

# Taking on Toys

BY GARRY BOULARD

**H**annah Pingree never expected to become a point person in the growing national debate over toxic toys.

As majority leader for the Maine House of Representatives, Pingree has long been interested in environmental and health issues. But then she took part in a study by the Alliance for a Clean and Healthy Maine and got a surprise.

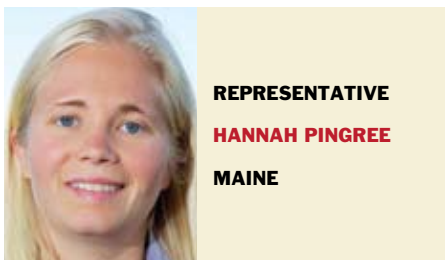
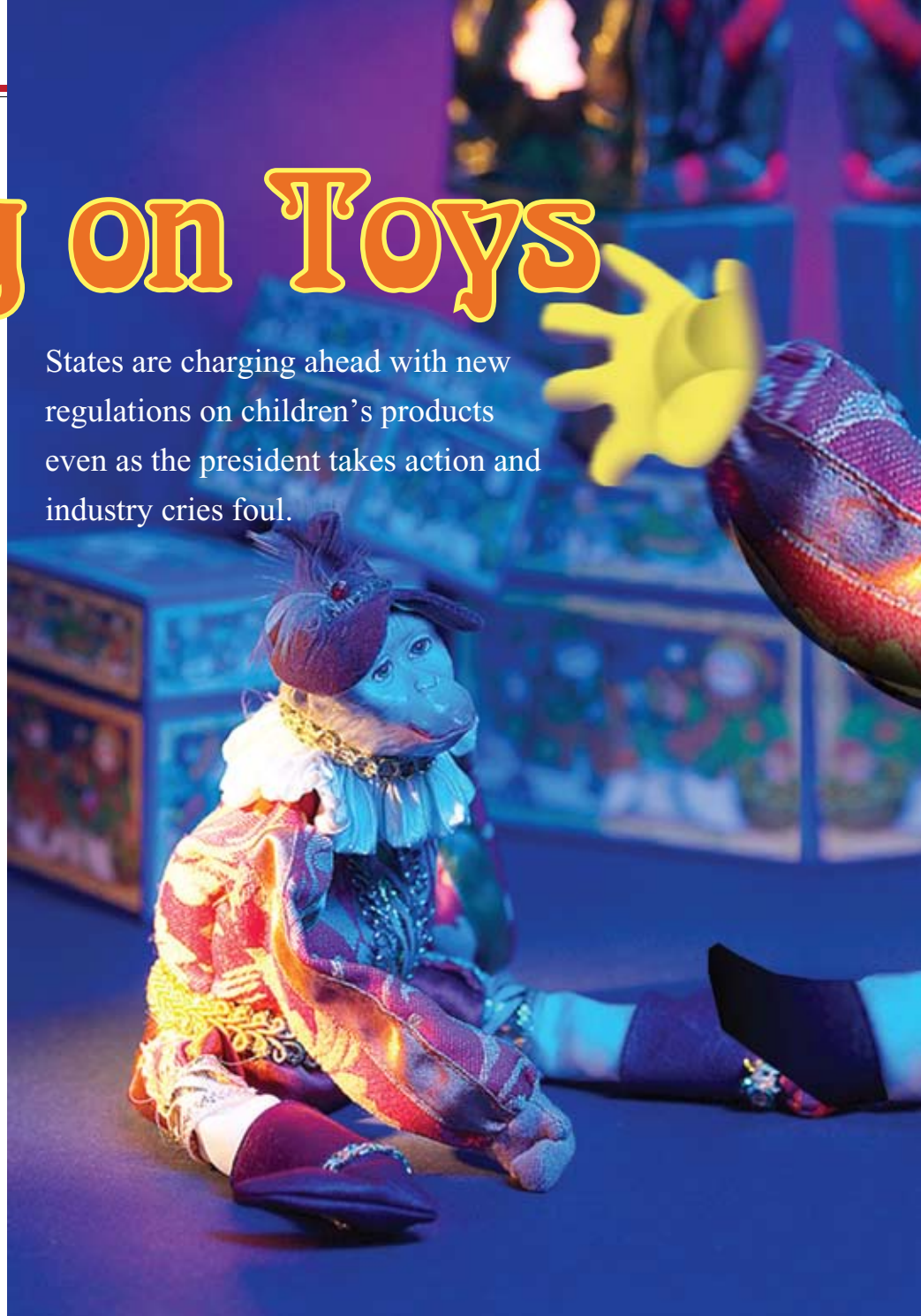
“We were testing for some 70 or so toxic chemicals that might be in our bodies, including lead, mercury and arsenic,” says Pingree, “and what really surprised me was that pretty much everyone in the study had high levels of something and trace levels of everything.”

