

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 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 designed or
7 intended by the manufacturer to facilitate the sleep,
8 relaxation, or feeding of children under the age of 6 or to
9 help with children under the age of 6 who are sucking or
10 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 This subsection (b) does not apply to any product for which
17 federal law governs warning in a manner that preempts State
18 authority.

19 (c) Other lead bearing substance. No person, firm, or
20 corporation shall have, offer for sale, sell, or give away any
21 lead bearing substance that may be used by the general public,
22 except as otherwise provided in subsection (b) of this Section,
23 unless it bears the warning statement as prescribed by federal
24 regulation. If no regulation is prescribed the warning
25 statement shall be as follows when the lead bearing substance
26 is a lead-based paint or surface coating: "WARNING--CONTAINS

1 LEAD. ~~DRIED FILM OF THIS SUBSTANCE~~ MAY BE HARMFUL IF EATEN OR
2 CHEWED. See Other Cautions on (Side or Back) Panel. Do not
3 apply on toys, or other children's articles, furniture, or
4 interior, or exterior exposed surfaces of any residential
5 building or facility that may be occupied or used by children.
6 KEEP OUT OF THE REACH OF CHILDREN.". If no regulation is
7 prescribed the warning statement shall be as follows when the
8 lead bearing substance contains lead-based paint or a form of
9 lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY
10 BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING
11 LEAD. KEEP OUT OF THE REACH OF CHILDREN."

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

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

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

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

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

26 (3) the statement shall be legible; and

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

3 Compliance with 16 C.F.R. 1500.121 adopted under the
4 Federal Hazardous Substances Act constitutes compliance with
5 this subsection (d).

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

8 (f) Subsection (c) of this Section does not apply to any
9 component part of a consumer electronic product, including, but
10 not limited to, personal computers, audio and video equipment,
11 calculators, wireless phones, game consoles, and handheld
12 devices incorporating a video screen used to access interactive
13 software and their associated peripherals, that is not
14 accessible to a child through normal and reasonably foreseeable
15 use of the product. A component part is not accessible under
16 this subsection (f) if the component part is not physically
17 exposed by reason of a sealed covering or casing and does not
18 become physically exposed through reasonably foreseeable use
19 and abuse of the product. Paint, coatings, and electroplating,
20 singularly or in any combination, are not sufficient to
21 constitute a sealed covering or casing for purposes of this
22 Section. Coatings and electroplating are sufficient to
23 constitute a sealed covering for connectors, power cords, USB
24 cables, or other similar devices or components used in consumer
25 electronics products.

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

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

4 (410 ILCS 46/22 new)

5 Sec. 22. Sale and distribution of cosmetics, toiletries, or
6 fragrances containing mercury. No person shall distribute or
7 sell any cosmetics, toiletries, or fragrances containing
8 mercury. Any person who knowingly sells or distributes
9 mercury-containing cosmetics, toiletries, or fragrances in
10 this State is guilty of a petty offense and shall be fined an
11 amount not to exceed \$500.

12 (410 ILCS 46/23 new)

13 Sec. 23. Disclosure. Any person in this State manufacturing
14 cosmetics, toiletries, or fragrances containing mercury must
15 disclose the level of mercury in the product. A manufacturer
16 who fails to disclose the level of mercury in its cosmetics,
17 toiletries, or fragrances is guilty of a business offense and
18 shall be fined \$10,000.

19 (410 ILCS 46/30)

20 Sec. 30. Penalty for violation. Except as provided in
21 Sections 22 and 23 of this Act, a ~~A~~ person who violates this
22 Act shall be guilty of a petty offense and upon conviction

1 shall be subject to a fine of not less than \$50 and not more
2 than \$200 for each violation.

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