



1 DETERMINE THAT IT IS NOT A CHEMICAL OF HIGH CONCERN, A CHEMICAL OF  
2 MODERATE CONCERN OR A CHEMICAL OF UNKNOWN CONCERN.

3 5. CHEMICAL OF MODERATE CONCERN. "CHEMICAL OF MODERATE CONCERN" MEANS  
4 A CHEMICAL IDENTIFIED BY AN AUTHORITATIVE GOVERNMENTAL ENTITY ON THE  
5 BASIS OF CREDIBLE SCIENTIFIC EVIDENCE AS BEING SUSPECTED OF CAUSING AN  
6 ADVERSE HEALTH OR ENVIRONMENTAL EFFECT LISTED IN SUBDIVISION ONE OF  
7 SECTION 37-0503 OF THIS TITLE.

8 6. CHEMICAL OF UNKNOWN CONCERN. "CHEMICAL OF UNKNOWN CONCERN" MEANS A  
9 CHEMICAL FOR WHICH INSUFFICIENT DATA ARE AVAILABLE TO CLASSIFY IT AS A  
10 CHEMICAL OF HIGH CONCERN, A CHEMICAL OF MODERATE CONCERN OR A CHEMICAL  
11 OF LOW CONCERN.

12 7. CHILDREN. "CHILDREN" MEANS PERSON OR PERSONS AGED TWELVE AND UNDER.

13 8. CHILDREN'S PRODUCT. "CHILDREN'S PRODUCT" MEANS A CONSUMER PRODUCT  
14 INTENDED FOR USE BY CHILDREN, SUCH AS BABY PRODUCTS, TOYS, CAR SEATS,  
15 PERSONAL CARE PRODUCTS AND CLOTHING, AND ANY CONSUMER PRODUCT CONTAINING  
16 A CHEMICAL OF HIGH CONCERN THAT WHEN USED OR DISPOSED OF WILL LIKELY  
17 RESULT IN A CHILD OR A PREGNANT WOMAN BEING EXPOSED TO THAT CHEMICAL.

18 9. CONSUMER PRODUCT. "CONSUMER PRODUCT" MEANS ANY ITEM SOLD FOR RESI-  
19 DENTIAL OR COMMERCIAL USE, INCLUDING ANY COMPONENT PARTS AND PACKAGING.  
20 "CONSUMER PRODUCT" DOES NOT INCLUDE A FOOD OR BEVERAGE OR AN ADDITIVE TO  
21 A FOOD OR BEVERAGE REGULATED BY THE FEDERAL FOOD AND DRUG ADMINIS-  
22 TRATION, A TOBACCO PRODUCT OR PAPER OR FOREST PRODUCTS OR A PESTICIDE  
23 REGULATED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY. "CONSUMER  
24 PRODUCT" ALSO DOES NOT INCLUDE A DRUG OR BIOLOGIC REGULATED BY THE  
25 FEDERAL FOOD AND DRUG ADMINISTRATION OR THE PACKAGING OF A DRUG OR  
26 BIOLOGIC REGULATED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION IF THE  
27 PACKAGING IS REGULATED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION.

28 10. DISTRIBUTOR. "DISTRIBUTOR" MEANS A PERSON WHO SELLS CONSUMER  
29 PRODUCTS TO RETAIL ESTABLISHMENTS ON A WHOLESALE BASIS.

30 11. MANUFACTURER. "MANUFACTURER" MEANS ANY PERSON WHO CURRENTLY MANU-  
31 FACTURES A FINAL CONSUMER PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE  
32 CONSUMER PRODUCT. IN THE CASE OF A CONSUMER PRODUCT THAT WAS IMPORTED  
33 INTO THE UNITED STATES, "MANUFACTURER" INCLUDES THE IMPORTER OR FIRST  
34 DOMESTIC DISTRIBUTOR OF THE CONSUMER PRODUCT IF THE PERSON WHO CURRENTLY  
35 MANUFACTURES OR ASSEMBLES THE CONSUMER PRODUCT OR WHOSE BRAND NAME IS  
36 AFFIXED TO THE CONSUMER PRODUCT DOES NOT HAVE A PRESENCE IN THE UNITED  
37 STATES.