That revelation prompted her to think more seriously about the issue of toxins in toys. China manufactures 80 percent of the toys sold in the United States, and millions of them have turned out to contain chemicals widely thought to be dangerous to children.

“If I as an adult had such traceable levels of toxic chemicals in my body that might come from contact with products containing those chemicals,” Pingree says, “what happens when a small child comes in contact with many of those same chemicals, particularly with toys that they inevitably put in their mouths?”

In response, she sponsored a bill, signed into law this spring, that forces manufacturers to disclose any and all toxic chemicals that are in their toys and authorizes the state

States are charging ahead with new regulations on children’s products even as the president takes action and industry cries foul.



**REPRESENTATIVE  
HANNAH PINGREE  
MAINE**

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to require safer alternatives.

Pingree is not alone. Thirty states have addressed toxins in toys, and more legislation is being considered. State lawmakers are convinced they have to take the lead in addressing the problem, even though a new federal law bans certain toxins and increases money for oversight.

But there is push-back from the industry. U.S. toy manufacturers, many of whom have toys made in Chinese factories, have complained about the patchwork of state laws regulating their industry, while those in the

chemical industry complain that much of the legislation is based on incomplete scientific data.

The biggest fear of manufacturers is “having 50 different sets of regulations to abide by,” Amy Tucker, president of the Seattle-based toy maker the Matter Group, told the *Washington Post*.

Robust action by the states, though, is likely to continue, says Mark Schapiro, the author of *Exposed: The Toxic Chemistry of Everyday Products and What’s at Stake for American Power*.



“The Maine legislation is one of the most recent examples of not only how both toxic toys have become such an important public issue,” he says, “but one more sign that it has been the states that are dealing with this challenge, coming up with the most comprehensive approaches to limiting such products.”

He says lax federal enforcement in the last decade has allowed a wide array of products containing dangerous chemicals—including toys, appliances and even food—to enter the country and pose a potential health risk to millions of children and adults.

“Most American assume that we have the strongest protections in the world and the most assiduous enforcement by the federal government to stop dangerous chemicals in products from entering our country,” says Schapiro. “That just isn’t the case.

“In fact, the European Union has had far more stringent rules governing these chemicals, to the point where there are now factories in China that make toys without chemicals like phthalates and other toxic chemicals just for the European market,” he says, “and toys with phthalates and other toxic chemi-

als just for the American market.”

#### CHEMICAL CONCERNS

Health and child advocates, among others, have long argued that almost any level in a wide array of toxic chemicals now found in imported toys is dangerous. They are concerned that:

- ◆ Phthalates, used primarily for softening plastic, may cause cancer, disrupt hormone systems and spur early onset puberty in children.
- ◆ Mercury, used for bath toys, may damage the kidneys and nervous system of a child.
- ◆ Cadmium, used often in painted toys and lunch boxes, may damage kidneys, lungs and intestines.
- ◆ Bisphenol-A, found in the polycarbonate plastic used in baby bottles and the lining of plastic food containers, may lead to hyperactivity in kids and impair their ability to learn.

But perhaps the most dangerous toxin found in everything from painted toys and jewelry to shoes and backpacks is lead, says Michigan Senator Roger Kahn, who sponsored a successful bill last year banning the



**SENATOR**  
**ROGER KAHN**  
**MICHIGAN**

sale of toys and other children’s products with a lead content of 0.6 percent or more.

“Lead toxicity destroys a child’s mind, particularly those who are under 2 years old,” and whose brains are still forming, says Kahn, who is a cardiologist. “And if the toy in question is a teething ring, that means it is going to be in the child’s mouth all the time, which only increases the danger.”

#### MASSIVE RECALLS

Last year was known in the toy industry as the year of the recall. More than 230 children’s products were pulled from the shelves, according to Kids in Danger, a nonprofit group dedicated to improving children’s product safety.

Those recalls, more than 46 million items, included more than 175,000 Curious George dolls recalled by Marvel Toys because of

dangerous levels of lead in the paint on the doll's face and hat; 4.2 million Aqua Dot beads recalled by Spin Master because of toxic paint; and just under 1 million Fisher-Price Dora the Explorer figurines, which also contained lead paint.

