

SB3607



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3607

Introduced 2/11/2010, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

410 ILCS 45/6

from Ch. 111 1/2, par. 1306

Amends the Lead Poisoning Prevention Act. In the provision concerning warning statements, includes items that are intended to be placed in a child's mouth in the definition of "child care article". Provides that an entity is in compliance with the provision concerning warning statements for children's products if a warning statement is provided on a legible sign or shelf tag placed in close proximity to where the product is displayed. Provides that the warning statement is not required if any component part of the item containing lead is not accessible to a child through normal and reasonably foreseeable use and abuse.

LRB096 16680 RPM 31964 b

A BILL FOR

1 AN ACT concerning public 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 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
17 together with other products that are packaged, displayed,
18 or advertised as appropriate for use by children under 12;

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

21 (4) sold in any of the following places: a vending
22 machine; a retail store, catalogue, or online Web site in
23 which a person exclusively offers for sale products that

1 are packaged, displayed, or advertised as appropriate for
2 use by children; or a discrete portion of a retail store,
3 catalogue, or online Web site in which a person offers for
4 sale products that are packaged, displayed or advertised as
5 appropriate for use by children.

6 "Child care article" means an item that is intended to be
7 placed in a child's mouth and is designed or intended by the
8 manufacturer to facilitate the sleep, relaxation, or feeding of
9 children under the age of 6 or to help with children under the
10 age of 6 who are sucking or teething.

11 "Toy containing paint" means a painted toy designed for or
12 intended for use by children under the age of 12 at play. In
13 determining whether a toy containing paint is designed for or
14 intended for use by children under the age of 12, the following
15 factors shall be considered:

16 (i) a statement by a manufacturer about the intended
17 use of the product, including a label on the product, if
18 such statement is reasonable;

19 (ii) whether the product is represented in its
20 packaging, display, promotion, or advertising as
21 appropriate for children under the age of 12; and

22 (iii) whether the product is commonly recognized by
23 consumers as being intended for use by a child under the
24 age of 12.

25 (b) Children's products. Effective January 1, 2010, no
26 person, firm, or corporation shall sell, have, offer for sale,

1 or transfer the items listed in this Section that contain a
2 total lead content in any component part of the item that is
3 more than 0.004% (40 parts per million) but less than 0.06%
4 (600 parts per million) by total weight or a lower standard for
5 lead content as may be established by federal or State law or
6 regulation unless that item bears a warning statement that
7 indicates that at least one component part of the item contains
8 lead.

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

13 An entity is in compliance with this subsection (b) if the
14 warning statement is provided on the children's product or on
15 the label on the immediate container of the children's product
16 or on a legible sign or shelf tag placed in close proximity to
17 where the product is displayed such that consumers are likely
18 to see the warning when it is examined under retail conditions.
19 This subsection (b) does not apply to any product for which
20 federal law governs warning in a manner that preempts State
21 authority.

22 The warning statement required under this subsection (b) is
23 not required if any component part of the item containing lead
24 is not accessible to a child through normal and reasonably
25 foreseeable use and abuse as defined by the United States
26 Consumer Product Safety Commission.

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

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

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

- 25 (1) the statement shall be located in a prominent place
26 on the item or package or, for items covered under

1 subsection (b) of this Section, on a legible sign or shelf
2 tag placed in close proximity to where the item or package
3 is displayed such that consumers are likely to see the
4 statement when it is examined under retail 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; 95-1019, eff. 6-1-09.)