38 12. PRIORITY CHEMICAL. "PRIORITY CHEMICAL" MEANS A CHEMICAL IDENTIFIED  
39 AS SUCH BY THE COMMISSIONER PURSUANT TO SUBDIVISION ONE OF SECTION  
40 37-0505 OF THIS TITLE.

41 13. SAFER ALTERNATIVE. "SAFER ALTERNATIVE" MEANS AN ALTERNATIVE THAT,  
42 WHEN COMPARED TO A PRIORITY CHEMICAL THAT IT COULD REPLACE, WOULD REDUCE  
43 THE POTENTIAL FOR HARM TO HUMAN HEALTH OR THE ENVIRONMENT OR THAT HAS  
44 NOT BEEN SHOWN TO POSE THE SAME OR GREATER POTENTIAL FOR HARM TO HUMAN  
45 HEALTH OR THE ENVIRONMENT AS THAT PRIORITY CHEMICAL.

46 S 37-0503. IDENTIFICATION OF CHEMICALS OF HIGH CONCERN.

47 1. CRITERIA. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS TITLE THE  
48 DEPARTMENT, IN CONCURRENCE WITH THE DEPARTMENT OF HEALTH SHALL PUBLISH A  
49 LIST OF CHEMICALS OF HIGH CONCERN. A CHEMICAL MAY BE INCLUDED ON THE  
50 LIST ONLY IF IT HAS BEEN IDENTIFIED BY AN AUTHORITATIVE GOVERNMENTAL  
51 ENTITY ON THE BASIS OF CREDIBLE SCIENTIFIC EVIDENCE AS BEING KNOWN AS:

52 (A) A CARCINOGEN, A REPRODUCTIVE OR DEVELOPMENTAL TOXICANT OR AN  
53 ENDOCRINE DISRUPTOR;

54 (B) PERSISTENT, BIOACCUMULATIVE AND TOXIC; OR

55 (C) VERY PERSISTENT AND VERY BIOACCUMULATIVE.

1 2. REVISIONS. THE DEPARTMENT MAY PERIODICALLY REVIEW AND REVISE THE  
2 LIST OF CHEMICALS OF HIGH CONCERN NO LESS THAN ONCE EVERY THREE YEARS.  
3 THE DEPARTMENT SHALL ADD CHEMICALS TO THE LIST IF, IN THE JUDGMENT OF  
4 THE DEPARTMENT OF HEALTH, THE CHEMICAL MEETS ONE OR MORE OF THE CRITERIA  
5 IN SUBDIVISION ONE OF THIS SECTION. IN THE EVENT THAT A NEW DETERMI-  
6 NATION IS MADE BY A GOVERNMENTAL ENTITY THAT A CHEMICAL MEETS THE HIGH  
7 CONCERN CRITERIA, NOTHING HEREIN SHALL PREVENT THE DEPARTMENT FROM  
8 ACTING TO ADD SUCH CHEMICALS OUTSIDE OF THE PERIODIC REVIEW PROCESS.  
9 THE DEPARTMENT MAY REMOVE A CHEMICAL FROM THE LIST OF CHEMICALS OF HIGH  
10 CONCERN BASED ON EVIDENCE THAT THE CHEMICAL IS NOT PRESENT IN A CHIL-  
11 DREN'S PRODUCT OR OTHERWISE WOULD NOT BE SUBJECT TO THE REQUIREMENTS OF  
12 THIS TITLE.

