

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2122 Session of
2008

INTRODUCED BY PRESTON, GODSHALL, McCALL, BELFANTI, BEYER,
BOBACK, BRENNAN, CALTAGIRONE, CARROLL, CASORIO, COHEN, DALEY,
EACHUS, FRANKEL, FREEMAN, GEORGE, GOODMAN, HALUSKA, HARHAI,
HARKINS, HENNESSEY, HORNAMAN, JOSEPHS, KIRKLAND, KOTIK, KULA,
MARSHALL, McGEEHAN, McILVAINE SMITH, MELIO, MOUL, MOYER,
MURT, M. O'BRIEN, PALLONE, PASHINSKI, PAYNE, QUINN, RAMALEY,
READSHAW, REICHLEY, ROCK, RUBLEY, SANTONI, SAYLOR, SIPTROTH,
SONNEY, STABACK, SWANGER, J. TAYLOR, TRUE, WANSACZ, J. WHITE,
WOJNAROSKI, YOUNGBLOOD, YUDICHAK AND LEVDANSKY, MAY 12, 2008

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 12, 2008

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,

cadmium and phthalates in children's products and to begin
collecting information on other chemicals that are present in
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.

5302. Definitions.

5303. Regulation of toxic chemicals in children's products.

5304. Identification of chemicals.

5305. Manufacturer notice to department.

5306. Children's products safety campaign.

5307. Duty of manufacturer.

5308. Civil penalties.

5309. Notification to manufacturers.

5310. Regulations.

§ 5301. Short title.

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

1 context clearly indicates otherwise:

2 "Biomonitoring studies." Measuring a chemical or its
3 metabolite in humans, usually in blood or urine, for assessing
4 exposures to natural and synthetic chemicals.

5 "Children's products." Products specifically designed for
6 and commercially marketed toward children, including, but not
7 limited to, toys, cosmetics, jewelry, games, interactive
8 software and electronics.

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

10 "High priority chemical." A chemical identified by a Federal
11 agency, State agency or accredited research university, or other
12 scientific evidence deemed authoritative by the Department of
13 Health on the basis of credible scientific evidence known to do
14 one or more of the following:

15 (1) Harm the normal development of a fetus or child or
16 cause other developmental toxicity.

17 (2) Cause cancer, genetic damage or reproductive harm.

18 (3) Disrupt the endocrine system.

19 (4) Damage the nervous system, immune system or organs,
20 or cause other systemic toxicity.

21 (5) Be very persistent, very bioaccumulative and toxic.

22 "Manufacturer." Includes any person, firm, association,
23 partnership, corporation, government entity, organization or
24 joint venture that produces a children's product or a domestic
25 distributor of a children's product.

26 "Phthalates." Di-(2-ethylhexyl) phthalate (DEHP), dibutyl
27 phthalate (DBP), benzyl butyl phthalate (BBP), di-
28 isonoylphthalate (DINP), diisodecyl phthalate (DIDP) or di-n-
29 octylphthalate (DnOP).

30 "Very bioaccumulative." Having a bioconcentration factor or

bioaccumulation factor greater than or equal to 5,000, or if
neither are available, having a log Kow greater than 5.0.

"Very persistent." Having a half-life greater than or equal
to one of the following:

(1) A half-life in soil or sediment of greater than 180
days.

(2) A half-life greater than or equal to 60 days in
water or evidence of long-range transport.

§ 5303. Regulation of toxic chemicals in children's products.

Beginning January 1, 2010, no manufacturer, wholesaler or
retailer may manufacture, knowingly sell, offer for sale,
distribute for sale or distribute for use in this Commonwealth a
children's product or product component containing the
following:

(1) Lead at more than 0.004% by weight (40 parts per
million).

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

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

§ 5304. Identification of chemicals.

