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# HOUSE FILE NO. 458

## *FIRST COMMITTEE ENGROSSMENT*

February 2, 2009

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

February 23, 2009

By motion, recalled and re-referred to the Committee on Commerce and Labor

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*Referred by Chair to Labor and Consumer Protection Division.*

March 20, 2009

*Returned to the Committee on Commerce and Labor as Amended.*

1.1 A bill for an act  
1.2 relating to commerce; creating an advisory council on development and  
1.3 regulation of children's products; recommending a comprehensive framework  
1.4 for children's products that protect, support, and enhance human health, the  
1.5 environment, and economic development; providing appointments; proposing  
1.6 coding for new law in Minnesota Statutes, chapter 325F.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. **[325F.011] ADVISORY COUNCIL ON DEVELOPMENT AND**  
1.9 **REGULATION OF CHILDREN'S PRODUCTS.**

1.10 Subdivision 1. **Creation; composition.** (a) On or before January 1, 2010, an  
1.11 advisory council on children's products consisting of 15 voting members shall be created.

1.12 The council members shall be as follows:

1.13 (1) one scientist each appointed by the governor, majority leader of the senate,  
1.14 speaker of the house, minority leader of the senate, and minority leader of the house  
1.15 of representatives;

1.16 (2) one representative of a business organization each appointed by the governor,  
1.17 majority leader of the senate, speaker of the house, minority leader of the senate, and  
1.18 minority leader of the house of representatives;

1.19 (3) one representative of an environmental health organization each appointed by  
1.20 the governor, majority leader of the senate, speaker of the house, minority leader of the  
1.21 senate, and minority leader of the house of representatives;

1.22 (4) the commissioner of the Pollution Control Agency as a nonvoting member;

1.23 (5) the commissioner of health as a nonvoting member; and

1.24 (6) the commissioner of employment and economic development as a nonvoting  
1.25 member.

2.1 The scientists, business, and environmental health organization members shall have  
2.2 backgrounds and training in one or more of the following fields: environmental health,  
2.3 epidemiology, toxicology, occupational health, industrial hygiene, product design, or  
2.4 manufacturing.

2.5 (b) Each council member may appoint an alternate. Alternates shall serve in the  
2.6 absence of the member they replace.

2.7 (c) The voting members shall serve for terms of four years and may be reappointed  
2.8 by the appointing authority.

2.9 (d) The council shall select a chair from its members.

2.10 (e) The council shall designate liaisons to the council representing medical, research,  
2.11 and the legal profession.

2.12 (f) Members of the council may be compensated at a rate of \$55 per day when  
2.13 authorized by the council, plus expenses in the same manner and amount as provided by  
2.14 the commissioner's plan adopted under section 43A.18, subdivision 2.

2.15 Subd. 2. **Duties; recommendations.** (a) The advisory council shall issue  
2.16 recommendations as required under section 325F.1721.

2.17 (b) The advisory council shall develop a comprehensive framework for promoting  
2.18 safe and healthy products as required under section 325F.173.

2.19 (c) At the request of the chairs of any senate and house of representatives  
2.20 committees, the council shall meet with the members of the committees to discuss matters  
2.21 of legislative concern.

2.22 Subd. 3. **Meetings; voting.** (a) The council shall meet as frequently as necessary to  
2.23 carry out its duties and responsibilities. The council shall also conduct public hearings  
2.24 throughout the state as may be necessary to give interested persons an opportunity to  
2.25 comment and make suggestions on the operation of this chapter.

2.26 (b) The meetings of the council are subject to the state's open meeting law, chapter  
2.27 13D. All votes of the council must be public and recorded.

2.28 (c) At least once a year the council shall hold a joint meeting with the environmental  
2.29 health tracking and biomonitoring advisory panel to discuss and exchange information  
2.30 regarding their respective duties and activities.

2.31 Subd. 4. **Administrative support.** The commissioner of the Pollution Control  
2.32 Agency shall supply necessary office space, supplies, and staff support to assist the council  
2.33 and its executive director in their duties.

2.34 Sec. 2. **[325F.172] DEFINITIONS.**

3.1 (a) For the purposes of sections 325F.172 to 325F.173, the following terms have  
3.2 the meanings given them.

3.3 (b) "Alternative" means a substitute process, product, material, chemical, strategy,  
3.4 or combination of these that serves a functionally equivalent purpose to a chemical in a  
3.5 children's product.

3.6 (c) "Chemical" means a substance with a distinct molecular composition or a group  
3.7 of structurally related substances and includes the breakdown products of the substance or  
3.8 substances that form through decomposition, degradation, or metabolism.

3.9 (d) "Child" means a person under 12 years of age.

3.10 (e) "Children's product" means a children's product primarily intended for use by  
3.11 a child, such as baby products, toys, car seats, personal care products, and clothing.  
3.12 Children's product does not mean medication, drug, or food products, or the packaging  
3.13 of these products.

3.14 (f) "Commissioner" means commissioner of the Pollution Control Agency.

3.15 (g) "Department" means the Pollution Control Agency.

3.16 (h) "Green chemistry" means chemistry and chemical engineering that promotes  
3.17 products and processes that appropriately manage, reduce, or eliminate the use or  
3.18 generation of priority chemicals of high concern.

