



General Assembly

February Session, 2008

Bill No. 5025

LCO No. 497

*00497 _____ *

Referred to Committee on Select Committee on Children

Introduced by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

AN ACT AMENDING THE CHILD PROTECTION SAFETY ACT.

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

1 Section 1. Section 21a-337 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 The following acts and the causing thereof are prohibited: (1) The
4 introduction or delivery for introduction into commerce of any
5 misbranded hazardous substance or banned hazardous substance; (2)
6 the alteration, mutilation, destruction, obliteration or removal of the
7 whole or any part of the label of, or the doing of any other act with
8 respect to, a hazardous substance if such act is done while the
9 substance is in commerce, or while the substance is held for sale,
10 whether or not the first sale, after shipment in commerce, and results
11 in the hazardous substance being a misbranded hazardous substance
12 or a banned hazardous substance; (3) the receipt in commerce of any
13 misbranded hazardous substance or banned hazardous substance and
14 the delivery or proffered delivery thereof for pay or otherwise; (4) the
15 giving of a guarantee or undertaking referred to in subdivision (2) of

16 subsection (b) of section 21a-338 which guarantee or undertaking is
17 false, except by a person who relied upon a guarantee or undertaking
18 to the same effect signed by, and containing the name and address of,
19 the person residing in the United States from whom he received in
20 good faith the hazardous substance; (5) the failure to permit entry or
21 inspection as authorized by subsection (a) of section 21a-343 or to
22 permit access to and copying of any record as authorized by section
23 21a-344; (6) the introduction or delivery for introduction into
24 commerce, or the receipt in commerce and subsequent delivery or
25 proffered delivery for pay or otherwise, of a hazardous substance in a
26 reused food, drug or cosmetic container or in a container which,
27 though not a reused container, is identifiable as a food, drug or
28 cosmetic container by its labeling or by other identification. The reuse
29 of a food, drug or cosmetic container as a container for a hazardous
30 substance shall be deemed to be an act which results in the hazardous
31 substance being a misbranded hazardous substance. As used in this
32 subdivision, the terms "food", "drug" and "cosmetic" shall have the
33 same meanings as in the Connecticut Food, Drug and Cosmetic Act; (7)
34 the use by any person to his own advantage, or revealing other than to
35 the administrator or officers or employees of the agency, or to the
36 courts when relevant in any judicial proceeding under sections 21a-335
37 to 21a-346, inclusive, of any information acquired under authority of
38 section 21a-343 concerning any method of process which as a trade
39 secret is entitled to protection; (8) the introduction or delivery for
40 introduction into commerce of any item containing asbestos which
41 reasonably may be expected to be used in the construction or repair of
42 structures, without clearly indicating by labeling thereon that the item
43 contains asbestos and that asbestos may cause cancer when inhaled, or
44 the introduction or delivery for introduction into commerce of any toy
45 or other article for sale in this state marketed for the use of children
46 under the age of sixteen containing asbestos; (9) the alteration or
47 removal of any item upon which the commissioner or his authorized
48 agent has placed an embargo prior to the time the commissioner, such
49 agent or a court permits the alteration or removal of such item; (10) the

