

Health Policy Brief:

# Consumer Products

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The products we use every day can contain potentially harmful chemicals harmful, which fall into three different classes:

- **Carcinogens:** Substances or agents that cause cancer
- **Hormone Disruptors:** Substances or agents that alter the release of hormones, including those related to reproductive health
- **Allergens:** Substances of agents that induce allergies and allergic reactions

Many consumer products contain toxic chemicals, including personal care products applied to skin, nails, and hair. On average, women use 12 cosmetic products daily, and men use six cosmetic products daily; these products contain an average of 168 and 85 chemicals, respectively.<sup>[1]</sup> Some of the most common and harmful ingredients in products include phthalates, parabens, formaldehyde, mercury, toluene, hydroquinone, and fragrances.

According to a June 2020 chemical inventory update published by the United States Environmental Protection Agency (EPA), there are 86,405 approved chemicals, 41,587 of which are in active use.<sup>[2]</sup> Only several hundred chemicals have ever been evaluated for safety, and just five chemicals have ever been banned. The Toxic Substance Control Act (TSCA) is the key federal law that limits the chemicals in our environment and initiates safety monitoring. It was established in 1976 and largely places the onus of assuring safe chemicals on government agencies, not chemical or product manufacturers. In 2016, Congress passed an important update to TSCA called the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LSCA). The law included a timeline for the EPA to evaluate the safety of chemicals already on the market, increase public transparency for chemical information, strengthen protocol for testing new chemicals and dedicate funding to complete the newly required testing. Additionally, it limits states' ability to regulate chemicals if the EPA has named it a High Priority chemical or has been deemed safe. Despite this reduction in authority to address toxic chemicals in products, and because most of the chemicals in commerce have not been tested or prioritized by the EPA, some states have

implemented highly successful toxic control programs. Other states were able to sustain grandfathered toxic reduction programs passed before 2016. Case studies for both types of state laws are detailed below.

While these changes were the first updates to TSCA in 40 years, the changes are criticized by some for falling short. Under LSCA, a minimum of 20 chemicals will be reviewed at any given time, and each review will be completed in seven years. If the chemical is found unsafe, the industry has up to five years to comply.<sup>[3]</sup> Having only tested several hundred chemicals so far, it will take many years to complete testing and analyze the safety of the backlog of tens of thousands of chemicals.

The U.S. Food and Drug Administration (FDA) is another entity charged with ensuring consumer safety and regulates cosmetics specifically. To date, the FDA has limited the use of only 11 chemicals in cosmetics in the United States.<sup>[4]</sup> Seven chemicals in cosmetic products are banned in the United States: zirconium-containing complexes, vinyl chloride, methylene chloride, halogenated salicylanilides, chloroform, chlorofluorocarb propellants, and bithionol. Zirconium-containing complexes, vinyl chloride, and chlorofluorocarb propellants are banned in aerosols, while the other four chemicals in this list are prohibited universally.

**American toxics policies fall far behind those in places like the European Union, where more than 1,300 chemicals have been banned.<sup>[5]</sup>**

To improve these policies, The Safe Cosmetics and Personal Care Products Act was introduced in the 2019/2020 federal session to help protect consumer, worker, and environmental health. While Congress did not pass it, it serves as a model for future proposals in coming years. This act worked to phase out ingredients linked to severe health effects, require full ingredient disclosure, provide funding to the FDA to expand its testing capacity, provide adequate oversight and testing, and put in place protections for salon workers' health.



## CASE STUDIES

Several states have enacted laws to mitigate exposure to toxic chemicals in consumer products and cosmetics. Maine, California, Massachusetts, and Washington have robust legislation limiting consumer exposure to dangerous chemicals and reducing adverse health outcomes associated with exposure.

### Maine<sup>[6]</sup>

In Maine, several pieces of legislation and an executive order have helped reduce the number of toxic products on the market and raise consumer awareness of the dangers of certain chemicals.