3.19 **Sec. 3. [325F.1721] CHEMICALS IN CHILDREN'S PRODUCTS.**

3.20 (a) The department shall monitor on an ongoing basis current state and federal  
3.21 regulatory and nonregulatory mechanisms, and all proposals for new regulations, designed  
3.22 to mitigate risk or prevent exposure to chemicals in children's products, including but not  
3.23 limited to incentives for product design that use the principles of green chemistry and  
3.24 lifecycle analysis to protect public health and the environment. The department shall  
3.25 report starting September 1, 2010, and each September 1 thereafter, to the advisory  
3.26 council created under section 325F.011 about all regulations and proposals adopted or  
3.27 issued within the prior 12 months.

3.28 (b) By December 15, 2010, and each December 15 thereafter, the advisory council  
3.29 shall review the report issued under paragraph (a) and make recommendations to the  
3.30 legislature:

3.31 (1) to adopt regulations or proposals identified under paragraph (a), including any  
3.32 modifications of the regulations or proposals; and

3.33 (2) to reject regulations or proposals identified in paragraph (a).

3.34 The advisory council shall consider in making its recommendations whether the regulation  
3.35 or proposal is supported by peer-reviewed scientific evidence that the chemical in the

4.1 children's product is known to (i) harm the normal development of a fetus or child or cause  
4.2 other developmental toxicity, (ii) cause cancer, genetic damage, or reproductive harm,  
4.3 (iii) disrupt the endocrine or hormone system, (iv) damage the nervous system, immune  
4.4 system, or organs, or cause other systemic toxicity, or (v) be persistent, bioaccumulative,  
4.5 and toxic.

4.6 (c) A recommendation may only be made by the advisory council with the  
4.7 support of a majority of members of the council that includes at least three votes from  
4.8 scientists appointed under section 325F.011, subdivision 1, paragraph (a), clause (1).  
4.9 The advisory council shall identify in its report the regulations and proposals for which  
4.10 no recommendation was made.

4.11 **Sec. 4. [325F.173] COMPREHENSIVE FRAMEWORK FOR PROMOTING**  
4.12 **SAFE AND HEALTHY PRODUCTS THAT PROTECT, SUPPORT, AND**  
4.13 **ENHANCE HUMAN HEALTH, THE ENVIRONMENT, AND ECONOMIC**  
4.14 **DEVELOPMENT.**

4.15 (a) The advisory council created under section 325F.011 shall assess the need for,  
4.16 and feasibility and cost of, developing and implementing a comprehensive and integrated  
4.17 framework for promotion of chemistry and chemical engineering involved in the design of  
4.18 children's products that reduce or eliminate risks to health or the environment through  
4.19 the reduction in use or generation of priority chemicals of high concern while producing  
4.20 safe, affordable, high-quality children's products through safe and efficient manufacturing  
4.21 processes.

4.22 (b) If data or information is not available, the advisory council may obtain it  
4.23 under an appropriate agreement with other governmental agencies, or by request from  
4.24 manufacturers of the chemicals and manufacturers of children's products which use  
4.25 identified chemicals. To the extent practical, the advisory council may rely on evaluations  
4.26 conducted by other state or federal agencies, and may collect the information in aggregate  
4.27 form or in any other manner designed to protect trade secrets.

4.28 Any person providing information pursuant to this section may, at the time of  
4.29 submission, identify a portion of the information submitted to the department as trade  
4.30 secret information, pursuant to chapter 13. Information supplied that is a trade secret,  
4.31 and that is so marked at the time of submission, shall not be released to any member  
4.32 of the public. This section does not prohibit the exchange of properly designated trade  
4.33 secrets between public agencies when those trade secrets are relevant and necessary to the  
4.34 exercise of their jurisdiction if the public agencies exchanging those trade secrets preserve  
4.35 the protections afforded that information by this paragraph.

5.1 (c) No later than January 15, 2011, the advisory council shall report the result of its  
5.2 evaluation with recommendations for a comprehensive framework for promoting safe and  
5.3 healthy children's products to the chairs of the committees with jurisdiction over health  
5.4 policy, environment and natural resources policy, commerce, biosciences and emerging  
5.5 technologies, and business, industry, and jobs.

5.6 (d) The framework and plan shall address:

5.7 (1) program goals;

5.8 (2) roles and responsibilities for relevant governmental agencies;

5.9 (3) mechanisms for communication and program integration with federal and state  
5.10 governmental agencies and other key stakeholders;

5.11 (4) methods to promote product design and manufacturing processes that reduce or  
5.12 eliminate risks to health or the environment;

5.13 (5) methods for evaluating the health, safety, and environmental effects of children's  
5.14 products and their component chemicals;

5.15 (6) methods for assessing the health, safety, and environmental effects of chemicals  
5.16 in children's products and comparing potential functionally equivalent, technically  
5.17 feasible, and economically viable alternatives;

5.18 (7) methods for evaluating the costs and benefits of changes in product design and  
5.19 manufacturing processes, including effects on workers, businesses, and children;

5.20 (8) financial incentives, including, but not limited to, capital improvements,  
5.21 low-interest loans, and tax credits to promote research, design, engineering, and  
5.22 manufacture of children's products that protect, support, and enhance human health, the  
5.23 environment, and economic development;

5.24 (9) opportunities for public/private partnerships to promote framework goals;

5.25 (10) recommendations regarding education and outreach efforts; and

5.26 (11) recommendations regarding technology transfer of chemistry innovations and  
5.27 advancement, including identification of barriers and possible strategies for overcoming  
5.28 real or perceived impediments.

5.29 (e) No later than January 15, 2012, the advisory council shall report on any additions,  
5.30 revisions, or modifications it would recommend to the January 15, 2011, report.