



General Assembly

February Session, 2008

Amendment

LCO No. 5203

HB0565005203HDO

Offered by:
REP. MCMAHON, 15th Dist.

To: Subst. House Bill No. 5650 File No. 238 Cal. No. 142

"AN ACT CONCERNING CHILD PRODUCT SAFETY."

1 Strike lines 158 to 162, inclusive, in their entirety and insert the
2 following in lieu thereof: "entrusted; (B) (i) for the period commencing
3 July 1, 2009, and ending June 30, 2011, any children's product with
4 greater than three hundred parts per million total lead content by
5 weight for any part of the product; and (ii) on and after July 1, 2011,
6 any children's product with greater than one hundred parts per million
7 total lead content by weight for any part of the product, or such stricter
8 standard established in regulation adopted pursuant to section 21a-
9 342; (C) on and after July 1, 2009, any children's product with lead-
10 containing paint greater than ninety parts per million total lead
11 content; (D) on and after July 1, 2009, any children's product with lead-
12 containing paint greater than .009 milligrams of lead per centimeter
13 squared; (E) any"

14 In line 242, strike "remanufacturing, retrofitting,"

15 Strike lines 247 to 251, inclusive, in their entirety and insert the

16 following in lieu thereof: "product that is the subject of voluntary or
17 mandatory corrective action taken under the direction of or in
18 cooperation with an agency of the federal government but the defect in
19 such children's product has not been so"

20 In line 293, after "inhaled" insert ", or the introduction or delivery for
21 introduction into commerce of any toy or other article for sale in this
22 state marketed for the use of children under the age of sixteen
23 containing asbestos"

24 In line 333, strike "sealed"

25 In line 343, strike "October 1, 2008" and insert the following in lieu
26 thereof "July 1, 2009"

27 In line 379, strike "Commissioner of Public Health" and insert in lieu
28 thereof "Commissioners of Public Health and Environmental
29 Protection"

30 In line 381, strike "in parts per million total content"

31 In line 382, strike "should not be used" and insert in lieu thereof
32 "may exist"

33 Strike lines 385 to 398, inclusive, in their entirety and insert the
34 following in lieu thereof:

35 "Sec. 5. (NEW) (*Effective from passage*) (a) Not later than October 1,
36 2008, the administrator, as defined in section 21a-335 of the general
37 statutes, as amended by this act, shall develop a certificate of
38 disposition for retailers and wholesalers prohibited from selling or
39 otherwise placing any children's product subject to a recall or
40 voluntary corrective action into the stream of commerce pursuant to
41 section 21a-337 of the general statutes, as amended by this act. Such
42 certificate of disposition shall (1) require such retailers and wholesalers
43 to specify the make, model, type, quantity and final disposition of such
44 children's products, (2) contain any other information required by the
45 administrator, and (3) require such retailers and wholesalers to sign an

46 affidavit verifying the authenticity of the information provided in the
47 certificate.

48 (b) Upon notification or receipt of information that a children's
49 product has been recalled, a retailer or wholesaler shall inspect its
50 premises and immediately dispose of all such products in possession
51 of such retailer or wholesaler. Upon notification or receipt of
52 information that a children's product has been subject to voluntary
53 corrective action, a retailer or wholesaler shall inspect its premises and
54 immediately return to the manufacturer or distributor all such
55 products in possession of such retailer or wholesaler. Retailers and
56 wholesalers shall complete the certificate of disposition form
57 developed pursuant to subsection (a) of this section no later than seven
58 calendar days after the date of notification or receipt of information of
59 a recall or voluntary corrective action. Signed and dated certificate of
60 disposition forms shall be maintained by the retailer or wholesaler and
61 shall be subject to inspection by the administrator or the
62 administrator's designated agent for a period of not less than three
63 years.

64 (c) A retailer or wholesaler who violates subsection (b) of this
65 section shall be subject to the penalties of section 21a-338 of the general
66 statutes, as amended by this act."