13 S 37-0505. IDENTIFICATION OF PRIORITY CHEMICALS.

14 1. DESIGNATION. THE COMMISSIONER MAY DESIGNATE A CHEMICAL OF HIGH  
15 CONCERN AS A PRIORITY CHEMICAL IF THE COMMISSIONER FINDS, IN CONCURRENCE  
16 WITH THE DEPARTMENT OF HEALTH:

17 (A) THE CHEMICAL OR ITS METABOLITES HAVE BEEN FOUND THROUGH BIOMONI-  
18 TORING TO BE PRESENT IN HUMANS, INCLUDING HUMAN BLOOD, UMBILICAL CORD  
19 BLOOD, BREAST MILK, URINE OR OTHER BODILY TISSUES OR FLUIDS;

20 (B) THE CHEMICAL HAS BEEN FOUND THROUGH SAMPLING AND ANALYSIS TO BE  
21 PRESENT IN HOUSEHOLD DUST, INDOOR AIR, DRINKING WATER OR ELSEWHERE IN  
22 THE HOME ENVIRONMENT;

23 (C) THE CHEMICAL HAS BEEN FOUND THROUGH MONITORING TO BE PRESENT IN  
24 FISH, WILDLIFE OR THE NATURAL ENVIRONMENT;

25 (D) THE CHEMICAL IS PRESENT IN A CONSUMER PRODUCT USED OR PRESENT IN  
26 THE HOME, SCHOOL, OR CHILDCARE CENTER;

27 (E) THE CHEMICAL HAS BEEN IDENTIFIED AS A HIGH PRODUCTION VOLUME CHEM-  
28 ICAL BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY; OR

29 (F) THE SALE OR USE OF THE CHEMICAL OR A PRODUCT CONTAINING THE CHEMI-  
30 CAL HAS BEEN BANNED IN ANOTHER STATE OR STATES WITHIN THE UNITED STATES.  
31 THE COMMISSIONER SHALL DESIGNATE AT LEAST TWO PRIORITY CHEMICALS WITH-  
32 IN THREE MONTHS OF THE EFFECTIVE DATE OF THIS TITLE.

33 2. UPDATES. THE COMMISSIONER SHALL REVIEW THE LIST OF CHEMICALS OF  
34 HIGH CONCERN AT LEAST ONCE EVERY THREE YEARS AND MAY DESIGNATE ADDI-  
35 TIONAL PRIORITY CHEMICALS IF THE COMMISSIONER FINDS THAT THE CHEMICALS  
36 MEET ONE OF THE CRITERIA LISTED IN SUBDIVISION ONE OF THIS SECTION.

37 3. REGULATIONS. THE COMMISSIONER SHALL ADOPT RULES AND REGULATIONS TO  
38 IMPLEMENT THE PROVISIONS OF THIS SECTION.

39 S 37-0507. DISCLOSURE OF INFORMATION ON PRIORITY CHEMICALS.

40 1. REPORTING OF CHEMICAL USE. NOT LATER THAN ONE HUNDRED EIGHTY DAYS  
41 AFTER A PRIORITY CHEMICAL IS IDENTIFIED PURSUANT TO SECTION 37-0505 OF  
42 THIS TITLE, A PERSON WHO IS A MANUFACTURER OR DISTRIBUTOR OF A CHIL-  
43 DREN'S PRODUCT FOR SALE OR DISTRIBUTION IN THIS STATE THAT CONTAINS A  
44 PRIORITY CHEMICAL SHALL NOTIFY THE DEPARTMENT IN WRITING UNLESS WAIVED  
45 BY THE COMMISSIONER PURSUANT TO THIS SECTION OR EXEMPT FROM THIS TITLE  
46 PURSUANT TO SECTION 37-0511 OF THIS TITLE. THIS WRITTEN NOTICE MUST  
47 IDENTIFY THE CHILDREN'S PRODUCT, THE NUMBER OF UNITS SOLD OR DISTRIBUTED  
48 FOR SALE IN THE STATE OR NATIONALLY, THE PRIORITY CHEMICAL OR CHEMICALS  
49 CONTAINED IN THE CHILDREN'S PRODUCT, THE AMOUNT OF SUCH CHEMICALS IN  
50 EACH UNIT OF CHILDREN'S PRODUCT AND THE INTENDED PURPOSE OF THE CHEMI-  
51 CALS IN THE CHILDREN'S PRODUCT.

