To: Children’s product manufacturers, distributors, retailers and industry associations

From: Minnesota Department of Commerce
Minnesota Pollution Control Agency
Minnesota Department of Health

Subject: Regulation of toxic chemicals in children’s products and toys in Minnesota

Date: August 7, 2017

As a manufacturer, distributor, or retailer of children’s products in Minnesota, you must understand and follow Minnesota statutes that restrict toxic chemicals in consumer products. See the summaries of these laws on the following pages.

Our goal is for companies and state agencies to become partners in order to be national leaders protecting Minnesota’s children, environment and public health.

If one of your products violates any of the statutes listed, it should be removed from Minnesota shelves immediately. If sold online, it should be restricted from sales, direct delivery, or in-store pick-up for all Minnesota addresses.

Companies are expected to comply with the requirements in these Minnesota statutes. Three of the statutes have important requirements for chemicals used as replacements. To ensure compliance, our three agencies are randomly buying regulated products and testing them through lab analysis. A company that is found to be in violation of a statute is potentially subject to an enforcement action.

We encourage you to take a systematic approach to replacing chemicals of concern:

- Work within your company and across supply chains.
- Review the chemicals in the products that you make or sell.
- Identify where in the supply chain toxic chemicals are coming from and remove them.
- Replace the toxic chemicals with alternatives which available information shows to be safer.

If your company is not already making changes in this area, trade associations, government agencies, and nongovernmental organizations have resources to help you move toward safer products. These organizations can show you examples of incorporating safer product chemistry into corporate sustainability programs and into suppliers’ practices.
If you have questions about the statutes and related issues, please contact:

- Toy and children’s product compliance: Department of Commerce – 651-539-1500
- Product testing and safer alternatives: Pollution Control Agency – p2.pca@state.mn.us
- Chemicals of high concern to children; risks: Department of Health – health.risk@state.mn.us

Thank you for your time and attention.

Martin Fleischhacker
Assistant Commissioner of Enforcement
Minnesota Department of Commerce

Kirk Koudelka
Assistant Commissioner of Land Policy
Minnesota Pollution Control Agency

Paul Allwood
Assistant Commissioner for Health Protection
Minnesota Department of Health
Summaries of Minnesota Statutes Pertaining to Children’s Products

These summaries are provided for your convenience. We strongly encourage you to analyze the full language of the statutes and understand how they apply to your business. See the links provided below to the Revisor’s Office website for the full statutes.

**Minn. Stat. §§325F.08 – 325F.17**

[https://www.revisor.mn.gov/statutes/?id=325f.08](https://www.revisor.mn.gov/statutes/?id=325f.08)

**Hazardous Toys** – general prohibition on the import, manufacture, sale or distribution of a toy or other article intended for use by children under 14 which presents a hazard due to toxic properties which can produce personal injury or illness through ingestion, inhalation, or absorption through any body surface. This statute also prohibits toys which present an electrical, mechanical, or thermal hazard, or have properties of flammability or can produce asphyxiation or suffocation.

**Minn. Stat. §325E.389**

[https://www.revisor.mn.gov/statutes/?id=325E.389](https://www.revisor.mn.gov/statutes/?id=325E.389)

**Lead in Children’s Jewelry** – for children 6 and younger, restricts lead to various levels in substrate materials, surface coatings (including electroplated), components; test methods defined.

- Q Note: The State may enforce its statute where provisions are equivalent to U.S.; where they differ, the State may not enforce its statute.

**Minn. Stat. §325E.3891**

[https://www.revisor.mn.gov/statutes/?id=325E.3891](https://www.revisor.mn.gov/statutes/?id=325E.3891)

**Cadmium in Children’s Jewelry** – for children 6 and younger, restricts cadmium in accessible substrate materials and surface coatings to 75 parts per million or less; test methods defined in ASTM standard F-963; does not apply to products for which an existing federal standard applies to cadmium in accessible substrate materials and surface coatings as required under ASTM F-963.

**Minn. Stat. §325E.386**

[https://www.revisor.mn.gov/statutes/?id=325E.386](https://www.revisor.mn.gov/statutes/?id=325E.386)

**Products Containing Penta- or Octabrominated Diphenyl Ethers (flame retardants)** – including children’s products, but excluding some other products, restricts penta- or octabrominated diphenyl ethers to 0.1 percent by weight (1000 parts per million) or less.
Minn. Stat. §325F.173

https://www.revisor.mn.gov/statutes/?id=325F.174

Bisphenol A (BPA) in Infant Formula, Baby Food, or Toddler Food and Drink Containers – for babies 2 or younger or toddlers under 3, containers can contain no intentionally added BPA.

- Note: 325F.175 defines safety requirements for chemicals used to replace BPA for these containers.

Minn. Stat. §325F.177

https://www.revisor.mn.gov/statutes/?id=325F.177

Formaldehyde in Certain Children’s Products – for products intended to be applied to or introduced into the body of a child under 8 (excluding toys covered by ASTM F963), bans any intentional formaldehyde content, and limits free formaldehyde released by intentionally added chemicals to 0.05 percent (500 parts per million) or less.

- Note: 325F.178 defines safety requirements for chemicals used to replace formaldehyde or formaldehyde-releasing chemicals in these products.

Minn. Stat. §325F.071

https://www.revisor.mn.gov/statutes/?id=325F.071

Four Flame Retardants in Furniture Foam and Children’s Products – for upholstered residential furniture and products for children under 12, limits each of the four flame retardants in applicable products or components to 1,000 parts per million; applies to manufacturer sales and distribution 7/1/18; applies to retail sales 7/1/19; includes hexabromocyclododecane (HBCD), decabromo diphenyl ethers (deca-BDE), tris(1,3-dichloro-2-propyl)phosphate (TDCPP), tris(2-chloroethyl)phosphate (TCEP); limits chemicals used to replace these flame retardants.

- Note: Subdivision 3 defines safety requirements for chemicals used to replace these flame retardants
- Note: Also restricted by the State of Washington effective 2017 and 2018.

Minn. Stat. §116.9403

https://www.revisor.mn.gov/statutes/?id=116.9403

Toxic Free Kids Act – requires the identification of Chemicals of High Concern to Children under 12 (116.9402), and of Priority Chemicals; see program webpage and lists of chemicals at http://www.health.state.mn.us/divs/eh/hazardous/topics/toxfreekids/.
Minn. Stat. §145.945

https://www.revisor.mn.gov/statutes/?id=145.945

Triclosan in Consumer Products for Sanitizing or Hand and Body Cleansing — retail sale banned; ban does not apply to products specifically approved for consumer use by the U.S. Food and Drug Administration; see MDH information on triclosan at http://www.health.state.mn.us/divs/eh/risk/guidance/dwec/triclosaninfo.pdf.