Deal would allow state oversight of chemicals in California

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An ambitious proposal crafted in the dwindling days of the legislative session would for the first time give state regulators broad authority to oversee chemicals in consumer products.

The two-bill deal, negotiated among legislators, the Schwarzenegger administration and environmental and chemical industry groups, also would lay the foundation for the administration's "Green Chemistry Initiative," which would fundamentally change the way the state handles hazardous materials.

"I think we're on the verge of enacting groundbreaking legislation," said Assemblyman Mike Feuer, D-Los Angeles.

Feuer's measure, Assembly Bill 1879, would give the Department of Toxic Substances Control until January 2011 to establish a science-based process to identify and evaluate problem chemicals in their manufacture, use and ultimate disposal.

It would give the department authority to regulate the chemicals, including banning their use in California.

It also would create a "Green Ribbon" panel of scientists to advise the department.

Senate Bill 509, by state Sen. Joe Simitian, D-Palo Alto, would create a state-run Web site where consumers could search for information on chemical hazards.

State environmental regulators have traditionally focused mostly on problems such as air pollution and hazardous waste disposal, while chemical regulation has been left to the federal government.

But environmental groups have complained for years that federal agencies such as the Environmental Protection Agency and the Food and Drug Administration move too slowly, when they move at all.

In April 2007, the administration began formulating plans for overhauling the state's approach to dealing with the waves of new chemicals that wash over consumer products each year.

Specific recommendations were to be in place by last month. But administration officials said it would likely be sometime in September before they're done.
In the meantime, elements of the plan were negotiated into the Feuer and Simitian bills to serve as a beachhead for the program.

"This is essential for us to begin to really start looking at toxics in products," department director Maureen Gorsen said. "Right now everything we look at, and have been looking at, are emissions, wastes and discharges."

For example, Gorsen said: "We have lunchboxes that contain lead. When you throw them out, we can treat them as hazardous waste. But a kid could eat out of it every day ... and there's not much we can do about it right now."

Feuer said that when he gives talks on the subject, "people are not only surprised to find that the state currently doesn't have authority over products that contain dangerous chemicals, they expect that the state should."

Environmental groups praised the plan as a good first step.

"We're strongly supporting this," said Bill Magavern, lobbyist for the Sierra Club. "Right now, most Californians assume that state government has the authority to take toxic products off the shelves. That's actually not true, except in a very few specific cases where the Legislature has acted. ... This would be a really important breakthrough."

The chemical industry has generally been more cautious than aggressively opposed to the proposals.

"Officially, we don't have a position," said Tim Shestek, lobbyist for the American Chemistry Council, "but we're encouraged by it. ... This kind of format is much more preferred than what we're dealing with in the Legislature."

Shestek was referring to dozens of bills in the past few years that dealt with individual chemicals or specific chemical groups.

Chemical companies and manufacturers have complained that legislators lack the scientific knowledge to decide what is potentially dangerous, and are too often swayed by emotion rather than science.

Last year, Gov. Arnold Schwarzenegger indicated while signing a bill that phased out chemicals called phthalates from toys that he was weary of the one-chemical-at-a-time approach.

"I strongly believe there needs to be a systemic way to address these types of concerns," Schwarzenegger said.

That, plus the looming approval of the administration-backed Simitian and Feuer bills, could doom two other bills that seek to ban chemicals from fast food containers, microwave popcorn bags and some plastic baby bottles.

Those measures, Senate Bill 1713 by Sen. Carole Migden, D-San Francisco, and Senate Bill 1313 by Sen. Ellen Corbett, D-San Leandro, were defeated in the Assembly last week, but were scheduled for new votes this week.