52 2. SUPPLEMENTAL INFORMATION. THE MANUFACTURER OR DISTRIBUTOR OF A  
53 CHILDREN'S PRODUCT THAT CONTAINS A PRIORITY CHEMICAL SHALL PROVIDE THE  
54 FOLLOWING ADDITIONAL INFORMATION IF REQUESTED BY THE DEPARTMENT:

55 (A) INFORMATION ON THE LIKELIHOOD THAT THE CHEMICAL WILL BE RELEASED  
56 FROM THE CHILDREN'S PRODUCT TO THE ENVIRONMENT DURING THE CHILDREN'S

1 PRODUCT'S LIFE CYCLE AND THE EXTENT TO WHICH USERS OF THE CHILDREN'S  
2 PRODUCT ARE LIKELY TO BE EXPOSED TO THE CHEMICAL;

3 (B) INFORMATION ON THE EXTENT TO WHICH THE CHEMICAL IS PRESENT IN THE  
4 ENVIRONMENT OR HUMAN BODY; AND

5 (C) AN ASSESSMENT OF THE AVAILABILITY, COST, FEASIBILITY AND PERFORM-  
6 ANCE, INCLUDING POTENTIAL FOR HARM TO HUMAN HEALTH AND THE ENVIRONMENT,  
7 OF ALTERNATIVES TO THE PRIORITY CHEMICAL AND THE REASON THE PRIORITY  
8 CHEMICAL IS USED IN THE MANUFACTURE OF THE CHILDREN'S PRODUCT IN LIEU OF  
9 IDENTIFIED ALTERNATIVES. IF AN ASSESSMENT ACCEPTABLE TO THE DEPARTMENT  
10 IS NOT SUBMITTED IN A TIMELY MANNER, THE DEPARTMENT MAY ASSESS A FEE ON  
11 THE MANUFACTURER OR DISTRIBUTOR TO COVER THE COSTS TO PREPARE AN INDE-  
12 PENDENT REPORT ON THE AVAILABILITY OF SAFER ALTERNATIVES BY A CONTRACTOR  
13 OF THE DEPARTMENT'S CHOICE.

14 THE MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PRODUCT THAT CONTAINS  
15 A PRIORITY CHEMICAL MAY PROVIDE ADDITIONAL INFORMATION TO THE DEPARTMENT  
16 REGARDING THE POTENTIAL FOR HARM TO HUMAN HEALTH AND THE ENVIRONMENT  
17 FROM SPECIFIC USES OF THE PRIORITY CHEMICAL.

18 3. WAIVER OF REPORTING; FEE; EXTENSION OF DEADLINE. THE COMMISSIONER  
19 MAY WAIVE ALL OR PART OF THE NOTIFICATION REQUIREMENT UNDER SUBDIVISION  
20 ONE OF THIS SECTION FOR ONE OR MORE SPECIFIED USES OF A PRIORITY CHEMI-  
21 CAL IF THE COMMISSIONER DETERMINES THAT; SUBSTANTIALLY EQUIVALENT INFOR-  
22 MATION IS ALREADY PUBLICLY AVAILABLE, INCLUDING INFORMATION PROVIDED AS  
23 PART OF PROGRAMS IN OTHER STATES; THAT THE INFORMATION IS NOT NEEDED FOR  
24 THE PURPOSES OF THIS TITLE OR THAT THE SPECIFIED USE OR USES ARE MINOR  
25 IN VOLUME. THE DEPARTMENT MAY ASSESS A FEE PAYABLE BY THE MANUFACTURER  
26 OR DISTRIBUTOR UPON SUBMISSION OF THE NOTIFICATION TO COVER THE DEPART-  
27 MENT'S REASONABLE COSTS IN MANAGING THE INFORMATION COLLECTED. THE  
28 DEPARTMENT MAY EXTEND THE DEADLINE FOR SUBMISSION OF THE INFORMATION  
29 REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION FOR ONE OR MORE SPECIFIED  
30 USES OF A PRIORITY CHEMICAL IN A CHILDREN'S PRODUCT IF IT DETERMINES  
31 THAT MORE TIME IS NEEDED BY THE MANUFACTURER OR DISTRIBUTOR TO COMPLY  
32 WITH THE SUBMISSION REQUIREMENT OR IF THE INFORMATION IS NOT NEEDED AT  
33 THAT TIME.

