



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5789

by Rep. Harry Osterman

SYNOPSIS AS INTRODUCED:

410 ILCS 45/6
410 ILCS 45/12

from Ch. 111 1/2, par. 1306
from Ch. 111 1/2, par. 1312

Amends the Lead Poisoning Prevention Act. Provides that no person, firm, or corporation shall sell, have, offer for sale, or transfer toys, furniture, clothing, accessories, jewelry, decorative objects, edible items, candy, food, dietary supplements, or other articles used by or intended to be chewable by children that contain a total lead content in any component part of the item that is more than 0.004% (40 parts per million) by total weight unless that item bears a warning statement that indicates that at least one component part of the item contains lead. Provides that an entity is not required to separately warn each exposed individual. Provides that an entity is in compliance with the provision if the warning statement is provided by general methods such as on a label on the immediate container of any consumer product, posting of notices in public places in prominent locations, placing notices in public news media, and the like, provided that the warning accomplished is clear and reasonable. Makes other changes. Effective immediately.

LRB095 19904 KBJ 46320 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Lead Poisoning Prevention Act is amended by
5 changing Sections 6 and 12 as follows:

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

7 Sec. 6. Warning statement.

8 (a) Children's products. No person, firm, or corporation
9 shall sell, have, offer for sale, or transfer toys, furniture,
10 clothing, accessories, jewelry, decorative objects, edible
11 items, candy, food, dietary supplements, or other articles used
12 by or intended to be chewable by children that contain a total
13 lead content in any component part of the item that is more
14 than 0.004% (40 parts per million) by total weight unless that
15 item bears a warning statement that indicates that at least one
16 component part of the item contains lead.

17 The warning statement shall be as follows: "WARNING:
18 CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE
19 DUST CONTAINING LEAD. KEEP OUT OF THE REACH OF CHILDREN."

20 This subsection does not require an entity to separately
21 warn each exposed individual. An entity is in compliance with
22 this subsection if the warning statement is provided by general
23 methods such as on a label on the immediate container of any

1 consumer product, posting of notices in public places in
2 prominent locations, placing notices in public news media, and
3 the like, provided that the warning accomplished is clear and
4 reasonable. In order to minimize the burden on retailer sellers
5 of consumer products, to the extent practical, the entity
6 responsible for the warning statement shall provide such
7 warning statement on the product itself. This subsection does
8 not apply to any product for which federal law governs warning
9 in a manner that preempts State authority.

10 (b) Other leadbearing substances. No person, firm, or
11 corporation shall have, offer for sale, sell, or give away any
12 lead bearing substance that may be used by the general public,
13 except as otherwise required in subsection (a), unless it bears
14 the warning statement as prescribed by federal regulation. If
15 no regulation is prescribed the warning statement shall be as
16 follows when the lead bearing substance is a lead-based paint
17 or surface coating: "WARNING--CONTAINS LEAD. DRIED FILM OF THIS
18 SUBSTANCE MAY BE HARMFUL IF EATEN OR CHEWED. See Other Cautions
19 on (Side or Back) Panel. Do not apply on toys, or other
20 children's articles, furniture, or interior, or exterior
21 exposed surfaces of any residential building or facility that
22 may be occupied or used by children. KEEP OUT OF THE REACH OF
23 CHILDREN.". If no regulation is prescribed the warning
24 statement shall be as follows when the lead bearing substance
25 contains lead-based paint or a form of lead other than
26 lead-based paint: "WARNING CONTAINS LEAD. MAY BE HARMFUL IF

1 EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD. KEEP OUT OF
2 THE REACH OF CHILDREN.".

3 (c) ~~(a)~~ The generic term of a product, such as "paint" may
4 be substituted for the word "substance" in the above labeling.

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

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

8 (410 ILCS 45/12) (from Ch. 111 1/2, par. 1312)

9 Sec. 12. Violations of Act.

10 (a) Violation of any Section of this Act other than Section
11 6.01 or Section 7 shall be punishable as a Class A misdemeanor.
12 A violation of Section 6.01 shall cause the Department to issue
13 a written warning for a first offense and shall be a petty
14 offense for a second or subsequent offense if the violation
15 occurs at the same location within 12 months after the first
16 offense.

17 (b) In cases where a person is found to have mislabeled,
18 possessed, offered for sale or transfer, sold or transferred,
19 or given away lead-bearing substances, a representative of the
20 Department shall confiscate the lead-bearing substances and
21 retain the substances until they are shown to be in compliance
22 with this Act.

23 (c) In addition to any other penalty provided under this
24 Act, the court in an action brought under subsection (f) ~~(e)~~
25 may impose upon any person who violates or does not comply with

1 a notice of deficiency and a mitigation order issued under
2 subsection (7) of Section 9 of this Act or who fails to comply
3 with subsection (3) or subsection (5) of Section 9 of this Act
4 a civil penalty not exceeding \$2,500 for each violation, plus
5 \$250 for each day that the violation continues.

6 Any civil penalties collected in a court proceeding shall
7 be deposited into a delegated county lead poisoning screening,
8 prevention, and abatement fund or, if no delegated county or
9 lead poisoning screening, prevention, and abatement fund
10 exists, into the Lead Poisoning Screening, Prevention, and
11 Abatement Fund established under Section 7.2.

12 (d) In addition to any other penalty provided under this
13 Act, the court in an action brought under subsection (f) may
14 impose a civil penalty not exceeding \$2,500 for each violation,
15 plus \$250 for each day the violation continues for any
16 violation of Section 4, Section 5, or Section 6 of this Act.
17 Any penalties collected in a court proceeding shall be
18 deposited into the Lead Poisoning Screening, Prevention, and
19 Abatement Fund established under Section 7.2.

20 (e) ~~(d)~~ Whenever the Department finds that an emergency
21 exists that requires immediate action to protect the health of
22 children under this Act, it may, without administrative
23 procedure or notice, cause an action to be brought by the
24 Attorney General or the State's Attorney of the county in which
25 a violation has occurred for a temporary restraining order or a
26 preliminary injunction to require such action as is required to

1 meet the emergency and protect the health of children.

2 (f) ~~(e)~~ The State's Attorney of the county in which a
3 violation occurs or the Attorney General may bring an action
4 for the enforcement of this Act and the rules adopted and
5 orders issued under this Act, in the name of the People of the
6 State of Illinois, and may, in addition to other remedies
7 provided in this Act, bring an action for a temporary
8 restraining order or preliminary injunction as described in
9 subsection (e) ~~(d)~~ or an injunction to restrain any actual or
10 threatened violation or to impose or collect a civil penalty
11 for any violation.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.