



# Senate

General Assembly

**File No. 248**

February Session, 2000

Substitute Senate Bill No. 372

*Senate, March 27, 2000*

The Committee on General Law reported through SEN. COLAPIETRO of the 31<sup>st</sup> Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***An Act Protecting Children From Recalled Toys And Other Dangerous Products In The Resale Market.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 21a-335 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (d) "Commerce" means any and all commerce within the state of  
4 Connecticut pertaining to goods sold or resold or offered for sale or  
5 resale and subject to the jurisdiction thereof, [;] and includes the  
6 operation of any business or service establishment, but does not  
7 include the occasional sale of personal items from or in proximity to a  
8 person's home at a tag sale, garage sale or similar sale.

9 Sec. 2. Subsection (e) of section 21a-335 of the general statutes is  
10 repealed and the following is substituted in lieu thereof:

11 (e) "Hazardous substance" means: (1) (A) Any substance or mixture  
12 of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is

13 a strong sensitizer, (v) is flammable or combustible, or (vi) generates  
14 pressure through decomposition, heat or other means, if such  
15 substance or mixture of substances may cause substantial personal  
16 injury or substantial illness during or as a proximate result of any  
17 customary or reasonably foreseeable handling or use, including  
18 reasonably foreseeable ingestion by children; (B) any substances which  
19 the administrator by regulation finds meet the requirements of  
20 subdivision (1) (A) of this subsection pursuant to the provisions of  
21 subsections (b) and (c) of section 21a-336; (C) any substance classified  
22 as a hazardous substance when it was introduced into commerce  
23 pursuant to federal regulations adopted under the authority of the  
24 federal Hazardous Substances Act (15 USC 1261 et seq.); (D) any  
25 radioactive substance, if, with respect to such substance as used in a  
26 particular class of article or as packaged, the administrator determines  
27 by regulation that the substance is sufficiently hazardous to require  
28 labeling in accordance with this section and sections 21a-336 to 21a-  
29 346, inclusive, in order to protect the public health; (E) any toy or other  
30 article intended for use by children which the administrator by  
31 regulation determines in accordance with subsection (a) or (b) of  
32 section 21a-336 presents an electrical, mechanical or thermal hazard;  
33 (2) "hazardous substance" shall not apply to economic poisons subject  
34 to the federal Insecticide, Fungicide and Rodenticide Act or chapter  
35 441 nor to foods, drugs and cosmetics subject to chapter 418, nor to  
36 substances intended for use as fuels when stored in containers and  
37 used in the heating, cooking or refrigeration system of a house, but  
38 such term shall apply to any article which is not itself an economic  
39 poison within the meaning of the federal Insecticide, Fungicide and  
40 Rodenticide Act or said chapter 441 but which is a hazardous  
41 substance within the meaning of subdivision (1) of this subsection by  
42 reason of bearing or containing such an economic poison; (3)  
43 "hazardous substance" shall not include any source material, special  
44 nuclear material or by-product material as defined in the Atomic  
45 Energy Act of 1954, as amended, and regulations issued pursuant

46 thereto by the Atomic Energy Commission.

47 Sec. 3. Subsection (p) of section 21a-335 of the general statutes is  
48 repealed and the following is substituted in lieu thereof:

49 (p) "Banned hazardous substance" means (A) any toy, or other  
50 article intended for use by children, which is a hazardous substance, or  
51 which bears or contains a hazardous substance in such manner as to be  
52 susceptible of access by a child to whom such toy or other article is  
53 entrusted, and which was introduced into commerce after  
54 promulgation of an applicable safety standard under authority of the  
55 federal Hazardous Substances Act (15 USC 1261 et seq.) or the federal  
56 Consumer Product Safety Act (15 USC 2051 et seq.); (B) any hazardous  
57 substance intended, or packaged in a form suitable, for use in a  
58 household, classified, pursuant to section 21a-336 or pursuant to  
59 federal regulations adopted under authority of the federal Hazardous  
60 Substances Act (15 USC 1261 et seq.), as a "banned hazardous  
61 substance" that, notwithstanding such cautionary labeling as is or may  
62 be required under this section and sections 21a-336 to 21a-346,  
63 inclusive, for that substance, the degree or nature of the hazard  
64 involved in the presence or use of such substance in households is  
65 such that the objective of the protection of the public health and safety  
66 can be adequately served only by keeping such substance, when so  
67 intended or packaged, out of the channels of commerce; provided the  
68 administrator, by regulations adopted in accordance with chapter 54,  
69 shall exempt from subparagraph (A) of this subdivision articles, such  
70 as chemical sets, which by reason of their functional purpose require  
71 the inclusion of the hazardous substance involved or necessarily  
72 present in electrical, mechanical or thermal hazard and which bear  
73 labeling giving adequate directions and warnings for safe use and are  
74 intended for use by children who have attained sufficient maturity,  
75 and may reasonably be expected, to read and heed such directions and  
76 warnings; (C) any new wood-burning stove, coal-burning stove, solid  
77 fuel add-on units or combination of such stoves and units, which is