34 4. RULEMAKING TO DETERMINE FEES. IF THE DEPARTMENT ASSESSES A FEE  
35 PURSUANT TO SUBDIVISION TWO OR THREE OF THIS SECTION THE DEPARTMENT  
36 SHALL DETERMINE THE APPROPRIATE FEE FOLLOWING THE ADOPTION OF RULES AND  
37 REGULATIONS.

38 S 37-0509. SALES PROHIBITION; RULES; SAFER ALTERNATIVES TO PRIORITY  
39 CHEMICALS.

40 1. AUTHORITY. THE DEPARTMENT SHALL ADOPT RULES PROHIBITING THE MANU-  
41 FACTURE, SALE OR DISTRIBUTION IN THIS STATE OF A CHILDREN'S PRODUCT  
42 CONTAINING A PRIORITY CHEMICAL IF THE DEPARTMENT FINDS, AFTER CONSIDER-  
43 ATION OF INFORMATION FILED UNDER SECTION 37-0507 OF THIS TITLE AND OTHER  
44 RELEVANT INFORMATION SUBMITTED TO OR OBTAINED BY THE DEPARTMENT, INCLUD-  
45 ING INFORMATION PROVIDED AS PART OF PROGRAMS IN OTHER STATES, THAT:

46 (A) DISTRIBUTION OF THE CHILDREN'S PRODUCT DIRECTLY OR INDIRECTLY  
47 EXPOSES CHILDREN TO THE PRIORITY CHEMICAL; AND

48 (B) ONE OR MORE SAFER ALTERNATIVES TO THE PRIORITY CHEMICAL ARE AVAIL-  
49 ABLE AT A COMPARABLE COST AND PERFORMANCE.

50 IF THERE ARE SEVERAL AVAILABLE SAFER ALTERNATIVES TO A PRIORITY CHEMI-  
51 CAL WITH DISTINGUISHABLE RELATIVE TOXICITIES, THE DEPARTMENT MAY PROHIB-  
52 IT THE SALE OR DISTRIBUTION OF CHILDREN'S PRODUCTS THAT DO NOT CONTAIN  
53 THE SAFER ALTERNATIVE THAT IS LEAST TOXIC TO HUMAN HEALTH OR LEAST HARM-  
54 FUL TO THE ENVIRONMENT.

1 A REGULATION ESTABLISHED PURSUANT TO THIS SUBDIVISION MUST SPECIFY THE  
2 EFFECTIVE DATE OF THE PROHIBITION, WHICH MAY NOT BE SOONER THAN TWELVE  
3 MONTHS AFTER NOTICE OF THE PROPOSED RULE IS PUBLISHED.

4 2. ALTERNATIVES ASSESSMENT; PRESUMPTIONS. FOR THE PURPOSE OF DETERMIN-  
5 ING WHETHER A SAFER ALTERNATIVE IS AVAILABLE UNDER PARAGRAPH (B) OF  
6 SUBDIVISION ONE OF THIS SECTION, THE DEPARTMENT MAY, IN THE ABSENCE OF  
7 PERSUASIVE EVIDENCE TO THE CONTRARY:

8 (A) PRESUME THAT AN ALTERNATIVE IS A SAFER ALTERNATIVE IF THE ALTERNA-  
9 TIVE IS NOT A CHEMICAL OF HIGH CONCERN;

