

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 passage of the accompanying bill:

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

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PETITION OF:

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

<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Susan C. Fargo</i>	<i>Third Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex and Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol, and Plymouth</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>

SENATE No. 00397

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 forthwith 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 advantages
41 of and developments in safer alternatives and the requirements of this chapter, which shall
42 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, updates, guides
45 and other publications and other means of providing technical information for consumers and, as
46 appropriate, work in coordination with the office;

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

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

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

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

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

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

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

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

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

98 (6) publications focused on particular user sectors.

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

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

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

109 Section 24. Safer Alternatives Definitions

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

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

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

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

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

119 and

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

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

128 fuels; or (4) required to be present or used in the manufacturing of a product manufactured in
129 Massachusetts by a contractor or subcontractor pursuant to a contract with the Department of
130 Defense or the Department of Homeland Security.

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

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

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

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

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

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

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

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

159 Section 25. Designation and Assessment of Priority Chemical Substances

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

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

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

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

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

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

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

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

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

193 required above for a consumer product category rather than an individual consumer product.

194 The manufacturer shall update and revise the notification whenever there is a significant change
195 in the information or when requested by the department.

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

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

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

211 (v) Distribution of information:

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

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

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

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

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

231 (i). identify the uses and functions of the priority chemical substance (including its incorporation
232 into consumer products), focusing on uses and functions in the Commonwealth. Uses and
233 functions shall be identified and selected for further study and action, with highest priority given
234 to uses that adversely impact children, infants, developing fetuses, and workers, and other
235 vulnerable populations, consistent with the criteria set forth in section 25(b)(ii).

- 236 (ii). identify whether alternatives are available for those selected uses and functions of the
237 priority chemical substance;
- 238 (iii). identify whether any of the selected uses of the priority chemical substance are of a clearly
239 unnecessary nature;
- 240 (iv). research and study relevant factors to characterize feasible alternatives;
- 241 (v). provide a qualitative discussion of the economic viability, opportunities and costs associated
242 with adopting and implementing any safer alternatives. Such discussion may include a
243 qualitative characterization of the economic impacts and benefits of substitution, the extent of
244 human exposure to the priority chemical substance that could be eliminated through substitution
245 or other actions and potential public health benefits or reductions in health care costs;
- 246 (vi). identify selected uses of the priority chemical substance that do not currently have a feasible
247 safer alternative available and make recommendations for promoting research and development
248 of such alternatives; and any interim actions that may be taken to reduce human exposure to the
249 priority chemical substance until a feasible alternative is available;
- 250 (vii). use the chemicals categorization list developed by the institute and other published
251 chemical lists, including government lists of substances used in industry or in consumer
252 products, to assist in identifying potential safer alternatives;
- 253 (viii). seek comments from the science advisory board, the advisory committee and members of
254 the public, including all regions of the commonwealth;
- 255 (ix). publish the results of the safer alternatives assessment report; and

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

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

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

268 Section 26. Designation of Priority Chemical Substance Uses

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

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

281 Section 27. Chemical Action Plans

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

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

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

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

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

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

304 (b) require substitution of a safer alternative;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

370 (b) identification of all alternatives considered and their cost and feasibility
371 considerations;

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

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

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

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

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

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

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

396 Section 28. Interstate Cooperation in Chemical Substance Regulation

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

402 SECTION 8 Violations of the Safer Alternatives Act

403 (a) Paragraph (B) of section 21 of chapter 21I of the General Laws as so appearing in the
404 2008 Official Edition is hereby amended by inserting in line XX after the word “twenty,” the
405 following words: “or any person who violates any requirement of sections 24 through 28,
406 inclusive,”

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

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

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

424 SECTION 10. Study of Funding Mechanisms for the Safer Alternatives in Products
425 Program

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

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

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