At the same time, HealthyToys.org, another group formed to monitor children's products, released the findings of tests conducted earlier this year on more than 1,200 children's products that found different levels of lead in 35 percent of them.

But while lead is widely recognized as being extremely toxic to children, there is less agreement on the potential harm from the other chemicals. There are serious questions about how public health advocates came to the conclusion that certain chemical ingredients in toys are dangerous, says Jeff Stier, a spokesman for the American Council on Science and Health, a nonprofit science group that receives some of its funding from the chemical and pharmaceutical industries.

"Much of the science that these assumptions are based on come from high-dosage animal testing that has no relevance to humans," says Stier. "And what is in a toy is typically a very trace level of phthalates. There is evidence that phthalates cause cancer in rodents at high doses. But there is no evidence that phthalates cause cancer in humans."

Legislation may sell well to the public, he says, but it will not necessarily make kids safer.

"From our point of view, banning phthalates is basically a political move. It makes lawmakers feel good because they want to make people think that toys are safe now, but in fact there has never been any danger to children from exposure to rubber duckies."

#### FEDERAL ACTION

While state lawmakers have complained about federal inaction, President Bush in August signed into law a bill that had been working its way through Congress last winter.

It not only bans six forms of phthalates



and lead in children's toys, but also increases money for the Consumer Product Safety Commission from \$80 million a year to more than \$118 million for FY 2010. The commission is charged with ensuring the safety of more than 15,000 separate consumer products from toys to home appliances to tools. Its funding and staff are now about half what they were in the late 1970s.

But the new federal law, say some state lawmakers, does not address all potentially toxic chemicals in toys and came about mainly because states effectively forced Washington's hand. And it's unlikely to deter states from passing more laws.

Earlier this year, Maryland Delegate James Hubbard sponsored a bill, later signed into law, that bans the importation, manufacture, distribution and sale of any children's product containing lead.

"It has just become increasingly clear to us after a certain period of time that this was not anything Washington was either interested in or was capable of handling. Their enforcement abilities have been incredibly lax."

In addition to the funding and staffing problems at the product safety commission, critics also point to a U.S. Government Accountability Office report from 2005 that found the federal government doesn't require the full testing of any chemicals added to products and the Environmental Protection Agency does not track every chemical that may be used in consumer products.

"Obviously, this has been one field where the states have gotten out in front of the federal government," says Hubbard. "We've done this before in other areas, particularly with healthy air bills and calling for a more strict enforcement of water policy. Unless Washington preempts states from doing something in relationship to an existing federal law, there has always been room for the states to go further than the federal government."

#### SETTLING CHEMICAL LEVELS

So far, most state legislators have decided the best solution to toxic toys is to limit what makes them dangerous.

"We wanted to specifically quantify what is permitted in these products so that there would be no areas of confusion," says Washington Representative Mary Dickerson.

Dickerson says recent dramatic headlines about the potential danger of such toys helped her cause, and this year she sponsored successful legislation limiting phthalates, cadmium and lead in all children's products.

But Washington Senator Brian Hatfield, who opposed Dickerson's legislation, says that he worried about the possible damaging effect the bill might have on small manufacturers in Washington, and also wondered if his fellow lawmakers were responding to a hot issue too quickly.

"I was concerned that we might be going too far, trying to get out there ahead of the curve and doing something that is popular that would make us all feel good, but might, in the long run, have a negative effect on our own in-state businesses."

Hatfield said he also thought it might be a



**DELEGATE**  
**JAMES HUBBARD**  
**MARYLAND**



**REPRESENTATIVE**  
**MARY DICKERSON**  
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**WASHINGTON**

waste of the state's time to "get involved in a subject area that the federal government was going to eventually address anyway. And sure enough that's what Washington ended up doing."

But California Assemblywoman Fiona Ma argues just because Congress has made a significant step in the direction of banning some chemicals, that should not stop further state action on toxic toys.

"The federal bill bans three types of phthalates from children's toys and promises to outlaw three other phthalates, depending upon the results of future studies," says Ma. "But there is no reason why the states can't go all the way and ban all phthalates in toys in general, which I think would send a message to the federal government that it did not go as far as it should have."

Last year, California became the first state to ban most phthalates as a result of a sweeping bill authored by Ma that also limited concentrations of three phthalates to 0.1 percent in any product. Specific concentrations of three other phthalates in products that can be placed in a child's mouth also are limited to 0.1 percent.