10 (B) PRESUME THAT A SAFER ALTERNATIVE IS AVAILABLE IF THE SALE OF THE  
11 CHILDREN'S PRODUCT CONTAINING THE PRIORITY CHEMICAL HAS BEEN BANNED BY  
12 ANOTHER STATE OR STATES WITHIN THE UNITED STATES;

13 (C) PRESUME THAT A SAFER ALTERNATIVE IS AVAILABLE IF THE CHILDREN'S  
14 PRODUCT CONTAINING THE PRIORITY CHEMICAL IS AN ITEM OF APPAREL OR A  
15 NOVELTY;

16 (D) PRESUME THAT A SAFER ALTERNATIVE IS AVAILABLE IF THE ALTERNATIVE  
17 IS SOLD IN THE UNITED STATES; AND

18 (E) PRESUME THAT IF A CHEMICAL APPEARS ON THE STATE'S LIST OF CHEMI-  
19 CALS OF HIGH CONCERN THAT IT IS NOT ELIGIBLE FOR CONSIDERATION AS A  
20 SAFER ALTERNATIVE.

21 3. IMPLEMENTATION. NO LATER THAN ONE HUNDRED EIGHTY DAYS PRIOR TO THE  
22 EFFECTIVE DATE OF A PROHIBITION ADOPTED UNDER SUBDIVISION ONE OF THIS  
23 SECTION, THE MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PRODUCT THAT  
24 CONTAINS THE PRIORITY CHEMICAL AND THAT IS SUBJECT TO THE PROHIBITION AT  
25 THE TIME OF ADOPTION SHALL FILE A COMPLIANCE PLAN WITH THE COMMISSIONER  
26 OR SEEK A WAIVER UNDER SUBDIVISION FIVE OF THIS SECTION. A COMPLIANCE  
27 PLAN MUST:

28 (A) IDENTIFY THE CHILDREN'S PRODUCT THAT CONTAINS THE PRIORITY CHEMI-  
29 CAL;

30 (B) SPECIFY WHETHER COMPLIANCE WILL BE ACHIEVED BY DISCONTINUING THE  
31 SALE OF THE CHILDREN'S PRODUCT IN THE STATE OR BY SUBSTITUTING A SAFER  
32 ALTERNATIVE IN THE PRODUCT; AND

33 (C) IF COMPLIANCE IS ACHIEVED BY SUBSTITUTION OF A SAFER ALTERNATIVE  
34 IN THE PRODUCT, IDENTIFY THE SAFER ALTERNATIVE AND THE TIMETABLE FOR  
35 SUBSTITUTION.

36 4. RESPONSIBILITY. A MANUFACTURER OR DISTRIBUTOR OF A CHILDREN'S PROD-  
37 UCT CONTAINING A PRIORITY CHEMICAL SHALL NOTIFY PERSONS THAT OFFER THE  
38 PRODUCT FOR SALE OR DISTRIBUTION IN THE STATE OF THE REQUIREMENTS OF  
39 THIS TITLE.

40 5. WAIVER FOR SPECIFIC USES. THE MANUFACTURER OR DISTRIBUTOR OF A  
41 CHILDREN'S PRODUCT THAT CONTAINS A PRIORITY CHEMICAL AND THAT IS SUBJECT  
42 TO A PROHIBITION ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY  
43 APPLY TO THE COMMISSIONER FOR A WAIVER FOR ONE OR MORE SPECIFIC USES OF  
44 THE PRIORITY CHEMICAL. THE WAIVER APPLICATION MUST, AT A MINIMUM:

45 (A) IDENTIFY THE SPECIFIC CHILDREN'S PRODUCT USE OR USES FOR WHICH THE  
46 WAIVER IS SOUGHT;

47 (B) IDENTIFY THE ALTERNATIVES CONSIDERED FOR SUBSTITUTION OF THE  
48 PRIORITY CHEMICAL;

49 (C) EXPLAIN THE BASIS FOR CONCLUDING THAT THE USE OF AN ALTERNATIVE IS  
50 NOT FEASIBLE; AND

51 (D) IDENTIFY THE STEPS THAT HAVE AND WILL BE TAKEN TO MINIMIZE THE USE  
52 OF THE PRIORITY CHEMICAL.

