



House of Representatives

File No. 723

General Assembly

January Session, 2001

(Reprint of File No. 83)

House Bill No. 6614
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 10, 2001

***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2 repealed and the following is substituted in lieu thereof: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, except antique goods, sold or resold
5 or offered for sale or resale and subject to the jurisdiction thereof, [;]
6 and includes the operation of any business or service establishment,
7 but does not include the occasional sale of personal items at a tag sale,
8 garage sale or similar sale on premises devoted to residential use and
9 where permitted by local law.

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11 repealed and the following is substituted in lieu thereof:

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

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

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

50 (p) "Banned hazardous substance" means (A) any toy, or other
51 article intended for use by children, [which] that is a hazardous
52 substance, or [which] that bears or contains a hazardous substance in
53 such manner as to be susceptible of access by a child to whom such toy
54 or other article is entrusted, and that was introduced into commerce
55 after promulgation of an applicable safety standard under authority of
56 the federal Hazardous Substances Act (15 USC 1261 et seq.) or the
57 federal Consumer Product Safety Act (15 USC 2051 et seq.); (B) any
58 hazardous substance intended, or packaged in a form suitable, for use
59 in a household, classified, pursuant to section 21a-336 or pursuant to
60 federal regulations adopted under authority of the federal Hazardous
61 Substances Act (15 USC 1261 et seq.), as a "banned hazardous
62 substance" that, notwithstanding such cautionary labeling as is or may
63 be required under this section and sections 21a-336 to 21a-346,
64 inclusive, for that substance, the degree or nature of the hazard
65 involved in the presence or use of such substance in households is
66 such that the objective of the protection of the public health and safety
67 can be adequately served only by keeping such substance, when so
68 intended or packaged, out of the channels of commerce; provided the
69 administrator, by regulations adopted in accordance with chapter 54,
70 shall exempt from subparagraph (A) of this subdivision articles, such
71 as chemical sets, [which] that by reason of their functional purpose
72 require the inclusion of the hazardous substance involved or
73 necessarily present in electrical, mechanical or thermal hazard and
74 [which] that bear labeling giving adequate directions and warnings for
75 safe use and are intended for use by children who have attained
76 sufficient maturity, and may reasonably be expected, to read and heed
77 such directions and warnings; (C) any new wood-burning stove, coal-
78 burning stove, solid fuel add-on units or combination of such stoves
79 and units, [which] that is offered for sale or installed in any building,
80 dwelling or structure in this state on or after July 1, 1985, and [which]
81 that has not been tested in accordance with Underwriter's Laboratory

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

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

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

116 identification. The reuse of a food, drug or cosmetic container as a
117 container for a hazardous substance shall be deemed to be an act
118 [which] that results in the hazardous substance being a misbranded
119 hazardous substance. As used in this subdivision, the terms "food",
120 "drug" and "cosmetic" shall have the same meanings as in the
121 Connecticut Food, Drug and Cosmetic Act; (7) the use by any person to
122 [his] such person's own advantage, or revealing other than to the
123 administrator or officers or employees of the agency, or to the courts
124 when relevant in any judicial proceeding under sections 21a-335 to
125 21a-346, inclusive, of any information acquired under authority of
126 section 21a-343 concerning any method of process which as a trade
127 secret is entitled to protection; (8) the introduction or delivery for
128 introduction into commerce of any item containing asbestos [which]
129 that reasonably may be expected to be used in the construction or
130 repair of structures, without clearly indicating by labeling thereon that
131 the item contains asbestos and that asbestos may cause cancer when
132 inhaled; (9) the alteration or removal of any item upon which the
133 commissioner or [his] the commissioner's authorized agent has placed
134 an embargo prior to the time the commissioner, such agent or a court
135 permits the alteration or removal of such item; (10) the introduction or
136 delivery for introduction into commerce, after December 31, 1992, of
137 any toy or other article for sale in this state and marketed for the use of
138 children between the ages of three and seven, or determined to be for
139 the use of children between the ages of three and seven by the federal
140 Consumer Product Safety Commission pursuant to 16 CFR Part 1500 et
141 seq., as published in the Code of Federal Regulations Revised to
142 January 1, 1991, and as from time to time amended, or the
143 Commissioner of Consumer Protection pursuant to sections 21a-335 to
144 21a-346, inclusive, [which] that would be classified as a banned
145 hazardous substance under 16 CFR Part 1501.4(b)(1) of said code and
146 does not bear a conspicuous warning label that clearly and specifically
147 communicates that the contents include small parts [which] that pose a
148 hazard for children under the age of three, except that any toy or other
149 article that contains, as of December 31, 1992, a safety warning label in
150 substantial compliance with the requirements of this subdivision shall

