



General Assembly

Amendment

February Session, 2008

LCO No. 5754

HB0502505754HDO

Offered by:

REP. MCMAHON, 15th Dist.

REP. RUWET, 65th Dist.

To: House Bill No. 5025

File No. 204

Cal. No. 97

"AN ACT AMENDING THE CHILD PROTECTION SAFETY ACT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 21a-337 of the general statutes, as amended by
4 section 2 of substitute house bill 5650 of the current session, is repealed
5 and the following is substituted in lieu thereof (*Effective October 1,*
6 *2008*):

7 (a) The following acts and the causing thereof are prohibited: (1)
8 The introduction or delivery for introduction into commerce of any
9 misbranded hazardous substance or banned hazardous substance; (2)
10 the manufacturing, distributing, selling at wholesale or retail,
11 contracting to sell or resell, lease, sublet or otherwise place in the
12 stream of commerce: (A) Any children's product that has been
13 designated a banned hazardous substance under this chapter or the
14 Federal Hazardous Substances Act; (B) any children's product, except
15 for an article described in 21 USC 321 (g), as amended from time to

16 time; that is the subject of voluntary or mandatory corrective action
17 taken under the direction of or in cooperation with an agency of the
18 federal government but the defect in such children's product has not
19 been so corrected; or (C) any children's product that is not otherwise in
20 conformity with applicable consumer safety product standards under
21 this chapter, or any similar rule under another chapter of the general
22 statutes or any federal laws or regulations; (3) the alteration,
23 mutilation, destruction, obliteration or removal of the whole or any
24 part of the label of, or the doing of any other act with respect to, a
25 hazardous substance if such act is done while the substance is in
26 commerce, or while the substance is held for sale, whether or not the
27 first sale, after shipment in commerce, and results in the hazardous
28 substance being a misbranded hazardous substance or a banned
29 hazardous substance; (4) the receipt in commerce of any misbranded
30 hazardous substance or banned hazardous substance and the delivery
31 or proffered delivery thereof for pay or otherwise; (5) the giving of a
32 guarantee or undertaking referred to in subdivision (2) of subsection
33 (b) of section 21a-338 which guarantee or undertaking is false, except
34 by a person who relied upon a guarantee or undertaking to the same
35 effect signed by, and containing the name and address of, the person
36 residing in the United States from whom he received in good faith the
37 hazardous substance; (6) the failure to permit entry or inspection as
38 authorized by subsection (a) of section 21a-343 or to permit access to
39 and copying of any record as authorized by section 21a-344; (7) the
40 introduction or delivery for introduction into commerce, or the receipt
41 in commerce and subsequent delivery or proffered delivery for pay or
42 otherwise, of a hazardous substance in a reused food, drug or cosmetic
43 container or in a container which, though not a reused container, is
44 identifiable as a food, drug or cosmetic container by its labeling or by
45 other identification. The reuse of a food, drug or cosmetic container as
46 a container for a hazardous substance shall be deemed to be an act
47 which results in the hazardous substance being a misbranded
48 hazardous substance. As used in this subdivision, the terms "food",
49 "drug" and "cosmetic" shall have the same meanings as in the
50 Connecticut Food, Drug and Cosmetic Act; (8) the use by any person to

51 his own advantage, or revealing other than to the administrator or
52 officers or employees of the agency, or to the courts when relevant in
53 any judicial proceeding under sections 21a-335 to 21a-346, inclusive, of
54 any information acquired under authority of section 21a-343
55 concerning any method of process which as a trade secret is entitled to
56 protection; (9) the introduction or delivery for introduction into
57 commerce of any item containing asbestos which reasonably may be
58 expected to be used in the construction or repair of structures, without
59 clearly indicating by labeling thereon that the item contains asbestos
60 and that asbestos may cause cancer when inhaled, or the introduction
61 or delivery for introduction into commerce of any toy or other article
62 for sale in this state marketed for the use of children under the age of
63 sixteen containing asbestos; (10) the alteration or removal of any item
64 upon which the commissioner or his authorized agent has placed an
65 embargo prior to the time the commissioner, such agent or a court
66 permits the alteration or removal of such item; (11) the introduction or
67 delivery for introduction into commerce, after December 31, 1992, of
68 any toy or other article for sale in this state and marketed for the use of
69 children between the ages of three and seven, or determined to be for
70 the use of children between the ages of three and seven by the federal
71 Consumer Product Safety Commission pursuant to 16 CFR Part 1500 et
72 seq., as published in the Code of Federal Regulations Revised to
73 January 1, 1991, and as from time to time amended, or the
74 Commissioner of Consumer Protection pursuant to sections 21a-335 to
75 21a-346, inclusive, which would be classified as a banned hazardous
76 substance under 16 CFR Part 1501.4(b)(1) of said code and does not
77 bear a conspicuous warning label that clearly and specifically
78 communicates that the contents include small parts which pose a
79 hazard for children under the age of three, except that any toy or other
80 article that contains, as of December 31, 1992, a safety warning label in
81 substantial compliance with the requirements of this subdivision shall
82 be determined by the commissioner to be in compliance with this
83 subdivision until October 1, 1993. As used in this subdivision,
84 "conspicuous" has the same meaning and characteristics regarding
85 type size as in 16 CFR Part 1500.121(c)(2) of said code; and (12) the

