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:

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

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

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

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

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

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

(b) If the Commissioner of Consumer Protection has reasonable grounds to believe that a children's product was manufactured, knowingly sold, distributed for sale or distributed for use in this state in violation of the provisions of subsection (a) of this section, the commissioner may request such manufacturer, distributor, wholesaler or retailer, as applicable, to provide a certificate of independent, third-party testing. Not later than ten days after receipt of any such request
for a certificate of independent, third-party testing, such manufacturer, distributor, wholesaler or retailer, as applicable, shall provide the commissioner with a certificate of independent, third-party testing that indicates whether independent, third-party testing of such children's product detected the presence of any chemical described in subsection (a) of this section in such children's product. If such independent, third-party testing detected the presence of any such chemical, such manufacturer, distributor, wholesaler or retailer, as applicable, shall be responsible for providing the commissioner with a list of the names and addresses of any person known to such manufacturer, distributor, wholesaler or retailer to sell such children's product in this state.

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

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

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

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

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

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

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

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

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

(e) "Hazardous substance" means: (1) (A) Any substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; (B) any substances which the administrator by regulation finds meet the requirements of subdivision (1) (A) of this subsection pursuant to the provisions of subsections (b) and (c) of section 21a-336; (C) any substance classified as a hazardous substance pursuant to federal regulations adopted under the authority of the federal Hazardous Substances Act (15 USC 1261 et seq.); (D) any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the administrator determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this section and sections 21a-336 to 21a-346, inclusive, in order to protect the public health; (E) any toy or other article intended for use by children which the administrator by regulation determines in accordance with subsection (a) or (b) of section 21a-336 presents an
electrical, mechanical or thermal hazard; (2) "hazardous substance"
shall not apply to economic poisons subject to the federal Insecticide,
Fungicide and Rodenticide Act or chapter 441 nor to foods, drugs and
cosmetics subject to chapter 418, nor to substances intended for use as
fuels when stored in containers and used in the heating, cooking or
refrigeration system of a house, but such term shall apply to any article
which is not itself an economic poison within the meaning of the
federal Insecticide, Fungicide and Rodenticide Act or said chapter 441
but which is a hazardous substance within the meaning of subdivision
(1) of this subsection by reason of bearing or containing such an
economic poison; (3) "hazardous substance" shall not include any
source material, special nuclear material or by-product material as
defined in the Atomic Energy Act of 1954, as amended, and
regulations issued pursuant thereto by the Atomic Energy
Commission;

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

(g) (1) "Highly toxic" means any substance which falls within any of
the following categories: (A) Produces death within fourteen days in
half or more than half of a group of ten or more laboratory white rats
each weighing between two hundred and three hundred grams, at a
single dose of fifty milligrams or less per kilogram of body weight,
when orally administered; or (B) produces death within fourteen days
in half or more than half of a group of ten or more laboratory white
rats each weighing between two hundred and three hundred grams,
when inhaled continuously for a period of one hour or less at an
atmosphere concentration of two hundred parts per million by volume
or less of gas or vapor or two milligrams per liter by volume or less of
mist or dust, provided such concentration is likely to be encountered
by man when the substance is used in any reasonably foreseeable
manner; or (C) produces death within fourteen days in half or more
than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less; (2) if the administrator finds that available data on human experience with any substance indicate results different from those obtained on animals in the above-named dosages or concentrations, the human data shall take precedence;

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

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

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

(k) "Extremely flammable" shall apply to any substance which has a flash point at or below twenty degrees Fahrenheit as determined by the Tagliabue Open Cup Tester, "flammable" shall apply to any substance which has a flash point of above twenty degrees to and including eighty degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester and "combustible" shall apply to any substance which has a flash point above eighty degrees to and including one hundred and fifty degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester, except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the administrator to be generally
applicable to such materials or containers, respectively, and
established by regulations issued by him, which regulations shall also
define the terms "flammable" and "combustible" and "extremely
flammable" in accord with such methods;