151 be determined by the commissioner to be in compliance with this
152 subdivision until October 1, 1993. As used in this subdivision,
153 "conspicuous" has the same meaning and characteristics regarding
154 type size as in 16 CFR Part 1500.121(c)(2) of said code; and (11) the
155 introduction or delivery for introduction into commerce, or the
156 distribution or sale, of a drying oil or drying oil product, manufactured
157 after December 31, 1994, [which] that does not bear a conspicuous
158 warning label on a side or back panel of such product stating:
159 "DANGER - RAGS, STEEL WOOL OR WASTE SOAKED WITH
160 (INSERT PRODUCT NAME) MAY SPONTANEOUSLY CATCH FIRE
161 IF IMPROPERLY DISCARDED. IMMEDIATELY AFTER USE, PLACE
162 RAGS, STEEL WOOL OR WASTE IN A SEALED WATER-FILLED
163 METAL CONTAINER." As used in this subdivision, "conspicuous" has
164 the same meaning and characteristics regarding type size as in 16 CFR
165 Part 1500.121 (c)(2) of said code.

166 Sec. 5. Section 21a-335 of the general statutes is amended by adding
167 subsection (v) as follows:

168 (NEW) (v) "Antique goods" means goods manufactured not less
169 than twenty-five years prior to the sale, resale or offering for sale or
170 resale of such goods.

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:

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. 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. The bill could result in additional workload for the criminal justice system. This workload is anticipated to be absorbable within current budgetary resources

House "A" and House "B" make changes which result in no fiscal impact.

OLR Amended Bill Analysis

HB 6614 (File 83, as amended by House "A" and "B")*

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

This bill extends the state Child Protection Act to cover resold goods. Accordingly, it prohibits the delivery into commerce at any time, rather than just when introducing, or delivering for introduction: (1) misbranded or banned hazardous substances and (2) hazardous substances in a reused food, drug, or cosmetic container.

On the other hand, it exempts from the act:

1. goods manufactured at least 25 years before they are sold, resold, or offered for sale or resale;
2. goods resold at an occasional sale of personal items, such as at a tag or garage sale, that takes place at a residence and is allowed by local law;
3. substances classified as hazardous under the federal Hazardous Substances Act after they were introduced into commerce; and
4. toys or other goods intended for children's use that are, or contain, hazardous substances that were introduced into commerce before promulgation of an applicable safety standard under the federal Hazardous Substances Act or Consumer Product Safety Act.

*House Amendment "A" requires that, to be exempt from the bill's provisions, goods sold at an occasional tag, garage or similar sale must be sold on residential property, and only where allowed by local law. The amendment eliminates the requirement that such sales take place either at or near a person's home.

*House Amendment "B" exempts antique goods from the provisions of the bill, and defines them as goods manufactured at least 25 years before they are sold, resold, or offered for sale or resale.

EFFECTIVE DATE: October 1, 2001

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 hazardous, (2) banning certain substances, and (3) requiring labeling of certain items.

Federal Law

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

Legislative History

The House referred the bill (File 83) to the Judiciary Committee on

April 3. The committee reported the bill favorably on April 9.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 17 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0