53 THE COMMISSIONER MAY GRANT A WAIVER WITH OR WITHOUT CONDITIONS UPON  
54 FINDING THAT THERE IS A NEED FOR THE CHILDREN'S PRODUCT IN WHICH THE  
55 PRIORITY CHEMICAL IS USED AND THERE ARE NO TECHNICALLY OR ECONOMICALLY  
56 FEASIBLE ALTERNATIVES FOR THE USE OF THE PRIORITY CHEMICAL IN THE CHIL-

DREN'S PRODUCT. WAIVERS MAY BE GRANTED FOR A TERM NOT TO EXCEED THREE YEARS AND MAY BE RENEWED FOR ONE OR MORE ADDITIONAL THREE-YEAR TERMS UPON WRITTEN APPLICATION DEMONSTRATING THAT TECHNICALLY OR ECONOMICALLY FEASIBLE ALTERNATIVES REMAIN UNAVAILABLE. THE COMMISSIONER SHALL DENY OR GRANT WAIVER REQUESTS WITHIN SIXTY DAYS AFTER RECEIPT OF A COMPLETED WAIVER APPLICATION.

S 37-0511. APPLICABILITY.

1. NEW PRODUCTS. THE PROVISIONS OF THIS TITLE SHALL APPLY TO CHEMICALS IN PRODUCTS SOLD OR DISTRIBUTED AS NEW AND DOES NOT APPLY TO USED PRODUCTS THAT ARE SOLD OR DISTRIBUTED FOR FREE AT SECONDHAND STORES, YARD SALES, ON THE INTERNET OR DONATED TO CHARITIES.

2. INDUSTRY. THE REQUIREMENTS OF THIS TITLE SHALL NOT APPLY TO PRIORITY CHEMICALS USED IN OR FOR INDUSTRY OR MANUFACTURING, INCLUDING CHEMICALS PROCESSED OR OTHERWISE USED IN OR FOR INDUSTRIAL OR MANUFACTURING PROCESSES.

3. TRANSPORTATION. THE REQUIREMENTS OF THIS TITLE SHALL NOT APPLY TO MOTOR VEHICLES OR THEIR COMPONENT PARTS, OR WATERCRAFT OR THEIR COMPONENT PARTS, EXCEPT THAT THE USE OF PRIORITY CHEMICALS IN DETACHABLE CAR SEATS IS NOT EXEMPT.

4. COMBUSTION. THE REQUIREMENTS OF THIS TITLE SHALL NOT APPLY TO PRIORITY CHEMICALS GENERATED SOLELY AS COMBUSTION BY-PRODUCTS OR THAT ARE PRESENT IN COMBUSTIBLE FUELS.

5. RETAILERS. A RETAILER IS EXEMPT FROM THE REQUIREMENTS OF THIS TITLE UNLESS THAT RETAILER KNOWINGLY SELLS A CHILDREN'S PRODUCT CONTAINING A PRIORITY CHEMICAL AFTER THE EFFECTIVE DATE OF ITS PROHIBITION FOR WHICH THAT RETAILER HAS RECEIVED PRIOR NOTIFICATION FROM A MANUFACTURER, DISTRIBUTOR OR THE STATE.

S 37-0513. EDUCATION AND ASSISTANCE.

WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS TITLE THE DEPARTMENT SHALL DEVELOP A WEBSITE ACCESSIBLE BY THE PUBLIC, TO EDUCATE AND ASSIST CONSUMERS AND RETAILERS IN IDENTIFYING CHILDREN'S PRODUCTS THAT MAY CONTAIN PRIORITY CHEMICALS.

S 37-0515. ENFORCEMENT AND IMPLEMENTATION.

