

Summary of Safer Alternatives redraft

Section 1.

- The advisory committee (s4 of c21I) will establish a permanent subcommittee to advise the council on its safer alternatives responsibilities.
 - This subcommittee shall be comprised of 1 person selected from a list of three individuals submitted by the president of the AFL-CIO
 - 1 person selected from a list of three individuals submitted by the president of the Massachusetts Building Trades Council
 - 1 person from the chemistry industry
 - 1 person representing the medical device industry
 - 1 person representing business in the commonwealth
 - 1 person representing small business in the commonwealth
 - 1 person representing a statewide environmental organization
 - 1 person representing a public health organization
 - 1 person who is skilled and experienced in child health issues
 - 1 person representing employees of a health and safety organization
 - 1 person who is skilled and experienced in the area of cancer prevention
 - 1 person who shall have skill and experience in the field of environmental health policy
 - 1 person representing a consumer advocacy organization
 - 1 person certified as a toxic use reduction planner.

Section 2.

- Outlines the additional duties of the advisory committee created under sections 24-34 in this bill.

Section 3.

- Section 3 details TURI's additional responsibilities under the safer alternatives program.
 - Promoting safer alternatives to toxic chemicals to reduce toxic chemicals in products manufactured in the Commonwealth.
 - To ensure the substitution in the use, manufacture, emission and distribution of priority toxic substances, and in consumer products containing the substances, with the safest feasible alternatives, in coordination with the environmental and economic agencies of the commonwealth.
 - The institute will establish programs that provide information, education, and training on toxic chemicals and safer alternatives to these chemicals.

Section 4.

- Amends section 7 of Chapter 21I by authorizing Office of Technical Assistance to establish an innovative business leaders program.

Section 5.

- Definitions.

Section 6.

- This section establishes additional duties of the advisory committee.
 - Reviewing, providing comments, and making recommendations to the Institute during the preparation of each Safer Alternative Assessment Report.
 - The committee will review and provide comments to Executive Office of Energy and Environmental Affairs during the preparation of each chemical action plan
 - Review and make recommendations to EOEEA on the performance of the chemical action plans.
 - Requires the Institute to present a review of performance on the implementation of each Chemical Action plan every two years.

Section 7.

- The Safer Alternatives Program
 - *Subsection 24.* Chemicals categorization list.
 - ◆ The Institute publishes a preliminary first list for chemicals commonly used in Massachusetts industry and in products sold in Massachusetts.
 - ◆ This list is to be categorized by the Science advisory board into four categories, including chemicals of high concern, chemicals of concern, chemicals of unknown concern, and chemicals of low concern.
 - ◆ The institute may create subcategories
 - ◆ The Science Advisory Board to the Administrative Council, and the Science Advisory Board shall conduct an ongoing review of scientific information regarding chemicals found on the First list, and publish a refined list at least every four years.
 - ◆ Institute, advisory committee and the council shall prioritize the chemicals contained in substances of high concern, and make this public
 - ◆ Administrative council provides this list, the Prioritized First List for the Safer Alternative Program, to the institute, and this shall be public.
 - *Subsection 25.* Safer Alternatives Assessment Reports.
 - ◆ Within 180 days following the publication of the First list, and annually thereafter, the administrative council shall select toxic

