



January 24, 2023

The Honorable Pam Marsh, Chair
House Committee on Energy and the Environment
Oregon State Legislature
900 Court St. NE, Salem Oregon 97301

Re: HB 3043 Relating to chemicals in children's products – OPPOSE

Dear Chair Marsh and Members of the House Committee on Energy and the Environment:

I write today on behalf of the Toy Association (TTA), a not-for-profit trade association representing approximately eight hundred (800) toymakers, marketers, distributors, and retailers, large and small, located throughout North America. TTA has a long history of leadership in toy safety, having helped develop the first comprehensive toy safety standard more than 40 years ago, and remains committed to working with medical experts, government, consumers, and industry on ongoing programs to ensure safe and fun play. TTA regularly conducts educational seminars on these industry standards, educates parents and caregivers on choosing appropriate toys, and chairs the committee that reviews and revises America's widely emulated ASTM F963 toy safety standard.

Unfortunately, HB 3043 as drafted does not further our shared goal of children's product safety.

The existing provisions of the Oregon Toxic Free Kids Act (TFKA) have not been fully implemented and it is currently the subject of litigation in Federal Court. It is unwise to drastically expand the removal or substitution provisions before OHA and manufacturers have had the opportunity to go through a full cycle of the program. However, the TFKA already goes further than any other operating program in the United State, including California and Washington. Allowing classes of chemicals, increasing reporting requirements, requiring resubmission of hazard assessments, and changing key definitions will dramatically increase the requirements on manufacturers, retailers, and the Oregon Health Authority without increasing children's safety. In addition, if these changes are made, it will put Oregon's program further out of alignment with Washington, whose product testing program Oregon relies on for enforcement.

For example, changing the definition of "mouthable" aligns with Washington on paper, but moves further away from Washington in practice. This change would make almost every children's product subject to the TFKA's removal or substitution requirement. In Washington there is no removal or substitution requirement for any children's product. Additionally, this

expansion is not developmentally appropriate for children, as children under the age of 3 may explore and learn by putting objects in their mouth, it is rare for older children to behave in the same manner. For children over 3 this provision should not be expanded past products that are intended to be placed in the mouth.

It's not clear to what extent OHA is enforcing or has the resources to enforce the current TFKA program, but the proposed expansion will be very costly for both the department and manufacturers to implement. Rather than attempting to expand this program, Oregon should take the opportunity to lead on addressing the health and safety concerns that come along with the flow of counterfeit and illicit products which are getting into hands of consumers including children through e-commerce. These products most often don't comply with any safety requirements at the federal or state level and pose a real-time danger to children.

We also support the comments made by the American Chemistry Council and JPMA regarding adding "classes of chemicals", adding brand name and model number to the reporting requirements, and the importance of consistency across state and federal regulatory programs.

For these reasons, the Toy Association must respectfully oppose HB 3043. Thank you for considering our concerns. Please feel free to contact me at eraden@toyassociation.org or 520-991-0014 with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Erin Raden". The signature is written in black ink on a light-colored background.

Erin Raden
Director, State Government Affairs
The Toy Association