

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1459

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1459.

As amended and reported by the committee, this bill would prohibit the sale, distribution, import, or manufacture of any children's product intended for use by a child under the age of six which contains, is composed of, or is made with lead, mercury, or cadmium.

Under the bill, the Director of Consumer Affairs or any manufacturer, distributor, or importer of children's products, who discovers that a children's product intended for use by a child under the age of six contains, is composed of, or is made with lead, mercury, or cadmium, would be required to issue an immediate recall for that product. Within 48 hours of receiving notice of the recall, retail mercantile establishments would be required to remove the children's product from displays and make it unavailable for purchase. Within 14 business days, retail mercantile establishments would be required to return all inventory of the children's product to the manufacturer, distributor, or importer from which it was obtained, at the cost of the manufacturer, distributor, or importer. The manufacturer, distributor, or importer would then have 60 business days to destroy the children's product in such a way that renders it useless, and to dispose of the remnants in a manner and location designed to remove them from access by the general public.

The bill specifies the following penalties for violations:

- knowingly selling, offering for sale, distributing, importing, or manufacturing a children's product intended for use by a child under the age of six which contains, is composed of, or is made with lead, mercury, or cadmium would be an unlawful practice;
- failing to remove the recalled children's product from displays, make it unavailable for purchase, or return it to the manufacturer, distributor, or importer within the required timeframe would be an unlawful practice; and
- a manufacturer, distributor, or importer failing to issue an immediate recall or destroy and dispose of children's

products returned to them as a result of a recall, as required, would be a crime of the fourth degree for a first offense, a crime of the third degree for a second offense, and a crime of the second degree for 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, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.

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

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments make technical changes to the bill.