67 Strike lines 399 to 407, inclusive, in their entirety and insert the
68 following in lieu thereof:

69 "Sec. 6. (NEW) (*Effective October 1, 2008*) (a) Subject to the provisions
70 of subsection (b) of this section, the administrator, as defined in section
71 21a-335 of the general statutes, as amended by this act, may adopt
72 regulations, in accordance with chapter 54 of the general statutes, to
73 require certain consumer products determined by the administrator
74 that bear lead-containing paint or that have lead in any part of the
75 product and that a child may reasonably or foreseeably come into
76 contact with, to carry a warning label described in this section. If the
77 administrator adopts such regulations, no person, firm or corporation

78 engaged in commerce shall have, offer for sale, sell or give away any
79 consumer product, identified in such regulations, that may be used by
80 the general public unless it bears a warning statement prescribed by
81 federal regulations or, if no warning statement is prescribed by federal
82 regulations, bears a warning statement that meets the requirements of
83 subdivision (1) or (2) of this section, as appropriate. (1) The warning
84 statement shall be as"

85 Strike lines 414 and 415 in their entirety and insert the following in
86 lieu thereof: "OUT OF THE REACH OF CHILDREN.". (2) The warning
87 statement shall be as follows"

88 After line 421, insert the following:

89 "(b) The provisions of this section shall not apply to children's
90 products, and those consumer products with lead-containing
91 components, but whose lead-containing components are not accessible
92 to a child because they are not physically exposed by reason of a
93 covering or casing and they will not become physically exposed
94 through normal and reasonably foreseeable use and abuse of the
95 product."

96 Strike lines 422 to 440, inclusive, in their entirety and insert the
97 following in lieu thereof:

98 "Sec. 7. Section 21a-338 of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2008*):

100 (a) Any person who violates any of the provisions of section 21a-
101 337, as amended by this act, shall be guilty of a class [C] B
102 misdemeanor but an offense committed with intent to defraud or
103 mislead, or a second or subsequent offense, shall be an unclassified
104 misdemeanor for which the penalty shall be imprisonment for not
105 more than one year, or a fine of not more than [three] five thousand
106 dollars or both such imprisonment and fine.

107 (b) No person shall be subject to the penalties of subsection (a) of

108 this section, (1) for having violated subdivision [(3)] (4) of section 21a-
109 337, as amended by this act, if the receipt, delivery or proffered
110 delivery of the hazardous substance was made in good faith, unless
111 [he] such person refuses to furnish, on request of an officer or
112 employee duly designated by the administrator, the name and address
113 of the [person] individual or entity from whom [he] such person
114 purchased or received such hazardous substance, and copies of all
115 documents, if any there be, pertaining to the delivery of the hazardous
116 substance to [him] such person; or (2) for having violated subdivision
117 (1) of said section 21a-337, if [he] such person establishes a guarantee
118 or undertaking signed by, and containing the name and address of, the
119 person residing in the United States from whom [he] such person
120 received in good faith the hazardous substance, to the effect that the
121 hazardous substance is not a misbranded hazardous substance or a
122 banned hazardous substance within the meaning of those terms in
123 sections 21a-335 to 21a-346, inclusive, as amended by this act.

124 Sec. 8. Section 21a-336 of the general statutes is amended by adding
125 subsection (d) as follows (*Effective October 1, 2008*):

126 (NEW) (d) On and after July 1, 2011, if the administrator determines
127 that a standard stricter than one hundred parts per million total lead
128 content by weight for any part of a children's product is feasible, the
129 administrator may adopt regulations, in accordance with chapter 54 to
130 establish such stricter standard pursuant to subparagraph (B) of
131 subsection (p) of section 21a-335, as amended by this act, that is as low
132 as forty parts per million total lead content by weight for any part of
133 such product.

134 Sec. 9. Section 21a-340 of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2008*):

136 (a) Whenever a duly authorized agent of the administrator finds or
137 has probable cause to believe that any hazardous household substance
138 is misbranded, or is a banned hazardous substance, within the
139 meaning of sections 21a-335 to 21a-346, inclusive, [he] as amended by

140 this act, such agent shall affix to such article a tag or other appropriate
141 marking, giving notice that such article is, or is suspected of being,
142 misbranded or is a banned hazardous substance and has been detained
143 or embargoed, and warning all persons not to remove or dispose of
144 such article by sale or otherwise until permission for removal or
145 disposal is given by such agent or the court. No person shall remove or
146 dispose of such detained or embargoed article by sale or otherwise
147 without such permission. The administrator may, after notice and
148 hearing, impose a civil penalty of not more than five hundred dollars
149 for each separate offense on any person who removes, without such
150 permission, any tag or other appropriate marking affixed to any article
151 which has been detained or embargoed in accordance with the
152 provisions of this subsection. Such penalty shall be deposited into the
153 consumer protection enforcement account established pursuant to
154 section 21a-8a.

