



Environmental Health Committee

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09500SB2860ham001

LRB095 19197 RPM 51521 a

1 AMENDMENT TO SENATE BILL 2860

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2860 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Lead Poisoning Prevention Act is amended by  
5 changing Section 6 as follows:

6 (410 ILCS 45/6) (from Ch. 111 1/2, par. 1306)

7 Sec. 6. Warning statement.

8 (a) Definitions. As used in this Section:

9 "Children's jewelry" means jewelry that is made for,  
10 marketed for use by, or marketed to children under the age of  
11 12 and includes jewelry that meets any of the following  
12 conditions:

13 (1) represented in its packaging, display, or  
14 advertising as appropriate for use by children under the  
15 age of 12;

16 (2) sold in conjunction with, attached to, or packaged

1 together with other products that are packaged, displayed,  
2 or advertised as appropriate for use by children under 12;

3 (3) sized for children and not intended for use by  
4 adults; or

5 (4) sold in any of the following places: a vending  
6 machine; a retail store, catalogue, or online Web site in  
7 which a person exclusively offers for sale products that  
8 are packaged, displayed, or advertised as appropriate for  
9 use by children; or a discrete portion of a retail store,  
10 catalogue, or online Web site in which a person offers for  
11 sale products that are packaged, displayed or advertised as  
12 appropriate for use by children.

13 "Child care article" means an item that is designed or  
14 intended by the manufacturer to facilitate the sleep,  
15 relaxation, or feeding of children under the age of 6 or to  
16 help with children under the age of 6 who are sucking or  
17 teething.

18 "Toy containing paint" means a painted toy designed for or  
19 intended for use by children under the age of 12 at play. In  
20 determining whether a toy containing paint is designed for or  
21 intended for use by children under the age of 12, the following  
22 factors shall be considered:

23 (i) a statement by a manufacturer about the intended  
24 use of the product, including a label on the product, if  
25 such statement is reasonable;

26 (ii) whether the product is represented in its

1 packaging, display, promotion, or advertising as  
2 appropriate for children under the age of 12; and

3 (iii) whether the product is commonly recognized by  
4 consumers as being intended for use by a child under the  
5 age of 12.

6 (b) Children's products. Effective January 1, 2010, no  
7 person, firm, or corporation shall sell, have, offer for sale,  
8 or transfer the items listed in this Section that contain a  
9 total lead content in any component part of the item that is  
10 more than 0.004% (40 parts per million) but less than 0.06%  
11 (600 parts per million) by total weight or a lower standard for  
12 lead content as may be established by federal or State law or  
13 regulation unless that item bears a warning statement that  
14 indicates that at least one component part of the item contains  
15 lead.

16 The warning statement for items covered under this  
17 subsection (b) shall contain at least the following: "WARNING:  
18 CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE  
19 DUST CONTAINING LEAD."

20 An entity is in compliance with this subsection (b) if the  
21 warning statement is provided on the children's product or on  
22 the label on the immediate container of the children's product.  
23 This subsection (b) does not apply to any product for which  
24 federal law governs warning in a manner that preempts State  
25 authority.

26 (c) Other lead bearing substance. No person, firm, or

1 corporation shall have, offer for sale, sell, or give away any  
2 lead bearing substance that may be used by the general public,  
3 except as otherwise provided in subsection (b) of this Section,  
4 unless it bears the warning statement as prescribed by federal  
5 regulation. If no regulation is prescribed the warning  
6 statement shall be as follows when the lead bearing substance  
7 is a lead-based paint or surface coating: "WARNING--CONTAINS  
8 LEAD. ~~DRIED FILM OF THIS SUBSTANCE~~ MAY BE HARMFUL IF EATEN OR  
9 CHEWED. See Other Cautions on (Side or Back) Panel. Do not  
10 apply on toys, or other children's articles, furniture, or  
11 interior, or exterior exposed surfaces of any residential  
12 building or facility that may be occupied or used by children.  
13 KEEP OUT OF THE REACH OF CHILDREN.". If no regulation is  
14 prescribed the warning statement shall be as follows when the  
15 lead bearing substance contains lead-based paint or a form of  
16 lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY  
17 BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING  
18 LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

19 For the purposes of this subsection (c), the ~~(a) The~~  
20 generic term of a product, such as "paint" may be substituted  
21 for the word "substance" in the above labeling.

22 ~~(b) The placement, conspicuousness, and contrast of the~~  
23 ~~above labeling shall be in accordance with 16 C.F.R. 1500.121.~~

24 (d) The warning statements on items covered in subsections  
25 (a), (b), and (c) of this Section shall be in accordance with,  
26 or substantially similar to, the following:

1           (1) the statement shall be located in a prominent place  
2           on the item or package such that consumers are likely to  
3           see the statement when it is examined under retail  
4           conditions;

5           (2) the statement shall be conspicuous and not obscured  
6           by other written matter;

7           (3) the statement shall be legible; and

8           (4) the statement shall contrast with the typography,  
9           layout and color of the other printed matter.

10           Compliance with 16 C.F.R. 1500.121 adopted under the  
11           Federal Hazardous Substances Act constitutes compliance with  
12           this subsection (d).

13           (e) The manufacturer or importer of record shall be  
14           responsible for compliance with this Section.

15           (f) Subsection (c) of this Section does not apply to any  
16           component part of a consumer electronic product, including, but  
17           not limited to, personal computers, audio and video equipment,  
18           calculators, wireless phones, game consoles, and handheld  
19           devices incorporating a video screen used to access interactive  
20           software and their associated peripherals, that is not  
21           accessible to a child through normal and reasonably foreseeable  
22           use of the product. A component part is not accessible under  
23           this subsection (f) if the component part is not physically  
24           exposed by reason of a sealed covering or casing and does not  
25           become physically exposed through reasonably foreseeable use  
26           and abuse of the product. Paint, coatings, and electroplating,

1 singularly or in any combination, are not sufficient to  
2 constitute a sealed covering or casing for purposes of this  
3 Section. Coatings and electroplating are sufficient to  
4 constitute a sealed covering for connectors, power cords, USB  
5 cables, or other similar devices or components used in consumer  
6 electronics products.

7 (Source: P.A. 94-879, eff. 6-20-06.)

8 Section 10. The Mercury-added Product Prohibition Act is  
9 amended by adding Sections 22 and 23 and by changing Section 30  
10 as follows:

11 (410 ILCS 46/22 new)

12 Sec. 22. Sale and distribution of cosmetics, toiletries, or  
13 fragrances containing mercury. No person shall distribute or  
14 sell any cosmetics, toiletries, or fragrances containing  
15 mercury. Any person who knowingly sells or distributes  
16 mercury-containing cosmetics, toiletries, or fragrances in  
17 this State is guilty of a petty offense and shall be fined an  
18 amount not to exceed \$500.

19 (410 ILCS 46/23 new)

20 Sec. 23. Disclosure. Any person in this State manufacturing  
21 cosmetics, toiletries, or fragrances containing mercury must  
22 disclose the level of mercury in the product. A manufacturer  
23 who fails to disclose the level of mercury in its cosmetics,

1 toiletries, or fragrances is guilty of a business offense and  
2 shall be fined \$10,000.

3 (410 ILCS 46/30)

4 Sec. 30. Penalty for violation. Except as provided in  
5 Sections 22 and 23 of this Act, a ~~A~~ person who violates this  
6 Act shall be guilty of a petty offense and upon conviction  
7 shall be subject to a fine of not less than \$50 and not more  
8 than \$200 for each violation.

9 (Source: P.A. 93-165, eff. 1-1-04.)".