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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1489 Session of  
2008

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INTRODUCED BY O'PAKE, MELLOW, COSTA, STOUT, TARTAGLIONE,  
LAVALLE, FERLO, FONTANA, RAFFERTY, DINNIMAN, MUSTO, BOSCOLA,  
LOGAN AND BROWNE, JUNE 16, 2008

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REFERRED TO PUBLIC HEALTH AND WELFARE, JUNE 16, 2008

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AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, regulating toxic chemicals found in  
3 products specifically designed for and commercially marketed  
4 toward children; and providing for penalties.

5 The General Assembly finds and declares as follows:

6 Research shows that many children's products contain toxic  
7 chemicals, such as lead, cadmium and phthalates that have been  
8 shown to cause harm to children's health and the environment.  
9 These chemicals have been linked to long-term health impacts,  
10 such as birth defects, reproductive harm, impaired learning,  
11 liver toxicity and cancer. Because children's bodies are growing  
12 and developing, they are especially vulnerable to the effects of  
13 toxic chemicals. Regulation of toxic chemicals in children's  
14 toys and other products is woefully inadequate. To protect  
15 children's health, it is important to phase out the use of lead,  
16 cadmium and phthalates in children's products and to begin  
17 collecting information on other chemicals that are present in  
18 these products to determine whether further action is required.

The General Assembly of the Commonwealth of Pennsylvania  
hereby enacts as follows:

Section 1. Title 35 of the Pennsylvania Consolidated  
Statutes is amended by adding a part to read:

PART IV

PRODUCT SAFETY

Chapter

53. Children's Safe Products

CHAPTER 53

CHILDREN'S SAFE PRODUCTS

Sec.

5301. Short title of chapter.

5302. Definitions.

5303. Prohibited acts.

5304. Chemicals of concern.

5305. Civil penalties.

§ 5301. Short title of chapter.

This chapter shall be known and may be cited as the  
Children's Safe Products Act.

§ 5302. Definitions.

The following words and phrases when used in this chapter  
shall have the meanings given to them in this section unless the  
context clearly indicates otherwise:

"Chemicals of concern." A chemical identified by Federal law  
or regulation or that is established by the weight of credible  
scientific research as causing harm to the development of a  
fetus or child, causing cancer, genetic damage or reproductive  
harm or disrupting or injuring the human endocrine system,  
nervous system, immune system or organs or that otherwise causes  
or increases physiological toxicity; or that is persistent,

1 bioaccumulative and toxic.

2 "Children." Individuals under eight years of age.

3 "Children's product." A product designed or intended to  
4 facilitate the sleep, relaxation or feeding of children or to  
5 help children with sucking or teething; a toy designed and  
6 intended primarily for the amusement of children; cosmetics and  
7 jewelry marketed primarily for children; and household goods and  
8 clothing, including child car seats and carriers of any sort,  
9 designed and intended primarily for use by children.

10 "Department." The Department of Health of the Commonwealth.

11 "Phthalates." Di-(2-ethylhexyl) phthalate (DEHP), dibutyl  
12 phthalate (DBP), benzyl butyl phthalate (BBP), di-isonoyl  
13 phthalate (DINP), diisodecyl phthalate (DIDP) or di-n-octyl  
14 phthalate (DnOP).

15 § 5303. Prohibited acts.

16 (a) Prohibition.--Except for toys sold as collectibles that  
17 are not marketed for use by children, no manufacturer,  
18 wholesaler or retailer may manufacture, knowingly sell, offer  
19 for sale, distribute for sale or distribute for use in this  
20 Commonwealth a children's product or product component  
21 containing the following:

22 (1) Lead at more than 0.009% by weight (90 parts per  
23 million).

24 (2) Cadmium at more than 0.004% by weight (40 parts per  
25 million).

26 (3) Phthalates, individually or in combination, at more  
27 than 0.1% by weight (1,000 parts per million).

28 (b) Violations.--Violations shall be subject to the fines  
29 and sanctions set forth in section 5305 (relating to civil  
30 penalties).

1     (c) Disposition of fines.--All fines collected shall be paid  
2 into a Children's Environmental Health Account separately  
3 reserved for enforcement of the provisions of this chapter.

4     § 5304. Chemicals of concern.

5     (a) List.--The department shall annually publish a list of  
6 chemicals known to present a special risk to children from  
7 exposure through umbilical cord blood, human breast milk, human  
8 urine or other human tissue or fluids; or through household  
9 dust, indoor air, drinking water or other elements of a  
10 household environment, including consumer products designed or  
11 marketed for common household use.

12     (b) Notification to department.--A manufacturer of a  
13 children's product marketed in this Commonwealth that contains a  
14 listed chemical of concern shall notify the department within 90  
15 days of publication of the list or the introduction of such  
16 product, whichever comes first, and provide in a format set by  
17 the department the following:

18         (1) The chemical name and its chemical abstracts service  
19 registry number.

20         (2) A description of the product or product component  
21 containing the chemical.

22         (3) The amount of the chemical present per product unit.

23         (4) Other information as required by the department.

24     (c) Information available to public.--The department shall  
25 maintain and make reasonably available to the public information  
26 on children's products that are the subject of a Federal safety  
27 recall or that contain chemicals of concern.

28     § 5305. Civil penalties.

29     (a) General rule.--Each separate violation of this chapter  
30 shall be subject to the following fines:

1       (1) For a first offense, not less than \$100 nor more  
2       than \$1,000.

3       (2) For a second offense, not less than \$250 nor more  
4       than \$2,500.

5       (3) For a third or subsequent offense, not less than  
6       \$500 nor more than \$5,000.

7       (b) Good faith attempt.--No fine shall be levied where a  
8       person attempted in good faith to comply with the requirements  
9       of this chapter and promptly remediated any noncompliance on its  
10       part upon its discovery.

11       (c) Treble damages.--Any person deliberately violating this  
12       section shall be liable for treble damages in any civil lawsuit  
13       brought for injury caused by the violation.

14       Section 2. This act shall take effect in 60 days.