



General Assembly

February Session, 2010

Raised Bill No. 5314

LCO No. 1451

01451_____KID

Referred to Committee on Select Committee on Children

Introduced by:
(KID)

**AN ACT CONCERNING CHILD SAFE PRODUCTS AND BANNING
CADMIUM IN CHILDREN'S PRODUCTS.**

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

1 Section 1. (NEW) (*Effective from passage*) (a) (1) Not later than July 1,
2 2011, the Commissioner of Environmental Protection, in consultation
3 with the Commissioners of Public Health and Consumer Protection,
4 shall develop a list of not less than five priority chemicals that are of
5 high concern to children's health and development due to the
6 likelihood that children will be exposed to such priority chemicals.

7 (2) Any chemical listed on such priority chemical list shall meet one
8 or more of the following criteria: (A) Such chemical, as determined by
9 bio-monitoring studies, may be found present in human umbilical cord
10 blood, human breast milk, human blood or other bodily tissues or
11 fluids; (B) such chemical, as determined by sampling and analysis, is
12 present in household dust, indoor air, drinking water or any area of
13 the home environment; or (C) such chemical is added to or present in a
14 consumer product that is present in the home environment.

15 (3) In determining which chemicals to designate as priority

16 chemicals, the Commissioner of Environmental Protection shall
17 consider inclusion of those chemicals designated as chemicals of high
18 concern by any of the following: (A) The interstate clearinghouse
19 concerning chemicals, as described in section 22a-902 of the general
20 statutes, (B) the World Health Organization's International Agency for
21 Research on Cancer, (C) the United States Department of Health and
22 Human Services, (D) the United States Environmental Protection
23 Agency, (E) the California Environmental Protection Agency, (F) the
24 Washington Department of Ecology, or (G) the Maine Department of
25 Environmental Protection.

26 (b) Not later than July 1, 2012, and annually thereafter, the
27 Commissioner of Environmental Protection, in consultation with the
28 Commissioners of Public Health and Consumer Protection, shall make
29 a determination of whether to add more chemicals to such priority
30 chemical list.

31 (c) The Commissioner of Environmental Protection shall adopt
32 regulations, in accordance with the provisions of chapter 54 of the
33 general statutes, to implement the provisions of this section.

34 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) No manufacturer,
35 distributor, wholesaler or retailer shall manufacture, knowingly sell,
36 distribute for sale or distribute for use in this state any children's
37 product, as defined in section 21a-335v of the general statutes, or
38 component of a children's product that contains any chemical that is
39 listed for a period of three years or longer on the priority chemical list
40 developed pursuant to section 1 of this act.

41 (b) If the Commissioner of Consumer Protection has reasonable
42 grounds to believe that a children's product was manufactured,
43 knowingly sold, distributed for sale or distributed for use in this state
44 in violation of the provisions of subsection (a) of this section, the
45 commissioner may request such manufacturer, distributor, wholesaler
46 or retailer, as applicable, to provide a certificate of independent, third-
47 party testing. Not later than ten days after receipt of any such request

48 for a certificate of independent, third-party testing, such manufacturer,
49 distributor, wholesaler or retailer, as applicable, shall provide the
50 commissioner with a certificate of independent, third-party testing that
51 indicates whether independent, third-party testing of such children's
52 product detected the presence of any chemical described in subsection
53 (a) of this section in such children's product. If such independent,
54 third-party testing detected the presence of any such chemical, such
55 manufacturer, distributor, wholesaler or retailer, as applicable, shall be
56 responsible for providing the commissioner with a list of the names
57 and addresses of any person known to such manufacturer, distributor,
58 wholesaler or retailer to sell such children's product in this state.

59 (c) The Commissioner of Consumer Protection shall adopt
60 regulations, in accordance with the provisions of chapter 54 of the
61 general statutes, to implement the provisions of this section. Such
62 regulations shall include, but not be limited to: (1) Procedures to
63 prevent the further manufacture, sale and distribution of any
64 children's product in this state that is described in subsection (a) of this
65 section, (2) a schedule of fines to be paid by any manufacturer,
66 distributor, wholesaler or retailer who violates the provisions of this
67 section, and (3) requirements for the performance of any independent,
68 third-party testing, as described in subsection (b) of this section.

69 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) On and after October 1,
70 2012, no person shall manufacture, sell, offer for sale or distribute in
71 this state any children's product or component of a children's product
72 that contains cadmium.

73 (b) The provisions of this section may be enforced, within available
74 appropriations, by the Commissioner of Consumer Protection.