In Michigan, the Legislature passed a series of bills prohibiting the sale of lunch boxes containing lead, requiring labeling for certain lead-based children's products and maintaining a commission that monitors the chemical content of children's toys.

"We tried to tackle this issue from several different perspectives," says Kahn. "But at the end of the day, we all came to the same conclusion: Whatever is sold on the shelves in Michigan can be regulated by Michigan."

In all, 19 states have addressed lead levels in toys, while 11 states have weighed the outright ban of any detectable levels of bisphenol-A in those same products.

#### INDUSTRY WEIGHS IN

The variety of legislation underlines what Schapiro contends is a "real and exciting response to a serious national health prob-

lem." But that same variety, charge some toy manufacturers, can make their lives unfairly difficult.

Bob Herriott agrees: "We think a uniform national standard is a positive approach so there is less confusion about what the rules are and how toys need to be manufactured, thus reducing the potential for mistakes."

Herriott, director of international relations and regulatory affairs with the Toy Industry Association, adds that, when "lawmakers are considering whether or not to introduce this kind of legislation, it is typically not the Toy Industry Association or the toy industry that opposes them.

"What we try to do is work with the legislatures, going in and talking to the individual members in the hope that they will have a good understanding of how our industry works, what safety standards we already have in place, what our manufacturing practices are, things like that," he says.

That sort of communication, says Kahn, has made for better legislation. "I don't think any of us are out to beat up on the toy manufacturers or anybody else, for that matter. Our only goal has been to protect our children, and if the manufacturers can help us do that, so much the better."

The most vocal opposition has come from the chemical industry.

"The people who actually make the chemicals are the ones we heard from the most here in Maine," says Pingree. "When we were working on a flame retardant ban, they spent an enormous amount of money on newspaper and television ads trying to convince the public that we were about to do something bad."

While Pingree has heard the arguments from those such as Jeff Stier that the scientific jury is still out on the risk posed by some of these chemicals, she thinks legislators should err on the side of caution.

"I would rather be too proactive, if that is even the case, than not enough when it comes to toxic toys," Pingree says. "After all, we are talking about protecting the health of children. What could be more important than that?"

**CHECK OUT** a Q&A with author Mark Schapiro, editorial director of the Berkeley, California-based Center for Investigative Reporting and author of *Exposed: The Toxic Chemistry of Everyday Products and What's at Stake for American Power* at [www.nesl.org/magazine](http://www.nesl.org/magazine).



**ASSEMBLYWOMAN**  
**FIONA MA**  
**CALIFORNIA**

Toys are not the only products from China that have been banned in recent years.

In September, tainted milk products sickened more than 50,000 in China and began to cause concern in Europe and the United States because some exported goods contain milk powder. In 2006, the U.S. Food and Drug Administration prohibited the importation of eels from China after tests found residues of an antimicrobial agent that could harm humans.

On June 1, 2007, the FDA warned U.S. consumers to avoid toothpaste manufactured in China because of concerns that it might contain a poisonous chemical called diethylene glycol, which is normally used as a solvent and in antifreeze.

Four weeks later, the FDA blocked the importation of Chinese-farmed fish, shrimp, catfish, basa and dace because of worries that the seafood was contaminated with "drugs and unsafe food additives," according to David Acheson, the FDA's assistant commissioner for food protection. Basa is similar to catfish and dace is similar to carp.

Acheson said the low level of contaminants posed no immediate threat to public health, but the seafood could cause "serious health problems if consumed over a long period of time."

In February 2008, a federal grand jury indicted two Chinese nationals for importing pet foods into the United States that the FDA in 2007 said contained contaminants in vegetable proteins that could kill dogs and cats.

At the state level, specific bans of Chinese products are rare, although last December Minnesota was the first state in the nation to ban eye makeup containing mercury that was manufactured in China and other countries. Also in 2007, Alabama Agricultural Commissioner Ron Sparks announced a ban on catfish from China that he said tested positive for the antibiotic fluoroquinolones. It has been banned by the FDA in food-producing animals for more than a decade. Sparks said he decided on the ban after his department tested 20 samples of catfish from China and found 14 contained fluoroquinolones.

"Some way or other we're going to get this message from Alabama to those foreign countries that if you continue to use chemicals that have been banned by the FDA, when we find it, we're going to stop it," said Sparks. "It's that simple."