

ASSEMBLY, No. 1459

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 4 (Camden and Gloucester)

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District 37 (Bergen)

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Assemblywomen Murphy, McKnight and Timberlake

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/27/2020)

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 this act, "children's product" means a product,
9 including a toy or play equipment, that is designed or intended
10 solely or primarily:

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

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

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

20 2. No person shall sell, offer for sale, distribute, import, or
21 manufacture any children's product intended for use by a child
22 under the age of 6 containing, composed of, or made with lead,
23 mercury, or cadmium.
24

25 3. Any manufacturer, distributor, or importer of a children's
26 product intended for use by a child under the age of 6, who
27 discovers that the children's product contains, is composed of, or is
28 made with lead, mercury, or cadmium, shall issue an immediate
29 recall for that children's product.
30

31 4. The Director of Consumer Affairs shall issue an immediate
32 recall for any children's product intended for use by a child under
33 the age of 6 which he discovers contains, is composed of, or is
34 made with lead, mercury, or cadmium.
35

36 5. a. Within 48 hours of receiving notice from the Director of
37 Consumer Affairs or a manufacturer, distributor, or importer that a
38 children's product intended for use by a child under the age of 6 has
39 been recalled because it contains, is composed of, or is made with
40 lead, mercury, or cadmium, a retail mercantile establishment shall
41 remove the children's product from any display and make it
42 unavailable for purchase.

43 b. Within 14 business days of receiving notice from the
44 Director of Consumer Affairs or a manufacturer, distributor, or
45 importer that a children's product intended for use by a child under
46 the age of 6 has been recalled because it contains, is composed of,
47 or is made with lead, mercury, or cadmium, a retail mercantile
48 establishment shall return all inventory of that children's product to

1 the manufacturer, distributor, or importer from which it was
2 obtained, at the cost of the manufacturer, distributor, or importer.

3
4 6. Within 60 business days of receiving a children's product
5 intended for use by a child under the age of 6 that has been recalled
6 because it contains, is composed of, or is made with lead, mercury,
7 or cadmium from a retail mercantile establishment, the
8 manufacturer, distributor, or importer shall destroy the children's
9 product in such a way that renders it useless, and dispose of the
10 remnants in a manner and location designed to remove them from
11 access by the general public.

12
13 7. a. A person who knowingly violates section 2 of
14 P.L. , c. (C.) (pending before the Legislature as this bill)
15 shall be guilty of an unlawful practice pursuant to P.L.1960, c.39
16 (C.56:8-1 et seq.).

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

20
21 8. A violation of sections 3 or 6 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) shall be a crime of the
23 fourth degree for a first offense, a crime of the third degree for a
24 second offense, and a crime of the second degree for third or
25 subsequent offenses.

26
27 9. This act shall take effect on the first day of the seventh
28 month following enactment.

30 31 STATEMENT

32
33 This bill would prohibit the sale, distribution, import, or
34 manufacture any children's product intended for use by a child
35 under the age of 6 which contains, is composed of, or is made with
36 lead, mercury, or cadmium.

37 Under the bill, the Director of Consumer Affairs or any
38 manufacturer, distributor, or importer of children's products, who
39 discovers that a children's product intended for use by a child under
40 the age of 6 contains, is composed of, or is made with lead,
41 mercury, or cadmium, would have to issue an immediate recall for
42 that product. Within 48 hours of receiving notice of the recall,
43 retail mercantile establishments would be required to remove the
44 children's product from displays and make it unavailable for
45 purchase. Within 14 business days, retail mercantile establishments
46 would be required to return all inventory of the children's product
47 to the manufacturer, distributor, or importer from which it was
48 obtained, at the cost of the manufacturer, distributor, or importer.

1 The manufacturer, distributor, or importer would then have 60
2 business days to destroy the children's product in such a way that
3 renders it useless, and to dispose of the remnants in a manner and
4 location designed to remove them from access by the general
5 public.

6 The bill specifies the following penalties for violations:

- 7 • knowingly selling, offering for sale, distributing, importing,
8 or manufacturing a children's product intended for use by a
9 child under the age of 6 which contains, is composed of, or
10 is made with lead, mercury, or cadmium would be an
11 unlawful practice;
- 12 • failing to remove the recalled children's product from
13 displays, make it unavailable for purchase, or return it to the
14 manufacturer, distributor, or importer within the required
15 timeframe would be an unlawful practice; and
- 16 • a manufacturer, distributor, or importer failing to issue an
17 immediate recall or destroy and dispose of children's
18 products returned to them as a result of a recall, as required,
19 would be a crime of the fourth degree for a first offense, a
20 crime of the third degree for a second offense, and a crime of
21 the second degree for third or subsequent offenses.

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

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