



March 24, 2014

The Honorable Peter Shumlin  
Governor of Vermont  
109 State Street, Pavillion  
Montpelier, VT 05609

Senator John Campbell, President Pro Tem  
Vermont Senate  
Vermont State House  
Montpelier, Vermont 05633-5301

Representative Shapleigh Smith,  
Speaker of the House  
Vermont House of Representatives  
Vermont State House  
Montpelier, Vermont 05633-5301

Dear Governor Shumlin, Senator Campbell and Representative Smith,

We write to you today on behalf of Outdoor Industry Association (OIA), the 20 outdoor OIA member companies in Vermont and our members from across the country regarding Senate bill 239 (S. 239). While OIA supports the intent of the legislation, we encourage you to reconsider specific aspects that may cause unnecessary harm to outdoor businesses in Vermont and those who sell outdoor products to consumers through retailers in your state.

OIA is the trade association for suppliers, manufacturers and retailers of outdoor apparel, footwear and equipment. Our members include Burton Snowboards, Darn Tough Vermont, The North Face, Eastern Mountain Sports and hundreds of other outdoor brands from across the country. The outdoor industry contributes more than \$646 billion annually to the U.S. economy and creates and supports 6.1 million jobs. In Vermont, the outdoor recreation economy adds more than \$2.5 billion in consumer spending, \$753 million in wages and salaries from more than 34,000 jobs, and generates \$176 in state and local tax revenue every year.

In addition to being a strong economic sector in Vermont, the outdoor industry is a leader in corporate responsibility and the development of better outdoor products. Hundreds of our members participate in OIA's Sustainability Working Group and our Chemicals Management Working Group, to establish shared approaches and tools for the assessment and management of chemicals and their potential impacts on humans and the environment across product life cycles. Approximately 100 companies have worked together voluntarily to develop and adopt the Chemicals Management Module of the Higg Index, which defines and provides guidance on best practices in chemicals management throughout the supply chains of outdoor apparel, footwear, and gear. (The overall Higg Index, collaboratively developed by and for the outdoor/sporting goods/fashion industries to establish a shared roadmap for supply chain and product-level sustainability, is currently being adopted by 40% of the global industry.)

We share the goals of the legislation and keeping consumers safe from potentially dangerous chemicals, but there are several specific aspects of the legislation that must be reconsidered before this legislation is passed by the legislature and enacted. We hope you will consider the following suggestions:

**Phase-In Product Priority By Exposure:** Include a "Priority Product" concept and definition. There may be outdoor products which could include substances that would be considered harmful if used improperly, but when incorporated into a finished product are entirely safe and pose no threat to the user. Regulatory efforts should be focused on those chemicals which have direct exposure to the user, such as topical creams, cosmetics, and those products that have primary exposure to skin. Certain children's products is another area that could be a priority. This phased-in approach is a model that has been adopted by other states and countries with similar toxic chemicals legislation and is considered by industry and chemical management experts alike to be a modern legislative approach to the concern being addressed by this Committee.

**Eliminate the Chemicals of High Concern Fund:** Section 1776 of the legislation establishes the Chemicals of High Concern Fund. Allowing the Department of Health to "accept gifts, grants or contributions from any public or private source..." is highly problematic, undermines a legislative appropriations process that provides a forum for thoughtful and deliberative consideration of the program's successes and areas for improvement and is ripe with potential for unintended consequences that may not be in the public interest.

**Safeguards for Business Confidential Information:** The legislation does not have any protections for entities that provide what may be business confidential information towards an expedient and efficient reporting process. Outdoor product manufacturers are highly innovative and the lack of any safeguards unnecessarily exposes outdoor brands' intellectual property and possible competitive advantage.

**Include a Manufacturing Control Exemption Clause:** Manufacturers that voluntarily put systems in place to mitigate exposure to harmful substances should not be subject to the requirements in S. 239. A Manufacturing Control Exemption is a mechanism built into consumer products toxic management and safety legislation which is designed to allow sophisticated businesses to rely on their existing internal process and quality control in lieu of reporting or otherwise being obligated to disclose the existence and content levels of chemicals and related substances in a company's products. Washington State's Children's Safe Products Act is an example of a recent state-enacted statute which includes a Manufacturing Control Exemption.

**Harmonize Legislation with Other States' Policies:** As drafted, S.239 conflicts with the state-level framework developed and in effect in various other states including California, Washington and Maine. The lack of harmonization among these state regulatory schemes will increase internal compliance-related costs for every business which sells consumers products in Vermont.

Thank you for considering the views of OIA and the outdoor industry. Please contact us if we can be helpful to you in any way.

We look forward to working with you to make sure Vermont's outdoor industry continues to thrive and that Vermonters get the best and safest outdoor products possible.

Sincerely,



Kirk Bailey  
Vice President of Government Affairs



Beth Jensen  
Director, Corporate Responsibility