75 Sec. 4. Section 21a-335 of the general statutes is repealed and the
76 following is substituted in lieu thereof (*Effective October 1, 2010*):

77 For the purposes of this section, [and] sections 21a-336 to 21a-349,
78 inclusive, and sections 2 and 3 of this act, unless specifically otherwise

79 provided:

80 (a) "Agency" means the Department of Consumer Protection;

81 (b) "Administrator" means the Commissioner of Consumer
82 Protection or his legally authorized representative or agent;

83 (c) "Person" includes an individual, partnership, corporation,
84 limited liability company or association, or his or its legal
85 representative or agent;

86 (d) "Commerce" means any and all commerce within the state of
87 Connecticut and subject to the jurisdiction thereof; and includes the
88 operation of any business or service establishment;

89 (e) "Hazardous substance" means: (1) (A) Any substance or mixture
90 of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is
91 a strong sensitizer, (v) is flammable or combustible, or (vi) generates
92 pressure through decomposition, heat or other means, if such
93 substance or mixture of substances may cause substantial personal
94 injury or substantial illness during or as a proximate result of any
95 customary or reasonably foreseeable handling or use, including
96 reasonably foreseeable ingestion by children; (B) any substances which
97 the administrator by regulation finds meet the requirements of
98 subdivision (1) (A) of this subsection pursuant to the provisions of
99 subsections (b) and (c) of section 21a-336; (C) any substance classified
100 as a hazardous substance pursuant to federal regulations adopted
101 under the authority of the federal Hazardous Substances Act (15 USC
102 1261 et seq.); (D) any radioactive substance, if, with respect to such
103 substance as used in a particular class of article or as packaged, the
104 administrator determines by regulation that the substance is
105 sufficiently hazardous to require labeling in accordance with this
106 section and sections 21a-336 to 21a-346, inclusive, in order to protect
107 the public health; (E) any toy or other article intended for use by
108 children which the administrator by regulation determines in
109 accordance with subsection (a) or (b) of section 21a-336 presents an

110 electrical, mechanical or thermal hazard; (2) "hazardous substance"
111 shall not apply to economic poisons subject to the federal Insecticide,
112 Fungicide and Rodenticide Act or chapter 441 nor to foods, drugs and
113 cosmetics subject to chapter 418, nor to substances intended for use as
114 fuels when stored in containers and used in the heating, cooking or
115 refrigeration system of a house, but such term shall apply to any article
116 which is not itself an economic poison within the meaning of the
117 federal Insecticide, Fungicide and Rodenticide Act or said chapter 441
118 but which is a hazardous substance within the meaning of subdivision
119 (1) of this subsection by reason of bearing or containing such an
120 economic poison; (3) "hazardous substance" shall not include any
121 source material, special nuclear material or by-product material as
122 defined in the Atomic Energy Act of 1954, as amended, and
123 regulations issued pursuant thereto by the Atomic Energy
124 Commission;

125 (f) "Toxic" shall apply to any substance, other than a radioactive
126 substance, which has the capacity to produce personal injury or illness
127 to man through ingestion, inhalation or absorption through any body
128 surface;

129 (g) (1) "Highly toxic" means any substance which falls within any of
130 the following categories: (A) Produces death within fourteen days in
131 half or more than half of a group of ten or more laboratory white rats
132 each weighing between two hundred and three hundred grams, at a
133 single dose of fifty milligrams or less per kilogram of body weight,
134 when orally administered; or (B) produces death within fourteen days
135 in half or more than half of a group of ten or more laboratory white
136 rats each weighing between two hundred and three hundred grams,
137 when inhaled continuously for a period of one hour or less at an
138 atmosphere concentration of two hundred parts per million by volume
139 or less of gas or vapor or two milligrams per liter by volume or less of
140 mist or dust, provided such concentration is likely to be encountered
141 by man when the substance is used in any reasonably foreseeable
142 manner; or (C) produces death within fourteen days in half or more

143 than half of a group of ten or more rabbits tested in a dosage of two
144 hundred milligrams or less per kilogram of body weight, when
145 administered by continuous contact with the bare skin for twenty-four
146 hours or less; (2) if the administrator finds that available data on
147 human experience with any substance indicate results different from
148 those obtained on animals in the above-named dosages or
149 concentrations, the human data shall take precedence;

150 (h) "Corrosive" means any substance which in contact with living
151 tissue will cause destruction of tissue by chemical action; but shall not
152 refer to action on inanimate surfaces;

153 (i) "Irritant" means any substance not corrosive within the meaning
154 of subsection (h) which on immediate, prolonged or repeated contact
155 with normal living tissue will induce a local inflammatory reaction;