substances from the prioritized first list for the Safer Alternatives Program

- ◆ The Institute shall conduct and publish the Safer Alternatives Assessment Report for each substance which evaluates the availability of safer alternatives to these substances
 - ◆ This section also provides guidelines for the SAARs
- *Subsection 26.* Second list for the Safer Alternative Program.
- ◆ The Department of Environmental Protection, on behalf of the Administrative Council, shall create and maintain a document which shall be known as the Second List for the Safer Alternatives Program
 - ◆ Within 30 days of the completion of the SAARs, the Administrative Council will recommend the addition of new substances to the Second List, even if the SAAR is not completed
 - ◆ Administrative Council shall add substances studied in the SAAR and published by the institute to the Second List, and these substances shall be designated by the Council as priority toxic substances
 - ◆ Within 60 days of this addition, the Administrative Council shall designate priority substance uses and proceed with the development of Chemical Action Plans
 - ◆ Any group of 10 residents may petition the Council to add new substances to the Second List, which can be added if the Council merits this substance as a high priority substance or if it poses a significant danger to a sensitive population
 - ◆ The Advisory Committee to the Administrative Council may petition the Administrative Council to add new substances
 - ◆ Substances added to the Second list through mechanisms described in this section shall be considered priority toxic substances.
- *Subsection 26A.* Third List for the Safer Alternatives Program
- ◆ DEP, on behalf of the Administrative Council, shall create and maintain a Third list, which shall be publicly advertised and shall be public and maintained on a publicly available website
 - ◆ The Administrative Council and Advisory Committee, following the Second List, and within 90 days, identify substances that are of the highest concern, designate these uses as priority toxic substance uses, and transmit these to DEP who creates the Third list.
- *Subsection 27.* Registry of Toxic Substance Uses.

- ◆ Within 120 days of this bill’s effective date manufacturers and distributors must file with DEP if they produce a product that contains a substance usage described in the Third List
 - ◆ DEP provides notices to the institute to be used to prep SAARs, and this shall be a public record.
 - ◆ Any product containing a substance that is federally regulated shall be exempt from the requirements of this section
 - ◆ Manufacturers, trade groups or distributors may submit information for a product category rather than an individual product
- *Subsection 28. State chemical action plans.*
 - ◆ EOEEA establishes chemical action plans for substance uses based on SAARs.
 - ◆ Chemical Action Plans coordinate state agency activities and require users of priority toxic substances to quickly find a safer alternative while minimizing any negative consequences.
 - ◆ This section provides guidelines for chemical action plans and substitution plans.
 - The substitution plans also contain an outline of specific implementation measures
 - ◆ EOEEA will hold public hearings to receive feedback on chemical action plans.
 - ◆ DEP enforces it.
 - *Subsection 29. Innovative Business Leaders Program*
 - ◆ Office of Technical Assistance to create “innovative business leaders program”, which encourages users of priority toxic substances or chemicals of high concern to complete substitution plans prior to SAARs or chemical action plans.
 - ◆ Those participating shall submit results to DEP
 - ◆ This includes grants, financial and technical assistance and support for research, information gathering, and implementation
 - ◆ EOEEA shall develop criteria for firms that participate.
 - *Subsection 29A.*
 - ◆ Certain functions provided for in sections 25, 26, 27 and 29 may be transferred to or carried out in cooperation with an interstate entity
 - ◆ Such interstate entity on may compile and categorize chemical lists, produce alternative assessment reports, develop model Chemical Action Plans and house one or more product or chemical use registries

- *Subsection 30.* Business Transitions assistance programs.
 - ◆ EOEEA in consultation with Executive Office of Housing and Economic Development and the Institute oversees a Business Transitions Assistance program facilitating business transactions to safer alternatives to toxic chemicals.
 - ◆ EOEEA must determine where business assistance and financial investment will be effectively used to promote public health.
 - ◆ The Office of Technical Assistance shall provide technical assistance to businesses for developing and implementing safer alternatives consistent with section 7 of this chapter
 - ◆ The Business Transitions Assistance Programs will be operated by private consortia, public-private partnerships, and state universities
 - ◆ This section also outlines what is exactly included in the Business Transitions Assistance Program
 - ◆ Department Labor and Workforce Development will work with EOEEA and DEP to develop employee transition assistance programs to protect job losses as a result of implementation of safer alternatives.
 - ◆ Department of Labor and Workforce Development to provide income assistance to displaced workers.
 - ◆ DLWD shall establish requirements to ensure a just and fair transition of any affected workers

- *Subsection 31.* Implementation.
 - ◆ DEP promulgates regulations to restrict the use of priority toxic substances.
 - ◆ Regulations include substitution requirements and substitution planning requirements for businesses and address each priority toxic substance.
 - ◆ Regulations specify enforcement mechanisms.
 - ◆ No later than one year after chemical action plans, regulated entities must complete substitution plans and file with DEP a certificate of compliance to safer alternatives.
 - ◆ Regulated entities may file a waiver to use alternative substances not deemed safer alternatives or file a waiver of substitution plan deadline.
 - ◆ DEP has 60 days to reject or accept the waiver
 - ◆ Regulated entities must involve employees and give them 30 days to offer feedback.
 - ◆ DEP and the institute must create training requirements for Toxic Use Reduction Planners.