155 (b) When an article detained or embargoed under subsection (a) has
156 been found by such agent to be misbranded or a banned hazardous
157 substance, [he] such agent shall petition the superior court in whose
158 jurisdiction the article is detained or embargoed or any judge thereof
159 for a libel of condemnation of such article. When such agent has found
160 that an article so detained or embargoed is not misbranded or a
161 banned hazardous substance, [he] such agent shall remove the tag or
162 other marking.

163 (c) If the court finds that a detained or embargoed article is
164 misbranded or a banned hazardous substance, such article shall, after
165 entry of the decree, be destroyed at the expense of the claimant thereof,
166 under supervision of such agent, and all court costs and fees, and
167 storage and other proper expenses, shall be taxed against the claimant
168 of such article or his agent; except that, if the misbranding can be
169 corrected by proper labeling of the article, the court, after entry of the
170 decree and after such costs, fees and expenses have been paid and a
171 good and sufficient bond, conditioned that such article shall be so
172 labeled, has been executed, may by order direct that such article be
173 delivered to the claimant thereof for such labeling under the

174 supervision of an agent of the administrator. The expense of such
175 supervision shall be paid by the claimant. The article shall be returned
176 to the claimant on the representation to the court by the administrator
177 that the article is no longer in violation of sections 21a-335 to 21a-346,
178 inclusive, as amended by this act, and that the expenses of such
179 supervision have been paid.

180 Sec. 10. (NEW) (*Effective October 1, 2008*) In addition to the criminal
181 penalties and remedies set forth in chapter 420d of the general statutes,
182 the administrator may, after notice and hearing pursuant to chapter 54
183 of the general statutes, levy a civil penalty of not more than one
184 hundred dollars for a violation of any of the provisions of chapter 420d
185 of the general statutes, except for section 21a-340 of the general
186 statutes, as amended by this act. Each such violation of said chapter
187 shall be a separate and distinct offense and each day's continuance
188 thereof shall be deemed to be a separate and distinct offense. Such
189 penalty shall be deposited into the consumer protection enforcement
190 account established pursuant to section 21a-8a of the general statutes.

191 Sec. 11. Section 21a-343 of the general statutes is repealed and the
192 following is substituted in lieu thereof (*Effective October 1, 2008*):

193 (a) For the purposes of enforcement of sections 21a-335 to 21a-346,
194 inclusive, as amended by this act officers or employees duly
195 designated by the administrator, upon presenting appropriate
196 credentials to the owner, operator or agent in charge, are authorized
197 (1) to enter, at reasonable times, any factory, warehouse or
198 establishment in which hazardous substances are manufactured,
199 processed, packed or held for introduction into commerce or are held
200 after such introduction, or to enter any vehicle being used to transport
201 or hold such hazardous substances in commerce; (2) to inspect, at
202 reasonable times and within reasonable limits and in a reasonable
203 manner, such factory, warehouse, establishment or vehicle, and all
204 pertinent equipment, finished and unfinished materials, and labeling
205 therein; and (3) to obtain samples of such materials or packages
206 thereof, or of such labeling.

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

211 (c) Failure to permit entry or inspection as authorized by subsection
212 (a) of this section shall be deemed an unfair or deceptive trade practice
213 pursuant to section 42-110b.

214 Sec. 12. Section 21a-345 of the general statutes is amended by adding
215 subsection (c) as follows (*Effective October 1, 2008*):

216 (NEW) (c) The administrator may require that retail stores post a
217 notice making the general public aware of the administrator's decision
218 that an article has been designated a banned hazardous substance,
219 pursuant to regulations adopted under section 21a-336, as amended by
220 this act. Such notices shall be posted in a location visible to the general
221 public and shall be posted for a duration of a time specified by the
222 administrator. Violations of this subsection shall be deemed an unfair
223 or deceptive trade practice pursuant to section 42-110b.

224 Sec. 13. (NEW) (*Effective from passage*) The Commissioner of
225 Environmental Protection may, within available appropriations,
226 participate in an interstate clearinghouse to (1) classify chemicals
227 existing in commercial goods into one of the following four categories:
228 (A) High concern, (B) moderate concern, (C) low concern, or (D)
229 unknown concern; (2) organize and manage available data on
230 chemicals, including, but not limited to, information on uses, hazards
231 and environmental concerns associated with chemicals; (3) produce
232 and inventory information on safer alternatives for specific uses of
233 chemicals and model policies and programs related to such
234 alternatives; (4) provide technical assistance to businesses and
235 consumers relating to safer chemicals; and (5) other activities related to
236 this section."