

# ASSEMBLY, No. 189

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Prohibits sale and distribution of nail products containing dibutyl phthalates, toluene, or formaldehyde.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A189 CARTER, TIMBERLAKE

2

1 AN ACT concerning nail products containing dibutyl phthalates,  
2 toluene, and formaldehyde, and supplementing P.L.1960, c.39  
3 (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. No person shall sell, offer for sale, or distribute any nail  
9 polish or nail hardener containing, composed of, or made with  
10 dibutyl phthalates, toluene, or formaldehyde.  
11

12 2. Any sellor or distributor of nail polish or nail hardener that  
13 contains, is composed of, or is made with dibutyl phthalates,  
14 toluene, or formaldehyde, shall issue an immediate recall for that  
15 nail polish or nail hardener.  
16

17 3. The Director of Consumer Affairs shall issue an immediate  
18 recall for any nail polish or nail hardener that the director  
19 determines contains, is composed of, or is made with dibutyl  
20 phthalates, toluene, or formaldehyde.  
21

22 4. a. Within 48 hours after receiving notice from the Director  
23 of Consumer Affairs, a seller, or a distributor that any nail polish or  
24 nail hardener has been recalled because it contains, is composed of,  
25 or is made with dibutyl phthalates, toluene, or formaldehyde, a  
26 retail mercantile establishment shall remove the nail polish or nail  
27 hardener from any display and make it unavailable for purchase.

28 b. Within 14 business days after receiving notice from the  
29 Director of Consumer Affairs, a seller, or a distributor that any nail  
30 polish or nail hardener has been recalled because it contains, is  
31 composed of, or is made with dibutyl phthalates, toluene, or  
32 formaldehyde, a retail mercantile establishment shall return all  
33 inventory of that nail polish or nail hardener to the seller or  
34 distributor from which it was obtained, at the cost of the seller or  
35 distributor.  
36

37 5. Within 60 business days after receiving nail polish or nail  
38 hardener that has been recalled because it contains, is composed of,  
39 or is made with dibutyl phthalates, toluene, or formaldehyde from a  
40 retail mercantile establishment, seller or distributor shall dispose of  
41 the nail polish or nail hardener in a manner and location designed to  
42 remove them from access by the general public, and in accordance  
43 with any applicable laws governing disposal of products containing  
44 dibutyl phthalates, toluene, or formaldehyde.  
45

46 6. A person who knowingly violates sections 1 through 5 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill)

1 shall be guilty of an unlawful practice pursuant to P.L.1960, c.39  
2 (C.56:8-1 et seq.).

3

4 7. This act shall take effect on the first day of the seventh  
5 month next following the date of enactment.

6

7

8

STATEMENT

9

10 This bill would prohibit the sale or distribution of any nail polish  
11 or nail hardener containing, composed of, or made with dibutyl  
12 phthalates, toluene, or formaldehyde.

13 The bill would prohibit the sale or distribution of any nail polish  
14 or nail hardener containing, composed of, or made with the  
15 prohibited chemicals. Any seller or distributor of nail polish or nail  
16 hardener that contains the prohibited chemicals would be required  
17 to issue an immediate recall for that nail polish or nail hardener.

18 The Director of Consumer Affairs would be required to issue an  
19 immediate recall for any nail polish or nail hardener which the  
20 director determines contains dibutyl phthalates, toluene, or  
21 formaldehyde. A retail mercantile establishment would be required  
22 to remove the nail polish or nail hardener from any display and  
23 make it unavailable for purchase within 48 hours after receiving  
24 notice that the nail products contain the prohibited chemicals, and  
25 return the recalled nail polish or hardener to the seller or distributor  
26 within 14 days. Within 60 business days after receiving nail polish  
27 or nail hardener that has been recalled, the seller or distributor  
28 would be required to dispose of the nail polish or nail hardener in a  
29 manner and location designed to remove them from access by the  
30 general public, and in compliance with all applicable laws for  
31 disposal.

32 A person who knowingly violates these provisions would be  
33 guilty of an unlawful practice pursuant to the "Consumer Fraud  
34 Act." An unlawful practice under the Consumer Fraud Act is  
35 punishable by a monetary penalty of not more than \$10,000 for a  
36 first offense and not more than \$20,000 for any subsequent offense.  
37 In addition, a violation can result in cease and desist orders issued  
38 by the Attorney General, the assessment of punitive damages, and  
39 the awarding of treble damages and costs to the injured.

40 This bill would take effect on the first day of the seventh month  
41 following enactment.