50 introduction or delivery for introduction into commerce, after
51 December 31, 1992, of any toy or other article for sale in this state and
52 marketed for the use of children between the ages of three and seven,
53 or determined to be for the use of children between the ages of three
54 and seven by the federal Consumer Product Safety Commission
55 pursuant to 16 CFR Part 1500 et seq., as published in the Code of
56 Federal Regulations Revised to January 1, 1991, and as from time to
57 time amended, or the Commissioner of Consumer Protection pursuant
58 to sections 21a-335 to 21a-346, inclusive, which would be classified as a
59 banned hazardous substance under 16 CFR Part 1501.4(b)(1) of said
60 code and does not bear a conspicuous warning label that clearly and
61 specifically communicates that the contents include small parts which
62 pose a hazard for children under the age of three, except that any toy
63 or other article that contains, as of December 31, 1992, a safety warning
64 label in substantial compliance with the requirements of this
65 subdivision shall be determined by the commissioner to be in
66 compliance with this subdivision until October 1, 1993. As used in this
67 subdivision, "conspicuous" has the same meaning and characteristics
68 regarding type size as in 16 CFR Part 1500.121(c)(2) of said code; and
69 (11) the introduction or delivery for introduction into commerce, or the
70 distribution or sale, of a drying oil or drying oil product, manufactured
71 after December 31, 1994, which does not bear a conspicuous warning
72 label on a side or back panel of such product stating: "DANGER -
73 RAGS, STEEL WOOL OR WASTE SOAKED WITH (INSERT
74 PRODUCT NAME) MAY SPONTANEOUSLY CATCH FIRE IF
75 IMPROPERLY DISCARDED. IMMEDIATELY AFTER USE, PLACE
76 RAGS, STEEL WOOL OR WASTE IN A SEALED WATER-FILLED
77 METAL CONTAINER." As used in this subdivision, "conspicuous" has
78 the same meaning and characteristics regarding type size as in 16 CFR
79 Part 1500.121 (c)(2) of said code.

80 Sec. 2. Section 21a-338 of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective October 1, 2008*):

82 (a) Any person who violates any of the provisions of section 21a-337

83 shall be guilty of a class [C] B misdemeanor but an offense committed
84 with intent to defraud or mislead, or a second or subsequent offense,
85 shall be an unclassified misdemeanor for which the penalty shall be
86 imprisonment for not more than one year, or a fine of not more than
87 [three] five thousand dollars or both such imprisonment and fine.

88 (b) No person shall be subject to the penalties of subsection (a) of
89 this section, (1) for having violated subdivision (3) of section 21a-337,
90 as amended by this act, if the receipt, delivery or proffered delivery of
91 the hazardous substance was made in good faith, unless [he] such
92 person refuses to furnish, on request of an officer or employee duly
93 designated by the administrator, the name and address of the [person]
94 individual or entity from whom [he] such person purchased or
95 received such hazardous substance, and copies of all documents, if any
96 there be, pertaining to the delivery of the hazardous substance to [him]
97 such person; or (2) for having violated subdivision (1) of said section
98 21a-337, if [he] such person establishes a guarantee or undertaking
99 signed by, and containing the name and address of, the person
100 residing in the United States from whom [he] such person received in
101 good faith the hazardous substance, to the effect that the hazardous
102 substance is not a misbranded hazardous substance or a banned
103 hazardous substance within the meaning of those terms in sections
104 21a-335 to 21a-346, inclusive.

105 Sec. 3. Section 21a-340 of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2008*):

107 (a) Whenever a duly authorized agent of the administrator finds or
108 has probable cause to believe that any hazardous household substance
109 is misbranded, or is a banned hazardous substance, within the
110 meaning of sections 21a-335 to 21a-346, inclusive, [he] such agent shall
111 affix to such article a tag or other appropriate marking, giving notice
112 that such article is, or is suspected of being, misbranded or is a banned
113 hazardous substance and has been detained or embargoed, and
114 warning all persons not to remove or dispose of such article by sale or

115 otherwise until permission for removal or disposal is given by such
116 agent or the court. No person shall remove or dispose of such detained
117 or embargoed article by sale or otherwise without such permission.
118 The administrator may, after notice and hearing, impose a civil penalty
119 of not more than five hundred dollars for each separate offense on any
120 person who removes, without such permission, any tag or other
121 appropriate marking affixed to any article which has been detained or
122 embargoed in accordance with the provisions of this subsection. Such
123 penalty shall be deposited into the consumer protection enforcement
124 account established pursuant to section 21a-8a.

125 (b) When an article detained or embargoed under subsection (a) has
126 been found by such agent to be misbranded or a banned hazardous
127 substance, [he] such agent shall petition the superior court in whose
128 jurisdiction the article is detained or embargoed or any judge thereof
129 for a libel of condemnation of such article. When such agent has found
130 that an article so detained or embargoed is not misbranded or a
131 banned hazardous substance, [he] such agent shall remove the tag or
132 other marking.

