

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO  
**SENATE, No. 3036**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 11, 2023

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3036.

As amended by the committee, this bill prohibits the sale, distribution, and manufacture of chalk and crayon products made with or containing lead.

A manufacturer or distributor of a chalk or crayon product who discovers that the product is made with or contains lead will be required to issue an immediate recall for the product. The Director of Consumer Affairs will also be authorized to issue a recall for chalk and crayon products found to contain lead.

Retailers will be required to remove a recalled product from display and make it unavailable for purchase within 48 hours of receiving a recall notice, and to return all inventory of the product to the manufacturer or distributor from which the product was obtained within 60 business days. The return of recalled inventory will be at the manufacturer or distributor's expense. The manufacturer or distributor will have 60 business days to destroy the recalled product in such a way that renders it useless and removes it from public access.

Under the bill, the following penalties will apply:

1) knowingly selling, offering for sale, distributing, or manufacturing a chalk product or crayon product made with or containing lead will constitute an unlawful practice under the State's consumer fraud act;

2) a retailer's failure to remove a recalled product from retail display or return the product to the manufacturer or distributor as required under the bill will constitute an unlawful practice under the State's consumer fraud act; and

3) a manufacturer or distributor's failure to issue a recall or to destroy and dispose of a recalled product as required under the bill will constitute a crime of the fourth degree in the case of a first offense, a crime of the third degree in the case of a second offense,

and a crime of the second degree in the case of a third or subsequent offense.

An unlawful practice under the consumer fraud act is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, the Attorney General may issue cease and desist orders, and a violation may be subject to an assessment of punitive damages, treble damages, or costs to the injured.

A crime of the fourth degree is punishable by imprisonment for up to 18 months, a fine of \$10,000, or both. A crime of the third degree is punishable by imprisonment for three to five years, a fine of \$15,000, or both. A crime of the second degree is punishable by imprisonment for five to 10 years, a fine of \$150,000, or both.

#### COMMITTEE AMENDMENTS:

The committee amendments revise the bill to merge sections 1 and 2 into a single section, which will be added to the State's consumer fraud act. The amendments revise the title of the bill to reflect this change.

The committee amendments remove language from the bill providing that it applies to chalk and crayon products intended for use by children under the age of six; as amended, the bill does not restrict its applicability based on the age or identity of the individual who is the intended user of the chalk or crayon product.

The committee amendments remove a single reference to importers of chalk and crayon products, as importers are not referenced elsewhere in the bill.

The committee amendments revise the authority of the Director of the Division of Consumer Affairs to issue a recall under the bill, to provide that the director may issue a recall if the director knows or reasonably believes a product is made with or contains lead. As introduced, the bill required the director to have discovered the product is made with or contains lead.

The committee amendments revise the period in which retailers will be required to return a recalled product to the manufacturer or distributor, from 14 business days to 60 business days.

The committee amendments make various technical changes involving grammar and syntax and to clarify certain aspects of the bill.