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

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

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

(o) "Misbranded hazardous substance" means a hazardous
substance, including a toy, or other article intended for use by
children, which is a hazardous substance, or which bears or contains a
hazardous substance in such manner as to be susceptible of access by a
child to whom such toy or other article is entrusted, intended, or
packaged in a form suitable, for use in the household or by children,
which substance, except as otherwise provided by or pursuant to
section 21a-336, fails to bear a label (1) which states conspicuously (A)
the name and place of business of the manufacturer, packer,
distributor or seller; (B) the common or usual name or the chemical
name, if there is no common or usual name, of the hazardous
substance or of each component which contributes substantially to its
hazard, unless the administrator by regulation permits or requires the
use of a recognized generic name; (C) the signal word "danger" on
substances which are extremely flammable, corrosive or highly toxic;
(D) the signal word "warning" or "caution" on all other hazardous
substances; (E) an affirmative statement of the principal hazard or
hazards, such as "Flammable", "Combustible", "Vapor Harmful",
"Causes Burns", "Absorbed Through Skin" or similar wording
descriptive of the hazard; (F) precautionary measures describing the
action to be followed or avoided, except when modified by regulation
of the administrator pursuant to section 21a-336; (G) instruction, when
necessary or appropriate, for first-aid treatment; (H) the word "poison"
for any hazardous substance which is defined as "highly toxic" by
subsection (g); (I) instructions for handling and storage of packages
which require special care in handling or storage; and (J) the statement
(i) "Keep out of the reach of children" or its practical equivalent or, (ii)
if the article is intended for use by children and is not a banned
hazardous substance, adequate directions for the protection of children
from the hazard, and (2) on which any statements required under
subdivision (1) of this subsection are located prominently and are in
the English language in conspicuous and legible type in contrast by
typography, layout or color with other printed matter on the label;

(p) "Banned hazardous substance" means (A) any toy, or other
article intended for use by children, which is a hazardous substance, or
which bears or contains a hazardous substance in such manner as to be
susceptible of access by a child to whom such toy or other article is
entrusted; (B) (i) for the period commencing July 1, 2009, and ending
June 30, 2011, any children's product with greater than three hundred
parts per million total lead content by weight for any part of the
product; and (ii) on and after July 1, 2011, any children's product with
greater than one hundred parts per million total lead content by
weight for any part of the product, or such stricter standard
established in regulation adopted pursuant to section 21a-342; (C) on
and after July 1, 2009, any children's product with lead-containing
paint greater than ninety parts per million total lead content; (D) on
and after July 1, 2009, any children's product with lead-containing paint greater than .009 milligrams of lead per centimeter squared; (E) any hazardous substance intended, or packaged in a form suitable, for use in a household, classified, pursuant to section 21a-336 or pursuant to federal regulations adopted under authority of the federal Hazardous Substances Act (15 USC 1261 et seq.), as a "banned hazardous substance" that, notwithstanding such cautionary labeling as is or may be required under this section and sections 21a-336 to 21a-346, inclusive, for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of commerce; provided the administrator, by regulations adopted in accordance with chapter 54, shall exempt from subparagraph (A) of this subdivision articles, such as chemical sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved or necessarily present in electrical, mechanical or thermal hazard and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings; (F) any new wood-burning stove, coal-burning stove, solid fuel add-on units or combination of such stoves and units, which is offered for sale or installed in any building, dwelling or structure in this state on or after July 1, 1985, and which has not been tested in accordance with Underwriter's Laboratory Standard Number 1482; (G) any new unvented fuel-burning room heater offered for sale or use in any building, dwelling or structure in this state on or after July 1, 1985, which has not been tested in accordance with Underwriter's Laboratory Standard Number 647 for unvented kerosene heaters and American National Standards Institute Standard Number Z21.11.2 for unvented gas heaters;

(q) An article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or
abuse, its design or manufacture may cause personal injury or illness by electric shock;

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

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

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

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

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

(w) "Consumer product" means any article used primarily for
personal, family or household purposes;

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

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

This act shall take effect as follows and shall amend the following sections:

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<td>Sec. 2</td>
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<td>Sec. 3</td>
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<td>Sec. 4</td>
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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.]