1. FAILURE TO PROVIDE NOTICE. A CHILDREN'S PRODUCT CONTAINING A PRIORITY CHEMICAL MAY NOT BE SOLD, OFFERED FOR SALE OR DISTRIBUTED FOR SALE IN THIS STATE IF THE MANUFACTURER OR DISTRIBUTOR HAS FAILED TO PROVIDE INFORMATION REQUIRED UNDER SECTION 37-0509 OF THIS TITLE BY THE DATE REQUIRED IN THAT SECTION. THE COMMISSIONER MAY EXEMPT A CHILDREN'S PRODUCT FROM THIS PROHIBITION IF, IN THE COMMISSIONER'S JUDGMENT, THE LACK OF AVAILABILITY OF THE CHILDREN'S PRODUCT COULD POSE AN UNREASONABLE RISK TO PUBLIC HEALTH, SAFETY OR WELFARE.

2. CERTIFICATE OF COMPLIANCE. IF THERE ARE GROUNDS TO SUSPECT THAT A CHILDREN'S PRODUCT IS BEING OFFERED FOR SALE IN VIOLATION OF THIS TITLE, THE DEPARTMENT MAY REQUEST THE MANUFACTURER OR DISTRIBUTOR OF THE PRODUCT TO PROVIDE A CERTIFICATE OF COMPLIANCE WITH THE PROVISIONS OF THIS TITLE. WITHIN TEN DAYS OF RECEIPT OF A REQUEST UNDER THIS SECTION, THE MANUFACTURER OR DISTRIBUTOR SHALL:

(A) PROVIDE THE DEPARTMENT WITH THE CERTIFICATE ATTESTING THAT THE CHILDREN'S PRODUCT DOES NOT CONTAIN THE PRIORITY CHEMICAL; OR

(B) NOTIFY PERSONS WHO SELL THE PRODUCT IN THIS STATE THAT THE SALE OF THE CHILDREN'S PRODUCT IS PROHIBITED AND PROVIDE THE DEPARTMENT WITH A LIST OF THE NAMES AND ADDRESSES OF THOSE NOTIFIED.

S 2. Within six months of the effective date of this act the department of environmental conservation, in consultation with the department of health, shall identify an initial list of chemicals of high concern in accordance with title 5 of article 37 of the environmental conserva-

tion law. In developing the list, the departments may consider but are not limited to considering:

1. Chemicals identified as "Group 1 carcinogens" or "Group 2A carcinogens" by the World Health Organization, International Agency for Research on Cancer;

2. Chemicals identified as "known to be a human carcinogen" and "reasonably anticipated to be a human carcinogen" by the Secretary of the United States Department of Health and Human Services pursuant to the Public Health Service Act, 42 United States Code, Section 241(b)(4), as amended;

3. Chemicals identified as "Group A carcinogens" or "Group B carcinogens" by the United States Environmental Protection Agency;

4. Chemicals identified as reproductive or developmental toxicants by:

(a) The United States Department of Health and Human Services, National Toxicology Program, Center for the Evaluation of Risks to Human Reproduction; and

(b) The California Environmental Protection Agency, Office of Environmental Health Hazard Assessment pursuant to the California Health and Safety Code, Safe Drinking Water and Toxic Enforcement Act of 1986, Chapter 6.6, Section 25249.8;

5. Chemicals identified as known or likely endocrine disruptors through screening or testing conducted in accordance with protocols developed by the United States Environmental Protection Agency pursuant to the federal Food, Drug and Cosmetic Act, 21 United States Code, 346a(p), as amended by the federal Food Quality Protection Act (Public Law 104-170) or the federal Safe Drinking Water Act, 42 United States Code, Section 300j-17;

6. Chemicals listed on the basis of endocrine-disrupting properties in Annex XIV, List of Substances Subject to Authorisation, Regulation (EC) No 1907/2006 of the European Parliament concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals;

7. Persistent, bioaccumulative and toxic chemicals identified by other states or the environmental protection agency; and

8. A very persistent, very bioaccumulative chemical listed in Annex XIV, List of Substances Subject to Authorisation, Regulation (EC) No 1907/2006 of the European Parliament concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.