78 offered for sale or installed in any building, dwelling or structure in  
79 this state on or after July 1, 1985, and which has not been tested in  
80 accordance with Underwriter's Laboratory Standard Number 1482; (D)  
81 any new unvented fuel-burning room heater offered for sale or use in  
82 any building, dwelling or structure in this state on or after July 1, 1985,  
83 which has not been tested in accordance with Underwriter's  
84 Laboratory Standard Number 647 for unvented kerosene heaters and  
85 American National Standards Institute Standard Number Z21.11.2 for  
86 unvented gas heaters.

87 Sec. 4. Section 21a-337 of the general statutes is repealed and the  
88 following is substituted in lieu thereof:

89 The following acts and the causing thereof are prohibited: (1) The  
90 [introduction or delivery for introduction] delivery into commerce of  
91 any misbranded hazardous substance or banned hazardous substance;  
92 (2) the alteration, mutilation, destruction, obliteration or removal of the  
93 whole or any part of the label of, or the doing of any other act with  
94 respect to, a hazardous substance if such act is done while the  
95 substance is in commerce, or while the substance is held for sale,  
96 whether or not the first sale, after shipment in commerce, and results  
97 in the hazardous substance being a misbranded hazardous substance  
98 or a banned hazardous substance; (3) the receipt in commerce of any  
99 misbranded hazardous substance or banned hazardous substance and  
100 the delivery or proffered delivery thereof for pay or otherwise; (4) the  
101 giving of a guarantee or undertaking referred to in subdivision (2) of  
102 subsection (b) of section 21a-338 which guarantee or undertaking is  
103 false, except by a person who relied upon a guarantee or undertaking  
104 to the same effect signed by, and containing the name and address of,  
105 the person residing in the United States from whom he received in  
106 good faith the hazardous substance; (5) the failure to permit entry or  
107 inspection as authorized by subsection (a) of section 21a-343 or to  
108 permit access to and copying of any record as authorized by section  
109 21a-344; (6) the [introduction or delivery for introduction] delivery into

110 commerce, or the receipt in commerce and subsequent delivery or  
111 proffered delivery for pay or otherwise, of a hazardous substance in a  
112 reused food, drug or cosmetic container or in a container which,  
113 though not a reused container, is identifiable as a food, drug or  
114 cosmetic container by its labeling or by other identification. The reuse  
115 of a food, drug or cosmetic container as a container for a hazardous  
116 substance shall be deemed to be an act which results in the hazardous  
117 substance being a misbranded hazardous substance. As used in this  
118 subdivision, the terms "food", "drug" and "cosmetic" shall have the  
119 same meanings as in the Connecticut Food, Drug and Cosmetic Act; (7)  
120 the use by any person to his own advantage, or revealing other than to  
121 the administrator or officers or employees of the agency, or to the  
122 courts when relevant in any judicial proceeding under sections 21a-335  
123 to 21a-346, inclusive, of any information acquired under authority of  
124 section 21a-343 concerning any method of process which as a trade  
125 secret is entitled to protection; (8) the introduction or delivery for  
126 introduction into commerce of any item containing asbestos which  
127 reasonably may be expected to be used in the construction or repair of  
128 structures, without clearly indicating by labeling thereon that the item  
129 contains asbestos and that asbestos may cause cancer when inhaled; (9)  
130 the alteration or removal of any item upon which the commissioner or  
131 his authorized agent has placed an embargo prior to the time the  
132 commissioner, such agent or a court permits the alteration or removal  
133 of such item; (10) the introduction or delivery for introduction into  
134 commerce, after December 31, 1992, of any toy or other article for sale  
135 in this state and marketed for the use of children between the ages of  
136 three and seven, or determined to be for the use of children between  
137 the ages of three and seven by the federal Consumer Product Safety  
138 Commission pursuant to 16 CFR Part 1500 et seq., as published in the  
139 Code of Federal Regulations Revised to January 1, 1991, and as from  
140 time to time amended, or the Commissioner of Consumer Protection  
141 pursuant to sections 21a-335 to 21a-346, inclusive, which would be  
142 classified as a banned hazardous substance under 16 CFR Part