- ◆ DEP will publish the list of all safer alternatives, all products sold under a valid waiver, and identify and label priority toxic substances.
 - ◆ This section applies to manufacturers and distributors that sell or distribute products within the Commonwealth regardless of whether they are located in the Commonwealth
- *Subsection 32. General requirements and authorities.*
 - ◆ Businesses and legal entities of any size may develop collaborative submissions to meet any of the certification or waiver application requirements of sections 30 and 31 of this chapter.
 - ◆ DEP shall have all of the powers and authorities necessary to prohibit or limit the use, sale or distribution of a product containing a priority toxic substance in the Commonwealth.
 - ◆ A manufacturer shall have a duty to take back from retailers and compensate them for the full price paid, for any products sold after the enactment of this act for which a regulation of the department requires proper labeling and for which no waiver has been obtained for continued distribution of the product if the product does not contain the proper label.
 - ◆ The Institute shall work with the Office of Technical Assistance to develop an innovative business leaders program to encourage rapid substitution of priority toxics
- *Subsection 33. Enforcement and appeals.*
 - ◆ *This section discusses penalties for violating safer alternatives programs, which include a 25,000 dollar a day fine for noncompliance.*
 - ◆ Also it outlines petition and appeal opportunities.
 - ◆ Within 60 days of a published chemical action plan any 10 citizens may file an appeal with the Secretary of Environmental affairs.
 - ◆ EOEEA shall have 60 days to review
 - ◆ End users of products are not subject to enforcement action
 - ◆ Outlines instances when no action may be taken on violators
- *Section 34. Technical – scope of law and relationship to existing law.*
 - ◆ Nothing in this bill will override federal law or existing Massachusetts law or will contravene federal or state law.
- *Subsection 35. Technical Assistance Grants*
 - ◆ DEP shall establish technical assistance grants to ensure public involvement concerning provisions 24-35 of this chapter and

- ◆ These grants will be provided to organizations of consumers and workers focused on the impact of changes in specific sectors

Section 8.

- This section amends the Massachusetts Toxics Use Reduction Act, Chapter 21I, specifically section 12 on Toxic Use Reduction Planners.
 - The department, through consultation with the advisory committee and with the office, shall amend its regulations relative to this section in order to incorporate the provisions of sections 24 through 35 of this chapter, namely, the creation of the safer alternatives program.

Section 9. Fee on Toxic Substance.

- This section revises DEP's current fee structure under the Toxic Use Reduction Act to encompass wholesale sellers or distributors of products to retail establishments that contain priority toxic substances, whether in or outside the state.
 - A Fee will be assessed on manufacturers who sell directly to retailers. Fees must be sufficient to generate 18 million annually
 - 75% of fees on large distributors and 25% on small distributors.
 - Establishes a minimum threshold for products, services, or substances where no fee will be assessed.

Section 10.

- This section amends Chapter 29 of the general laws by adding a new section that creates the Innovation for Safer Alternatives Fund.
 - Money credited to the fund from fees or penalties assessed by DEP pursuant to Chapter 21I, Toxic Use Reduction Act, shall only be used to carry out Chapter 21I, including the Act for a Healthy Massachusetts: Safer Alternatives to Toxic Chemicals.
 - At least 6 million per year will go to the Executive Office of Environmental Affairs
 - 6 million to the Toxic Use Reduction Institute
 - Some of this 6 million will be earmarked for the University of Massachusetts-Worcester and for the University of Massachusetts Amherst
 - 2 million to DEP
 - 4 million to the business transitions assistance program and employee transition assistance program established by the Massachusetts Toxic Use Reduction Act.