- **LD 2048:** Identifies chemicals of high concern, and requires reporting on usage and replacement with safer alternatives. *(Adopted in 2008)*
- **LD 1129:** Selects up to 70 chemicals as Chemicals of High Concern based upon likely exposure to children or fetuses. Priority Chemicals are selected from the Chemicals of High Concern, and products containing Priority Chemicals are subject to additional reporting and disclosure requirements when used in children's products. *(Adopted in 2011)*
- **LD 1568:** Prohibits the manufacture and sale of shipping pallets, or any product made from them, containing the flame retardant DecaBDE. *(Adopted in 2010)*
- **Executive Order:** Authorizes the Maine Department of Environmental Protection to phase out mercury batteries and improve mercury thermostat recovery. Initiates the creation of a report assessing lead-free and DecaBDE-free alternatives in consumer products. *(Adopted in 2006)*
- **LD 1790:** Bans products containing added brominated flame retardants. *(Adopted in 2004)*
- **LD182 / HP138:** Bans the sale of residential upholstered furniture containing chemical flame retardants. *(Adopted in 2017)*



## California<sup>[7]</sup>

California's Toxic-Free Cosmetics Act—effective in January 2025—will ban 24 toxic ingredients from beauty and personal care products. This list includes 11 standalone chemicals and 13 PFAS chemicals and their salts.<sup>[8]</sup> The list of banned chemicals consists of the toxic fluorinated chemicals known as PFAS, mercury, formaldehyde, and endocrine-disrupting phthalates, and long-chain parabens, preservatives used in skincare products.

AB 2762, the Toxic-Free Cosmetics Act, will explicitly prohibit using the 12 of the most harmful chemicals and contaminants in cosmetics today. This law set a precedent for other states to pursue protections for consumers beyond the federal level's limited actions under TSCA.

## Massachusetts<sup>[9]</sup>

The Toxic Use Reduction Act (TURA) of 1989 requires Massachusetts facilities that use large amounts of toxic chemicals to report on their chemical use, conduct toxic use reduction planning every two years, and pay a fee. These fees provide training, grant programs, and technical assistance to the TURA implementing agencies.

TURA's implementing agencies are the Massachusetts Department of Environmental Protection (MassDEP) and the Office of Technical Assistance and Technology (OTA). The MassDEP serves as the regulatory body for the program by:

- Certifying Toxic Use Reduction (TUR) plans
- Collecting chemical use information and other data submitted by companies
- Providing compliance guidance
- Taking enforcement action

On the other hand, the OTA is a non-regulatory agency housed in the Executive Office of Energy and Environmental Affairs. OTA provides free, confidential assistance to manufacturers, businesses, and institutions in Massachusetts in this capacity.

The Toxic Use Reduction Institute (TURI) was created under TURA. TURI provides education and training for companies; sponsors research into the development of cleaner, safer materials and technologies; provides grants to companies, community organizations, and municipalities; convenes business working groups to address specific environmental challenges; conducts policy research and analysis; and provides laboratory and library services.

## Washington<sup>[10]</sup>

Under the Pollution Prevention for Healthy People and Puget Sound Act of 2019, the state of Washington has a robust set of toxins-in-products laws. Safer Products Washington, the program that implements the law, provides authority to restrict the use of chemicals in consumer products when safer alternatives are available or require manufacturer reporting of chemicals in products. Washington rolled out in four major phases in a repeating, five-year cycle. Several facets of the new program include:<sup>[11]</sup>

- Children's Safe Products Act (CSPA)<sup>[12]</sup> Regulates lead, cadmium, phthalates, and certain flame retardant chemicals allowed in children's products.
- Requires manufacturers to report on Chemicals of High Concern to Children<sup>[13]</sup>.

### Title 70

- Regulates lead, mercury, cadmium, and hexavalent chromium used in packaging.
- Bans BPA in children's bottles and other drinking products.
- Bans BPA in sports bottles.
- Bans the use of PBDEs in:
  - Mattresses
  - Residential furniture
  - Electronics
- Prohibits improper disposal of fluorescent tubes, CFLs, and other mercury-containing lights.
- Establishes the LightRecycle Washington<sup>[14]</sup> program to collect and recycle fluorescent lights
- Mercury Education and Reduction Act<sup>[15]</sup>
  - Bans mercury in thermometers, instruments, toys, and automotive switches.

# Conclusion

Pennsylvania does not currently regulate toxic chemicals in consumer products. Pennsylvania could implement elements from these model state programs to protect the health of consumers. The most recent bills related to consumer products' regulations were introduced in the 2019/2020 session: House Bill 2192<sup>[16]</sup> requiring bisphenol A-free bottles for infants and House Bill 1221<sup>[17]</sup> requiring biphenol A-free container products.

## Endnotes

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