

July 6, 2015

Mr. Ed Day
County Executive
11 New Hempstead Road
New City, NY 20956

Dear Executive Day:

We, the undersigned, representing companies employing tens of thousands of workers in New York, write in opposition of Referral No. 8894 as it is duplicative of existing federal law regulating children's products and would establish an unworkable patchwork of chemical regulations.

While well-intentioned, this legislation would duplicate regulations already in place for children's products at the federal level under the Consumer Product Safety Act (CPSA), and the Federal Hazardous Substances Act (FSHA). Duplication of existing regulations will produce an unnecessary burden on manufacturers and retailers while being devoid of a measurable increase in safety. Additionally, existing restrictions included in the CPSA and the FSHA prohibit state and localities from enacting different requirements to address the same hazard making this both unnecessary and legally questionable. More importantly, this bill would not improve the safety of children's products – or children.

Specifically, this law attempts to regulate heavy metals and chemicals in children's products in a manner that is duplicative and preempted by federal law. Specifically, 15 U.S.C. 2075 provides as follows: *"Whenever a consumer product safety standard under this chapter is in effect and applies to a risk of injury associated with a consumer product, **no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.**"* [Emphasis Added].

Furthermore, we believe that assessing product safety is more than simply noting the presence of a chemical substance in a formulation. It must also include considerations of product use, user exposure to the chemical in the product, and the functionality of the chemical in the formulation, as well as the unintended consequences of removal of a chemical from a product. With this proposed legislation lacking such consideration, the process would only add uncertainty for New York businesses and would force companies to comply with yet another state regulatory program among an already crowded patchwork of state laws.

Language included in the bill would be impossible for any company to comply with because it would ban naturally occurring elements that can't be taken out of products – same elements that exist in water and even organic foods. This overly broad bill would prevent companies from selling safe and fun children's products to parents and grandparents in the County. Imposing these impossible and redundant regulations on manufacturers and retailers could negatively impact jobs without any corresponding increase in consumer safety.

Instead of a patchwork approach, we believe that our nation's federal chemicals management law must be updated to keep pace with scientific advancements and to ensure that chemical products are safe for intended use—while also encouraging innovation and protecting American jobs. We continue to advocate for action at the federal level, including the introduction and passage of the Toxic Substance Control Act (TSCA). TSCA is a sensible, balanced compromise that will promote safety, innovation, economic growth, and job creation – four essential goals that are important to all Americans.

On behalf of all of our memberships, we urge you to veto Referral No. 8894.

American Apparel & Footwear Association
American Chemistry Council
American Specialty Toy Retailing Association
Fashion Accessories Shippers Association
Gemini Shippers Association
Halloween Industry Association
Juvenile Product Manufacturers Association
New York Chemistry Council
Promotional Products Association International
Toy Industry Association
U.S. Fashion Industry Association