156 (j) "Strong sensitizer" means a substance which will cause on normal
157 living tissue, through an allergic or photodynamic process, a
158 hypersensitivity which becomes evident on reapplication of the same
159 substances and which is designated as such by the administrator.
160 Before designating any substance as a strong sensitizer, the
161 administrator, upon consideration of the frequency of occurrence and
162 severity of the reaction, shall find that the substance has a significant
163 potential for causing hypersensitivity;

164 (k) "Extremely flammable" shall apply to any substance which has a
165 flash point at or below twenty degrees Fahrenheit as determined by
166 the Tagliabue Open Cup Tester, "flammable" shall apply to any
167 substance which has a flash point of above twenty degrees to and
168 including eighty degrees Fahrenheit, as determined by the Tagliabue
169 Open Cup Tester and "combustible" shall apply to any substance
170 which has a flash point above eighty degrees to and including one
171 hundred and fifty degrees Fahrenheit, as determined by the Tagliabue
172 Open Cup Tester, except that the flammability or combustibility of
173 solids and of the contents of self-pressurized containers shall be
174 determined by methods found by the administrator to be generally

175 applicable to such materials or containers, respectively, and
176 established by regulations issued by him, which regulations shall also
177 define the terms "flammable" and "combustible" and "extremely
178 flammable" in accord with such methods;

179 (l) "Radioactive substance" means a substance which emits ionizing
180 radiation;

181 (m) "Label" means a display of written, printed or graphic matter
182 upon the immediate container of any substance or, in the case of an
183 article which is unpackaged or is not packaged in an immediate
184 container intended or suitable for delivery to the ultimate consumer, a
185 display of such matter directly upon the article involved or upon a tag
186 or other suitable material affixed thereto, and a requirement made by
187 or under authority of this section and sections 21a-336 to 21a-346,
188 inclusive, that any word, statement or other information appear on the
189 label shall not be considered to be complied with unless such word,
190 statement or other information also appears (1) on the outside
191 container or wrapper, if any there be, unless it is easily legible through
192 the outside container or wrapper, and (2) on all accompanying
193 literature where there are directions for use, written or otherwise;

194 (n) "Immediate container" does not include package liners;

195 (o) "Misbranded hazardous substance" means a hazardous
196 substance, including a toy, or other article intended for use by
197 children, which is a hazardous substance, or which bears or contains a
198 hazardous substance in such manner as to be susceptible of access by a
199 child to whom such toy or other article is entrusted, intended, or
200 packaged in a form suitable, for use in the household or by children,
201 which substance, except as otherwise provided by or pursuant to
202 section 21a-336, fails to bear a label (1) which states conspicuously (A)
203 the name and place of business of the manufacturer, packer,
204 distributor or seller; (B) the common or usual name or the chemical
205 name, if there is no common or usual name, of the hazardous
206 substance or of each component which contributes substantially to its

207 hazard, unless the administrator by regulation permits or requires the
208 use of a recognized generic name; (C) the signal word "danger" on
209 substances which are extremely flammable, corrosive or highly toxic;
210 (D) the signal word "warning" or "caution" on all other hazardous
211 substances; (E) an affirmative statement of the principal hazard or
212 hazards, such as "Flammable", "Combustible", "Vapor Harmful",
213 "Causes Burns", "Absorbed Through Skin" or similar wording
214 descriptive of the hazard; (F) precautionary measures describing the
215 action to be followed or avoided, except when modified by regulation
216 of the administrator pursuant to section 21a-336; (G) instruction, when
217 necessary or appropriate, for first-aid treatment; (H) the word "poison"
218 for any hazardous substance which is defined as "highly toxic" by
219 subsection (g); (I) instructions for handling and storage of packages
220 which require special care in handling or storage; and (J) the statement
221 (i) "Keep out of the reach of children" or its practical equivalent or, (ii)
222 if the article is intended for use by children and is not a banned
223 hazardous substance, adequate directions for the protection of children
224 from the hazard, and (2) on which any statements required under
225 subdivision (1) of this subsection are located prominently and are in
226 the English language in conspicuous and legible type in contrast by
227 typography, layout or color with other printed matter on the label;

228 (p) "Banned hazardous substance" means (A) any toy, or other
229 article intended for use by children, which is a hazardous substance, or
230 which bears or contains a hazardous substance in such manner as to be
231 susceptible of access by a child to whom such toy or other article is
232 entrusted; (B) (i) for the period commencing July 1, 2009, and ending
233 June 30, 2011, any children's product with greater than three hundred
234 parts per million total lead content by weight for any part of the
235 product; and (ii) on and after July 1, 2011, any children's product with
236 greater than one hundred parts per million total lead content by
237 weight for any part of the product, or such stricter standard
238 established in regulation adopted pursuant to section 21a-342; (C) on
239 and after July 1, 2009, any children's product with lead-containing
240 paint greater than ninety parts per million total lead content; (D) on