(a) Chemical identification.-- By January 1, 2010, the
department shall identify high priority chemicals that are of
high concern for children after considering a child's or
developing fetus' potential for exposure to each chemical. In
identifying the chemicals, the department shall include
chemicals that meet one or more of the following criteria:

(1) The chemical has been found through biomonitoring
studies that demonstrate the presence of the chemical in
human umbilical cord blood, human breast milk, human urine or

1 other bodily tissues or fluids.

2 (2) The chemical has been found through sampling and
3 analysis to be present in household dust, indoor air,
4 drinking water or elsewhere in the home environment.

5 (3) The chemical has been added to or is present in a
6 consumer product used or present in the home.

7 (b) Product identification.--By January 1, 2010, the
8 department shall identify children's products or product
9 categories that may contain chemicals identified under
10 subsection (a).

11 (c) Report.--By January 1, 2010, the department shall submit
12 a report on the chemicals of high concern to children and the
13 children's products or product categories they identify to the
14 appropriate standing committees of the General Assembly. The
15 report shall include policy options for addressing children's
16 products that contain chemicals of high concern for children,
17 including recommendations for additional ways to inform
18 consumers about toxic chemicals in products, such as labeling.

19 § 5305. Manufacturer notice to department.

20 Beginning six months after the department has adopted
21 regulations under section 5310 (relating to regulations), a
22 manufacturer of a children's product shall provide notice to the
23 department that the manufacturer's product contains a high
24 concern chemical. The notice shall be filed annually with the
25 department and shall include the following information:

26 (1) The name of the chemical used or produced and its
27 chemical abstracts service registry number.

28 (2) A brief description of the product or product
29 component containing the substance.

30 (3) A description of the function of the chemical in the

1 product.

2 (4) The amount of the chemical used in each unit of the
3 product or product component.

4 (5) The name and address of the manufacturer and the
5 name, address and telephone number of a contact person for
6 the manufacturer.

7 (6) Any other information the manufacturer deems
8 relevant to the appropriate use of the product.

9 § 5306. Children's products safety campaign.

10 The Secretary of Health shall establish and maintain a
11 children's product safety campaign to educate and promote
12 greater awareness of products designed to be used by children
13 that:

14 (1) Are recalled by the Consumer Product Safety
15 Commission.

16 (2) Do not meet Federal safety regulations and voluntary
17 safety standards.

18 (3) Contain chemicals of high concern for children as
19 identified under section 5304 (relating to identification of
20 chemicals).

21 § 5307. Duty of manufacturer.

22 (a) Notice.--A manufacturer of products that are restricted
23 under this chapter shall notify persons that sell the
24 manufacturer's products in this Commonwealth about the
25 provisions of this chapter no less than 90 days prior to the
26 effective date of the restrictions.

27 (b) Recall.--A manufacturer that produces, sells or
28 distributes a product prohibited from manufacture, sale or
29 distribution in this Commonwealth under this chapter shall
30 recall the product and reimburse the retailer or any other

1 purchaser for the product.

2 § 5308. Civil penalties.

3 (a) General rule.--A manufacturer of children's products in
4 violation of this chapter is subject to a civil penalty, which
5 the Attorney General has the authorization to and may collect.
6 The penalty shall not exceed \$5,000 for each violation in the
7 case of a first offense. Manufacturers who are repeat violators
8 are subject to a civil penalty not to exceed \$10,000 for each
9 repeat offense. Penalties collected under this section shall be
10 appropriated to the department for the purposes of continuing
11 the children's products safety campaign.

12 (b) Exception.--Retailers who unknowingly sell products that
13 are restricted from sale under this chapter are not liable under
14 this chapter.

15 § 5309. Notification to manufacturers.

16 Before the prohibitions under section 5303 (relating to
17 regulation of toxic chemicals in children's products) take
18 effect, the department shall prepare and distribute information
19 to in-State and out-of-State manufacturers, to the maximum
20 extent practicable, to assist them in identifying products
21 prohibited for manufacture, sale or distribution under this
22 chapter.

23 § 5310. Regulations.

24 The department shall promulgate regulations to carry out the
25 provisions of this chapter.

26 Section 2. This act shall take effect January 1, 2010.