86 introduction or delivery for introduction into commerce, or the
87 distribution or sale, of a drying oil or drying oil product, manufactured
88 after December 31, 1994, which does not bear a conspicuous warning
89 label on a side or back panel of such product stating: "DANGER -
90 RAGS, STEEL WOOL OR WASTE SOAKED WITH (INSERT
91 PRODUCT NAME) MAY SPONTANEOUSLY CATCH FIRE IF
92 IMPROPERLY DISCARDED. IMMEDIATELY AFTER USE, PLACE
93 RAGS, STEEL WOOL OR WASTE IN A SEALED WATER-FILLED
94 METAL CONTAINER." As used in this subdivision, "conspicuous" has
95 the same meaning and characteristics regarding type size as in 16 CFR
96 Part 1500.121 (c)(2) of said code.

97 (b) A children's product shall not be a banned hazardous substance,
98 as defined in subsection (p) of section 21a-335, as amended by [this act]
99 section 1 of substitute house bill 5650 of the current session, solely on
100 the basis of containing a component that exceeds the standards
101 pursuant to subparagraph (B) of said subsection (p) if such component
102 is not accessible to a child because it is not physically exposed by
103 reason of a covering or casing and if it will not become physically
104 exposed through normal and reasonably foreseeable use and abuse of
105 the product. For purposes of this subsection, paint, coatings or
106 electroplating shall not be considered barriers that would render lead
107 in the substrate inaccessible to a child through normal and reasonably
108 foreseeable use and abuse of the product.

109 (c) [If] Within available appropriations, if the administrator
110 determines that it is not feasible for certain children's products that are
111 electronic devices, including batteries, to meet the standards pursuant
112 to subparagraph (B) of subsection (p) of section 21a-335, as amended
113 by [this act] section 1 of substitute house bill 5650 of the current
114 session, by July 1, 2009, the administrator shall adopt regulations, in
115 accordance with chapter 54, to (1) set standards to reduce the exposure
116 of and accessibility to lead in such devices, and (2) establish a schedule
117 by which such electronic devices shall be in full compliance with the
118 standards established in said subparagraph (B). Such devices shall not
119 be considered banned hazardous substances pursuant to said

120 subsection (p) if they comply with the provisions of such regulations.

121 Sec. 2. Subsection (c) of section 21a-336 of the general statutes, as
122 amended by section 3 of substitute house bill 5650 of the current
123 session is repealed and the following is substituted in lieu thereof
124 (*Effective October 1, 2008*):

125 (c) If the administrator finds that the hazard of an article subject to
126 sections 21a-335 to 21a-346, inclusive, is such that labeling adequate to
127 protect the public health and safety cannot be devised, or the article
128 presents an imminent danger to the public health and safety, the
129 administrator may by regulation declare such article to be a banned
130 hazardous substance and require its removal from commerce. The
131 administrator shall compile, within available appropriations, and from
132 time to time amend, a list of toys and other articles which are intended
133 for use by children and which are classified as banned hazardous
134 substances, and shall post such list in a conspicuous place on the
135 department's web site. Such list shall be publicly accessible and
136 searchable.

137 Sec. 3. Section 4 of substitute house bill 5650 of the current session is
138 repealed and the following is substituted in lieu thereof (*Effective*
139 *October 1, 2008*):

140 In addition to the list compiled pursuant to section 21a-336 of the
141 general statutes, as amended by [this act] section 3 of substitute house
142 bill 5650 of the current session, the administrator, in consultation with
143 the Commissioners of Public Health and Environmental Protection,
144 shall compile, within available appropriations, and from time to time
145 amend, a list of other toxic substances [and the recommended
146 maximum amount of such toxic substances] that [may] potentially
147 should not exist in children's products. In addition, the administrator
148 shall compile, within available appropriations, and from time to time
149 amend, a list of safer alternatives to using said toxic substances.

150 Sec. 4. Section 5 of substitute house bill 5650 of the current session is
151 repealed and the following is substituted in lieu thereof (*Effective from*

152 *passage*):

153 (a) Not later than October 1, 2008, the administrator, as defined in
154 section 21a-335 of the general statutes, as amended by [this act] section
155 1 of substitute house bill 5650 of the current session, shall develop,
156 within available appropriations, a certificate of disposition for retailers
157 and wholesalers prohibited from selling or otherwise placing any
158 children's product subject to a recall or voluntary corrective action into
159 the stream of commerce pursuant to section 21a-337 of the general
160 statutes, as amended by [this act] section 2 of substitute house bill 5650
161 of the current session. Such certificate of disposition shall (1) require
162 such retailers and wholesalers to specify the make, model, type,
163 quantity and final disposition of such children's products, (2) contain
164 any other information required by the administrator, and (3) require
165 such retailers and wholesalers to sign an affidavit verifying the
166 authenticity of the information provided in the certificate.