143 1501.4(b)(1) of said code and does not bear a conspicuous warning  
144 label that clearly and specifically communicates that the contents  
145 include small parts which pose a hazard for children under the age of  
146 three, except that any toy or other article that contains, as of December  
147 31, 1992, a safety warning label in substantial compliance with the  
148 requirements of this subdivision shall be determined by the  
149 commissioner to be in compliance with this subdivision until October  
150 1, 1993. As used in this subdivision, "conspicuous" has the same  
151 meaning and characteristics regarding type size as in 16 CFR Part  
152 1500.121(c)(2) of said code; and (11) the introduction or delivery for  
153 introduction into commerce, or the distribution or sale, of a drying oil  
154 or drying oil product, manufactured after December 31, 1994, which  
155 does not bear a conspicuous warning label on a side or back panel of  
156 such product stating: "DANGER - RAGS, STEEL WOOL OR WASTE  
157 SOAKED WITH .... (INSERT PRODUCT NAME) MAY  
158 SPONTANEOUSLY CATCH FIRE IF IMPROPERLY DISCARDED.  
159 IMMEDIATELY AFTER USE, PLACE RAGS, STEEL WOOL OR  
160 WASTE IN A SEALED WATER-FILLED METAL CONTAINER." As  
161 used in this subdivision, "conspicuous" has the same meaning and  
162 characteristics regarding type size as in 16 CFR Part 1500.121(c)(2) of  
163 said code.

**GL Committee Vote:** Yea 15 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Affected Agencies:** Department of Consumer Protection

**Municipal Impact:** None

**Explanation**

**State Impact:**

The bill subjects resold goods to the State Child Protection Act. The bill is not anticipated to result in an impact on the criminal justice system. Violations of the Child Protection Act are generally handled administratively through the Department of Consumer Protection (DCP). It is anticipated that DCP can implement provisions of this bill within the current budgetary resources.

**OLR Bill Analysis**

sSB 372

***AN ACT PROTECTING CHILDREN FROM RECALLED TOYS AND OTHER DANGEROUS PRODUCTS IN THE RESALE MARKET.*****SUMMARY:**

This bill subjects resold goods to the State Child Protection Act. Accordingly, the bill prohibits delivering into commerce, rather than introducing or delivering for introduction, (1) misbranded or banned hazardous substances and (2) hazardous substances in a reused food, drug, or cosmetic container. It exempts those goods that are resold in an occasional sale of personal items from or near a person's home at a tag, garage, or similar sale.

The law requires hazardous substances to bear specific labels beginning with the signal words "Danger," "Warning," or "Caution," as appropriate. Under state law, one of the ways a substance is deemed hazardous is if it is classified as such by federal regulations issued under the Hazardous Substances Act. The bill specifies that a substance is deemed hazardous under state law if it was classified as hazardous under federal law at the time it was introduced into commerce.

Certain substances are deemed "banned hazardous substances." One of the ways a substance is deemed to be a banned hazardous substance is if it is a toy or other article intended for a child and contains a hazardous substance. The bill specifies that this applies to goods introduced into commerce after the substance was deemed hazardous under the federal Hazardous Substances Act or the Consumer Product Safety Act.

EFFECTIVE DATE: October 1, 2000

**ENFORCEMENT AND PENALTY**

The bill's requirements can be enforced through the State Child Protection Act against anyone who delivers into commerce products that are hazardous or do not meet labeling requirements. The law authorizes the consumer protection commissioner to embargo and tag misbranded or banned hazardous substances.

A violation is a class C misdemeanor and the violator is subject to imprisonment for up to three months, a fine of up to \$500, or both. If the violation is committed with intent to defraud or mislead, or if it is a subsequent offense, the violator is subject to imprisonment for up to one year, a fine of up to \$3,000, or both.

**BACKGROUND**

***State Child Protection Act***

The State Child Protection Act is the state's counterpart to the Federal Hazardous Substances Act. Under it, the consumer protection commissioner is authorized, among other things, to adopt regulations (1) declaring certain substances to be hazardous, (2) banning certain substances, and (3) requiring certain items to be labeled.

***Federal Law***

The Hazardous Substances Act applies to interstate commerce and vests the Consumer Product Safety Commission with powers analogous to those of the consumer protection commissioner has under the State Child Protection Act. The Consumer Product Safety Act establishes the Consumer Product Safety Commission.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute  
Yea 15    Nay 0