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DATE: November 1, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE AND CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 113
RELATING TO: Treated Wood
SPONSOR(S): Representative(s) Crow
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE AND CONSUMER AFFAIRS (CCC)
 - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (3) FISCAL POLICY & RESOURCES (FRC)
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
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I. SUMMARY:

HB 113 prohibits the use of wood products with chromated copper arsenate (CCA) in publicly funded playground equipment and associated groundcovers. This prohibition applies to equipment constructed or contracted after October 1, 2002.

The bill also directs the Department of Education to notify school districts of appropriate maintenance and care for CCA treated wood likely to come into contact with children. The bill requires all state agencies to purchase arsenic-free wood unless an arsenic-free product is not commercially available for the particular use. The Department of Environmental Protection (DEP) is authorized to provide grants to private companies who are currently producing CCA treated wood to convert operations to an arsenic-free preservative.

This legislation requires retailers of CCA treated wood and contractors or subcontractors engaged in residential construction containing CCA treated wood to provide notice of the use of CCA treated wood to noncommercial buyers and owners. Noticing requirements and penalties for failure to comply with noticing requirements are provided for in the legislation.

This legislation has a fiscal impact of \$500,000 to the General Revenue Fund. The effective date of the legislation is July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In the early part of this year, the St. Petersburg Times hired Thornton Laboratories of Tampa to take a single soil test near the sunken posts at five wooden playgrounds picked randomly around the Tampa Bay area. Every one of the tests came back positive for arsenic, at levels higher than the state considers safe. Subsequently, other tests have been conducted at playgrounds around the state, as well as the country, and several playgrounds have been shut down and are being renovated due to the arsenic levels found in the soil.

Arsenic is a naturally occurring element that's in soil everywhere. Florida's safety level is among the most stringent in the country. So stringent that according to Scott Ramminger, former president of the American Wood Preservers Institute, "...arsenic levels considered unsafe in Florida are considered normal background levels in soil elsewhere." However, it's important to note that the Florida levels still exceed the national background levels.

Chromated copper arsenate (CCA) treated wood has been in used effectively for 70 years. Some countries, including Switzerland, Vietnam and Indonesia, have banned CCA treated wood. Japan, Denmark, Sweden, Germany, Australia and New Zealand have restricted or proposed restrictions for it. Some occupational illnesses and injuries relating to CCA treated wood have been reported. However, long-term effects of CCA treated wood on consumers is sketchy at best because epidemiological-related testing has not been completed.

The preserved wood industry, in conjunction with the Environmental Protection Agency (EPA), has developed an enhanced consumer safety information program to inform consumers regarding the safe use of CCA treated wood. The program consists of labels on wood containing detailed information, point-of-purchase signs and stickers indicating key messages about handling treated wood, a new website (www.ccasafetyinfo.com) and a toll-free hotline (800-282-0600) providing consumer safety information, as well as other aspects. The industry has also proposed a program to survey compliance, which is currently being reviewed by the EPA.

Alternatives to CCA treated wood exist. But because they aren't widely available, the cost is 12-25% more than the CCA treated wood. The Department of Corrections and PRIDE, a private company that gives job-training to prisoners, run a wood treatment plant at Union Correctional Institution at Raiford. It provides CCA treated wood to state agencies for use in projects all over the state. At the Governor's urging, a \$500,000 appropriation was placed in the budget in FY 2001-02

to convert the plant in Raiford for treating wood with a non-arsenic preservative. However, due to loss of manpower, the plant is in the process of closing.

Currently, the Consumer Product Safety Commission (CPSC) and the EPA are conducting independent studies and research of CCA treated wood. Both groups anticipate their respective analyses to be completed in 2002.

C. EFFECT OF PROPOSED CHANGES:

This legislation prohibits the use of wood products with chromated copper arsenate (CCA) in playground equipment and associated groundcovers built with public funds. This prohibition applies to equipment constructed or contracted after October 1, 2002. The bill also directs the Department of Education to notify school districts of appropriate maintenance and care for CCA treated wood likely to come into contact with children. The bill requires all state agencies to purchase arsenic-free wood unless an arsenic-free product is not commercially available for the particular use. The Department of Environmental Protection (DEP) is authorized to provide grants to private companies who are currently producing CCA treated wood to convert operations to an arsenic-free preservative.

This legislation requires retailers of CCA treated wood and contractors or subcontractors engaged in residential construction containing CCA treated wood to provide notice of the use of CCA treated wood to noncommercial buyers and owners. Noticing requirements and penalties for failure to comply with noticing requirements are provided for in the legislation.

The legislation provides a \$250,000 appropriation to the Department of Education to provide grants to public school districts and charter schools to offset the costs of renovating playground equipment made with CCA treated wood. An additional \$250,000 appropriation is provided to DEP to provide grants to private companies currently producing CCA treated wood for conversion to an arsenic-free preservative.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Prohibits the use of wood containing chromated copper arsenate (CCA) in construction of playground equipment or for use as decorative mulch or groundcover associated with playground equipment, for which public funds are used; provides definitions for playground equipment and public funds; applies only to construction of new playground equipment and new placement of mulch or groundcover; and, authorizes the Department of Environmental Protection (DEP) to enforce these provisions only when constructed or used on state lands.

Section 2: Requires the Department of Education (DOE) to give notice to school districts that wood treated with CCA likely to come in contact with children must be sealed every 2 years with a nontoxic sealant; authorizes DOE to consult with the wood treating industry, the Department of Health (DOH), and DEP to develop guidelines on effective sealants.

Section 3: Requires all state agencies to purchase arsenic-free wood unless an arsenic-free product is not commercially available for a particular use; and, authorizes DEP to provide grants to private companies currently treating wood with CCA to convert operations to treat wood with a preservative that does not contain arsenic.

Section 4: Requires retailers of wood treated with CCA and contractors or subcontractors engaged in residential construction containing wood treated with arsenic to provide notice of the use of wood treated with CCA to noncommercial purchasers and owners; provides requirements for notice; and, provides penalties for failure to comply with noticing requirements.

Section 5: Provides an appropriation of \$250,000 from the General Revenue Fund to DOE for fiscal year 2002-2003 to provide grants to public school districts and charter schools to offset the costs of sealing playground equipment made with wood treated with CCA.

Section 6: Provides an appropriation of \$250,000 from the General Revenue Fund to DEP for fiscal year 2002-2003 to provide grants to private companies which treat wood with CCA to convert operations to treat wood with a preservative that does not contain arsenic.

Section 7: Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

Department of Education (GR)	\$250,000
Department of Environmental Protection (GR)	<u>\$250,000</u>
	<u>\$500,000</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The public and private sectors will experience an undetermined fiscal impact due to the additional cost of arsenic-free alternatives.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Department of Agriculture and Consumer Services (DACS) has taken a neutral position on this legislation. DACS feels a viable alternative is needed to accommodate the construction done by its Division of Forestry.

The Department of Environmental Protection is awaiting the finalization of a report by the Environmental Protection Agency before taking a definitive stance on this legislation.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS:

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