167 (b) Upon notification or receipt of information that a children's
168 product has been recalled, a retailer or wholesaler shall inspect its
169 premises and immediately dispose of all such products in possession
170 of such retailer or wholesaler. Upon notification or receipt of
171 information that a children's product has been subject to voluntary
172 corrective action, a retailer or wholesaler shall inspect its premises and
173 immediately return to the manufacturer or distributor all such
174 products in possession of such retailer or wholesaler. Retailers and
175 wholesalers shall complete the certificate of disposition form
176 developed pursuant to subsection (a) of this section no later than seven
177 calendar days after the date of notification or receipt of information of
178 a recall or voluntary corrective action. Signed and dated certificate of
179 disposition forms shall be maintained by the retailer or wholesaler and
180 shall be subject to inspection by the administrator or the
181 administrator's designated agent for a period of not less than three
182 years.

183 (c) A retailer or wholesaler who violates subsection (b) of this
184 section shall be subject to the penalties of section 21a-338 of the general

185 statutes, as amended by [this act] section 7 of substitute house bill 5650
186 of the current session.

187 Sec. 5. Subsection (a) of section 6 of substitute house bill 5650 of the
188 current session is repealed and the following is substituted in lieu
189 thereof (*Effective October 1, 2008*):

190 (a) Subject to the provisions of subsection (b) of this section, the
191 administrator, as defined in section 21a-335 of the general statutes, as
192 amended by [this act] section 1 of substitute house bill 5650 of the
193 current session, may adopt, within available appropriations,
194 regulations, in accordance with chapter 54 of the general statutes, to
195 require certain consumer products determined by the administrator
196 that bear lead-containing paint or that have lead in any part of the
197 product and that a child may reasonably or foreseeably come into
198 contact with, to carry a warning label described in this section. If the
199 administrator adopts such regulations, no person, firm or corporation
200 engaged in commerce shall have, offer for sale, sell or give away any
201 consumer product, identified in such regulations, that may be used by
202 the general public unless it bears a warning statement prescribed by
203 federal regulations or, if no warning statement is prescribed by federal
204 regulations, bears a warning statement that meets the requirements of
205 subdivision (1) or (2) of this section, as appropriate. (1) The warning
206 statement shall be as follows when the consumer product bears lead-
207 containing paint: "WARNING--CONTAINS LEAD. DRIED FILM OF
208 THIS SUBSTANCE MAY BE HARMFUL IF EATEN OR CHEWED. See
209 Other Cautions on (Side or Back) Panel. Do not apply on toys, or other
210 children's articles, furniture, or interior or exterior exposed surfaces of
211 any residential building or facility that may be occupied or used by
212 children. KEEP OUT OF THE REACH OF CHILDREN.". (2) The
213 warning statement shall be as follows when the consumer product
214 bears a form of lead other than lead-containing paint: "WARNING
215 CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED.
216 MAY GENERATE DUST CONTAINING LEAD. KEEP OUT OF THE
217 REACH OF CHILDREN.". The placement, conspicuousness and
218 contrast of such labeling shall be in accordance with 16 CFR 1500.121.

219 Sec. 6. Subsection (a) of section 21a-340 of the general statutes, as
 220 amended by section 9 of substitute house bill 5650 of the current
 221 session, is repealed and the following is substituted in lieu thereof
 222 (*Effective October 1, 2008*):

223 (a) Whenever a duly authorized agent of the administrator finds or
 224 has probable cause to believe that any hazardous household substance
 225 is misbranded, or is a banned hazardous substance, within the
 226 meaning of sections 21a-335 to 21a-346, inclusive, as amended by [this
 227 act] substitute house bill 5650 of the current session, such agent, within
 228 available appropriations, shall affix to such article a tag or other
 229 appropriate marking, giving notice that such article is, or is suspected
 230 of being, misbranded or is a banned hazardous substance and has been
 231 detained or embargoed, and warning all persons not to remove or
 232 dispose of such article by sale or otherwise until permission for
 233 removal or disposal is given by such agent or the court. No person
 234 shall remove or dispose of such detained or embargoed article by sale
 235 or otherwise without such permission. The administrator may, after
 236 notice and hearing, impose a civil penalty of not more than five
 237 hundred dollars for each separate offense on any person who removes,
 238 without such permission, any tag or other appropriate marking affixed
 239 to any article which has been detained or embargoed in accordance
 240 with the provisions of this subsection. Such penalty shall be deposited
 241 into the consumer protection enforcement account established
 242 pursuant to section 21a-8a."

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-336(c)
Sec. 3	<i>October 1, 2008</i>	HB 5650 (current session), Sec. 4
Sec. 4	<i>from passage</i>	HB 5650 (current session), Sec. 5
Sec. 5	<i>October 1, 2008</i>	HB 5650 (current session), Sec. 6(a)

Sec. 6	<i>October 1, 2008</i>	21a-340(a)
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