

SENATE, No. 3737

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2021

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Prohibits the sale of certain children's products containing lead, mercury, or cadmium.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certain children's products containing certain
2 metals and supplementing Title 2C of the New Jersey Statutes
3 and P.L.1960, c.39 (C.56:8-1 et seq.).

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 "Children's product" means a product, including a toy or play
11 equipment, that is designed or intended solely or primarily:

12 (1) for the care of, or use by, a child; or

13 (2) to come into contact with a child while the product is used.

14 "Director" means the Director of the Division of Consumer
15 Affairs in the Department of Law and Public Safety.

16 b. For the purposes of P.L. , c. (C.) (pending before
17 the Legislature as this bill), "children's product" shall not be
18 construed to include a product that may be used by or for the care of
19 a child, but it is designed or intended for use by the general
20 population, or segments of the general population, and not solely or
21 primarily for use by or for the care of a child.

22
23 2. No person shall sell, offer for sale, distribute, import, or
24 manufacture any children's product intended for use by a child
25 under the age of six containing, composed of, or made with lead,
26 mercury, or cadmium.

27
28 3. Any manufacturer, distributor, or importer of a children's
29 product intended for use by a child under the age of six who
30 discovers that the children's product contains, is composed of, or is
31 made with lead, mercury, or cadmium, shall issue an immediate
32 recall for that children's product.

33
34 4. The director shall issue an immediate recall for any
35 children's product intended for use by a child under the age of six if
36 the director discovers it contains, is composed of, or is made with
37 lead, mercury, or cadmium.

38
39 5. a. Within 48 hours of receiving notice from the director or a
40 manufacturer, distributor, or importer that a children's product
41 intended for use by a child under the age of six has been recalled
42 because it contains, is composed of, or is made with lead, mercury,
43 or cadmium, a retail mercantile establishment shall remove the
44 children's product from any display and make it unavailable for
45 purchase.

46 b. Within 14 business days of receiving notice from the
47 director or a manufacturer, distributor, or importer that a children's
48 product intended for use by a child under the age of six has been

1 recalled because it contains, is composed of, or is made with lead,
2 mercury, or cadmium, a retail mercantile establishment shall return
3 all inventory of that children's product to the manufacturer,
4 distributor, or importer from which it was obtained, at the cost of
5 the manufacturer, distributor, or importer.

6
7 6. Within 60 business days of receiving a children's product
8 intended for use by a child under the age of six that has been
9 recalled because it contains, is composed of, or is made with lead,
10 mercury, or cadmium from a retail mercantile establishment, the
11 manufacturer, distributor, or importer shall destroy the children's
12 product in such a way that renders it useless, and dispose of the
13 remnants in a manner and location designed to remove them from
14 access by the general public.

15
16 7. a. A person who knowingly violates section 2 of P.L. , c.
17 (C.) (pending before the Legislature as this bill) shall be guilty
18 of an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et
19 seq.).

20 b. A violation of section 5 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) shall be an unlawful practice
22 pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

23
24 8. A violation of sections 3 or 6 of P.L. , c. (C.)
25 (pending before the Legislature as this bill) shall be a crime of the
26 fourth degree for a first offense, a crime of the third degree for a
27 second offense, and a crime of the second degree for a third or
28 subsequent offense.

29
30 9. This act shall take effect on the first day of the seventh
31 month following enactment.

32 33 34 STATEMENT

35
36 This bill would prohibit the sale, distribution, import, or
37 manufacture of any children's product intended for use by a child
38 under the age of six which contains, is composed of, or is made
39 with lead, mercury, or cadmium.

40 Under the bill, the Director of Consumer Affairs or any
41 manufacturer, distributor, or importer of children's products, who
42 discovers that a children's product intended for use by a child under
43 the age of six contains, is composed of, or is made with lead,
44 mercury, or cadmium, would be required to issue an immediate
45 recall for that product. Within 48 hours of receiving notice of the
46 recall, retail mercantile establishments would be required to remove
47 the children's product from displays and make it unavailable for
48 purchase. Within 14 business days, retail mercantile establishments

1 would be required to return all inventory of the children's product
2 to the manufacturer, distributor, or importer from which it was
3 obtained, at the cost of the manufacturer, distributor, or importer.
4 The manufacturer, distributor, or importer would then have 60
5 business days to destroy the children's product in such a way that
6 renders it useless, and to dispose of the remnants in a manner and
7 location designed to remove them from access by the general
8 public.

9 The bill specifies the following penalties for violations:

- 10 • knowingly selling, offering for sale, distributing, importing,
11 or manufacturing a children's product intended for use by a
12 child under the age of six which contains, is composed of, or
13 is made with lead, mercury, or cadmium would be an
14 unlawful practice;
- 15 • failing to remove the recalled children's product from
16 displays, make it unavailable for purchase, or return it to the
17 manufacturer, distributor, or importer within the required
18 timeframe would be an unlawful practice; and
- 19 • a manufacturer, distributor, or importer failing to issue an
20 immediate recall or destroy and dispose of children's
21 products returned to them as a result of a recall, as required,
22 would be a crime of the fourth degree for a first offense, a
23 crime of the third degree for a second offense, and a crime of
24 the second degree for a third or subsequent offense.

25 An unlawful practice under the consumer fraud act is punishable
26 by a monetary penalty of not more than \$10,000 for a first offense
27 and not more than \$20,000 for any subsequent offense. In addition,
28 a violation can result in cease and desist orders issued by the
29 Attorney General, the assessment of punitive damages, and the
30 awarding of treble damages and costs to the injured.

31 A crime of the fourth degree is punishable by up to 18 months
32 imprisonment, a fine of \$10,000, or both. A crime of the third
33 degree is punishable by three to five years imprisonment, a fine of
34 \$15,000, or both, and a crime of the second degree is punishable by
35 five to 10 years imprisonment, a fine of \$150,000, or both.