133 (c) If the court finds that a detained or embargoed article is
134 misbranded or a banned hazardous substance, such article shall, after
135 entry of the decree, be destroyed at the expense of the claimant thereof,
136 under supervision of such agent, and all court costs and fees, and
137 storage and other proper expenses, shall be taxed against the claimant
138 of such article or his agent; except that, if the misbranding can be
139 corrected by proper labeling of the article, the court, after entry of the
140 decree and after such costs, fees and expenses have been paid and a
141 good and sufficient bond, conditioned that such article shall be so
142 labeled, has been executed, may by order direct that such article be
143 delivered to the claimant thereof for such labeling under the
144 supervision of an agent of the administrator. The expense of such
145 supervision shall be paid by the claimant. The article shall be returned
146 to the claimant on the representation to the court by the administrator
147 that the article is no longer in violation of sections 21a-335 to 21a-346,

148 inclusive, and that the expenses of such supervision have been paid.

149 Sec. 4. (NEW) (*Effective October 1, 2008*) In addition to the criminal
150 penalties and remedies set forth in chapter 420d of the general statutes,
151 the administrator may, after notice and hearing pursuant to chapter 54
152 of the general statutes, levy a civil penalty of not more than one
153 hundred dollars for a violation of any of the provisions of this chapter,
154 except for section 21a-340 of the general statutes. Each such violation
155 of this chapter shall be a separate and distinct offense and each day's
156 continuance thereof shall be deemed to be a separate and distinct
157 offense. Such penalty shall be deposited into the consumer protection
158 enforcement account established pursuant to section 21a-8a of the
159 general statutes.

160 Sec. 5. Section 21a-343 of the general statutes is repealed and the
161 following is substituted in lieu thereof (*Effective October 1, 2008*):

162 (a) For the purposes of enforcement of sections 21a-335 to 21a-346,
163 inclusive, officers or employees duly designated by the administrator,
164 upon presenting appropriate credentials to the owner, operator or
165 agent in charge, are authorized (1) to enter, at reasonable times, any
166 factory, warehouse or establishment in which hazardous substances
167 are manufactured, processed, packed or held for introduction into
168 commerce or are held after such introduction, or to enter any vehicle
169 being used to transport or hold such hazardous substances in
170 commerce; (2) to inspect, at reasonable times and within reasonable
171 limits and in a reasonable manner, such factory, warehouse,
172 establishment or vehicle, and all pertinent equipment, finished and
173 unfinished materials, and labeling therein; and (3) to obtain samples of
174 such materials or packages thereof, or of such labeling.

175 (b) If the officer or employee obtains any sample, prior to leaving
176 the premises, [he] such officer or employee shall pay or offer to pay the
177 owner, operator or agent in charge for such sample and give a receipt
178 describing the samples obtained.

179 (c) Each violation of subsection (a) of this section shall be deemed an
180 unfair or deceptive trade practice pursuant to section 42-110b.

181 Sec. 6. Section 21a-345 of the general statutes is amended by adding
182 subsection (c) as follows (*Effective October 1, 2008*):

183 (NEW) (c) The administrator may require that retail stores post a
184 notice making the general public aware of the administrator's decision
185 that an article has been designated a banned hazardous substance,
186 pursuant to regulations adopted under section 21a-336. Such notices
187 shall be posted in a location visible to the general public and shall be
188 posted for a duration of a time specified by the administrator.
189 Violations of this subsection shall be deemed an unfair or deceptive
190 trade practice pursuant to section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	21a-337
Sec. 2	<i>October 1, 2008</i>	21a-338
Sec. 3	<i>October 1, 2008</i>	21a-340
Sec. 4	<i>October 1, 2008</i>	New section
Sec. 5	<i>October 1, 2008</i>	21a-343
Sec. 6	<i>October 1, 2008</i>	21a-345

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]