241 and after July 1, 2009, any children's product with lead-containing
242 paint greater than .009 milligrams of lead per centimeter squared; (E)
243 any hazardous substance intended, or packaged in a form suitable, for
244 use in a household, classified, pursuant to section 21a-336 or pursuant
245 to federal regulations adopted under authority of the federal
246 Hazardous Substances Act (15 USC 1261 et seq.), as a "banned
247 hazardous substance" that, notwithstanding such cautionary labeling
248 as is or may be required under this section and sections 21a-336 to 21a-
249 346, inclusive, for that substance, the degree or nature of the hazard
250 involved in the presence or use of such substance in households is
251 such that the objective of the protection of the public health and safety
252 can be adequately served only by keeping such substance, when so
253 intended or packaged, out of the channels of commerce; provided the
254 administrator, by regulations adopted in accordance with chapter 54,
255 shall exempt from subparagraph (A) of this subdivision articles, such
256 as chemical sets, which by reason of their functional purpose require
257 the inclusion of the hazardous substance involved or necessarily
258 present in electrical, mechanical or thermal hazard and which bear
259 labeling giving adequate directions and warnings for safe use and are
260 intended for use by children who have attained sufficient maturity,
261 and may reasonably be expected, to read and heed such directions and
262 warnings; (F) any new wood-burning stove, coal-burning stove, solid
263 fuel add-on units or combination of such stoves and units, which is
264 offered for sale or installed in any building, dwelling or structure in
265 this state on or after July 1, 1985, and which has not been tested in
266 accordance with Underwriter's Laboratory Standard Number 1482; (G)
267 any new unvented fuel-burning room heater offered for sale or use in
268 any building, dwelling or structure in this state on or after July 1, 1985,
269 which has not been tested in accordance with Underwriter's
270 Laboratory Standard Number 647 for unvented kerosene heaters and
271 American National Standards Institute Standard Number Z21.11.2 for
272 unvented gas heaters;

273 (q) An article may be determined to present an electrical hazard if,
274 in normal use or when subjected to reasonably foreseeable damage or

275 abuse, its design or manufacture may cause personal injury or illness
276 by electric shock;

277 (r) An article may be determined to present a mechanical hazard if,
278 in normal use or when subjected to reasonably foreseeable damage or
279 abuse, its design or manufacture presents an unreasonable risk of
280 personal injury or illness (1) from fracture, fragmentation or
281 disassembly of the article, (2) from propulsion of the article, or any
282 part or accessory thereof, (3) from points or other protrusions, surfaces,
283 edges, openings or closures, (4) from moving parts, (5) from lack or
284 insufficiency of controls to reduce or stop motion, (6) as a result of self-
285 adhering characteristics of the article, (7) because the article, or any
286 part or accessory thereof, may be aspirated or ingested, (8) because of
287 instability, or (9) because of any other aspect of the article's design or
288 manufacture;

289 (s) An article may be determined to present a thermal hazard if, in
290 normal use or when subjected to reasonably foreseeable damage or
291 abuse, its design or manufacture presents an unreasonable risk of
292 personal injury or illness because of heat as from heated parts,
293 substances or surfaces;

294 (t) "Drying oil" means linseed oil, tung oil, perilla oil or other oils
295 which are found to contain a substantial proportion of fatty acids with
296 three double molecular bonds;

297 (u) "Drying oil product" means a wood treatment or wood finish
298 product containing a drying oil;

299 (v) "Children's product" means a consumer product designed or
300 intended primarily for children under age twelve, including, but not
301 limited to, clothing, accessories, jewelry, decorative object, candy, food,
302 dietary supplements or other edible or chewable items, toys, furniture
303 or other articles used by or intended to be used by children;

304 (w) "Consumer product" means any article used primarily for

305 personal, family or household purposes;

306 (x) "Paint and other similar surface-coating materials" means a fluid,
 307 semi-fluid or other material, with or without a suspension of finely
 308 divided coloring matter, which changes to a solid film when a thin
 309 layer is applied to a metal, wood, stone, paper, leather, cloth, plastic or
 310 other surface. The term does not include printing inks or those
 311 materials that actually become a part of the substrate, such as the
 312 pigment in a plastic article or those materials that are actually bonded
 313 to the substrate, such as by electroplating or ceramic glazing;

314 (y) "Lead-containing paint" means paint or other similar surface
 315 coating materials containing any detectable amount of lead or lead
 316 compounds.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2010</i>	21a-335

Statement of Purpose:

To phase out the use of certain chemicals in children's products and to ban cadmium in children's products.

[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.]