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## Toymakers Frustrated by Patchwork of Safety Rules

By ANNYS SHIN  
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When Washington Gov. Christine Gregoire signed a law banning lead and chemicals known as phthalates from children's products in April, Amy Tucker was thrilled. As president of Mattel Group, a Seattle company that makes children's games and stuffed animals out of recycled materials, Tucker's products were already lead- and phthalate-free. But when other states began adopting their own restrictions, she became dismayed by the emerging patchwork of regulations.

"It puts manufacturers in the position of having 50 different sets of regulations to abide by," she said, "and that can become very onerous for a company."

In an attempt to avoid a repeat of last fall's wave of tainted toy recalls, lawmakers in eight states have imposed restrictions on toxic substances in children's products such as lead, cadmium and phthalates. Phthalates, chemicals used to make plastics, have been linked to reproductive problems.

Children's product manufacturers such as Hasbro and Mattel and toy retailers such as Toys R Us are echoing Tucker's sentiments. They argue that having different

tremely restrictive laws that, depending on how they are implemented, may make it impossible to sell many safe toys in these states," Mattel spokeswoman Lisa Marie Bongiovanni said.

The activity in the state houses is influencing congressional negotiations over sweeping federal product safety legislation. The House and Senate each passed slightly different bills, and lawmakers are hammering out a final version. One of the thorniest issues is expected to be to what extent federal safety standards would preempt state ones.

Currently, in cases where the state and federal product safety standards conflict, the federal standard prevails. For example, on lead limits, some states have adopted a 40 parts per million standard, which is the one recommended by the American Academy of Pediatrics. But they will most certainly be trumped by whatever federal standard Congress settles on. Both the House and Senate aimed for the same 100 ppm standard for lead in children's products.

In cases where state and federal standards don't conflict, the state standard would stick until the Consumer Product Safety Commission or Congress adopts one.

The preemption debate over the pending federal product safety legislation concerns a proposal that toys be tested by an independent lab and certified for safety. Such a requirement normally wouldn't be considered a safety standard and therefore would not override similar state regulations. But manufacturers want Congress to ensure states won't be allowed to pass their own testing and certification requirements. Otherwise, they said, they face the prospect of having to treat each state as a separate market.

"There isn't any one state that has a big enough market to justify

the kind of volume production required to bring toys to the market at a reasonable price point," said Carter Keithley, president of the Toy Industry Association, a trade group in New York. "It just does not make any economic sense to make any toys for one state."

Consumer groups, however, in a letter sent to lawmakers yesterday, said manufacturers are seeking "permanent lockdown on any future state action to protect their residents."

They said states in the past have moved more quickly than Congress to pass product safety regulations, such as requiring choke hazard warning labels on toys, and should not be stopped from doing so.

Federal standards should be "the floor not the ceiling," said Rachel Weintraub of the Consumer Federation of America.

It is too early to say what effect the state regulations might have on consumers. Retailers have already placed their orders for this holiday shopping season, and many of the new state laws don't take effect until next year.

In Washington state, toymakers have made dire predictions, telling the governor and an advisory panel she convened that when the ban on lead and phthalates takes effect next year, they won't be able to sell many of their products.

Jerry Storch, chief executive of Toys R Us, said in an interview that many of the new state restrictions won't affect the giant retailer because it imposed its own standards on manufacturers in February. In many cases, they are more stringent than what the states have passed or what Congress has proposed.

But he too hopes lawmakers on the Hill will find a way to end the proliferation of state regulations.

"A national product safety standard," he said, "would avoid all this confusion, all of this complexity."

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state regulations on children's products will keep safe toys off the market.

"Some states have passed ex-