

AMENDED IN SENATE MAY 17, 2007

AMENDED IN SENATE MAY 3, 2007

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 509

Introduced by Senator Simitian

February 22, 2007

~~An act to add Section 41713 to the Health and Safety Code, relating to air pollution. An act to add Article 6 (commencing with Section 108670) to Chapter 5 of Part e of Division 104 of the Health and Safety Code, relating to consumer product safety.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as amended, Simitian. ~~Air pollution: formaldehyde. Consumer products: content information.~~

Existing law regulates the labeling and use of various consumer products, including toys and toxic household products.

The bill would require a manufacturer or wholesaler of a consumer product to provide a notice that lists all substances, identified by a number or other unique identifier, that are contained in that product by more than $\frac{1}{10}$ of 1%, by posting that information on the manufacturer's or wholesaler's Web site. A manufacturer or wholesaler that does not maintain a Web site would be required to establish an Web site. The bill would declare that its provisions are severable and if any provision of the bill is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

~~(1) Existing law requires the State Air Resources Board to adopt regulations to achieve the maximum feasible reduction in volatile~~

organic compounds emitted by consumer products, if the state board determines that the regulations are necessary to attain state and federal ambient air quality standards and are commercially and technologically feasible and necessary. Existing law further provides for the regulation of formaldehyde in foam insulation; milk and milk products; and hazardous waste, solid waste, and biohazard waste; and for consumer education relative to formaldehyde as a hazard affecting real property.

~~This bill would prohibit a person from manufacturing, selling, importing, supplying, or distributing for use in the state composite wood products, and the end-use applications for which those products are utilized, unless the wood product and the end-use application comply, commencing January 1, 2009, and commencing January 1, 2011, with successive specified emissions limits of formaldehyde. The bill would leave unspecified the emissions limit to be met commencing January 1, 2013.~~

~~(2) Existing law generally provides that a violation of various laws, rules, and regulations relating to air pollution is a crime.~~

~~Because the bill would create new emission limits, the violation of which would be a crime, the bill would impose a state-mandated local program by creating a new crime.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6 (commencing with Section 108670) is
2 added to Chapter 5 of Part 3 of Division 104 of the Health and
3 Safety Code, to read:

4

5 Article 6. Consumer Product Content Information

6

7 108670. The Legislature finds and declares all of the following:

8 (a) The federal Consumer Product Safety Act (15 U.S.C. Sec.
9 2051 et seq.; the federal act) was enacted with the purpose of
10 protecting the public against unreasonable risks of injury

1 associated with consumer products, by assisting consumers in
2 evaluating the comparative safety of consumer products, and
3 developing uniform safety standards for those products.

4 (b) The federal act generally defines the term “consumer
5 product” as a product produced or distributed for sale to a
6 consumer for use in or around a household, a school, in recreation,
7 or otherwise, but excludes certain items, including tobacco, motor
8 vehicles, pesticides, drugs, devices, or cosmetics, and food.

9 (c) The state is aware of, and appreciates, the regulatory regime
10 established by the federal act, but the federal act does not fully
11 regulate the chemical-exposure risks posed by many consumer
12 products.

13 (d) The federal act provides that if a consumer product safety
14 standard applies to a risk of injury associated with a consumer
15 product, a state is prohibited from establishing a safety standard
16 or regulation that deals with the same risk of injury associated
17 with that consumer product.

18 (e) However, the federal act allows a state to impose safety
19 requirements that are more stringent than federal standards, if
20 the state standard is designed to protect against a risk of injury
21 associated with a consumer product and if the state standard
22 provides a higher degree of protection from that risk than the
23 federal standard.

24 (f) The informational requirements of this article would impose
25 additional safety requirements that do not deal with the same risk
26 of injury for consumer products that are associated with existing
27 consumer product safety standards under the federal act or that
28 are more stringent than the federal standards and provide a higher
29 degree of protection from risk.

30 108671. For purposes of this article, the following definitions
31 shall apply:

32 (a) “Consumer product” has the same meaning as defined in
33 Section 2052 of Title 15 of the United States Code, as that section
34 read on January 1, 2008.

35 (b) “Department” means the Department of Toxic Substances
36 Control.

37 (c) “Manufacturer” means a person who manufactures a
38 consumer product in this state.

1 (d) “Wholesaler” means a person who purchases a consumer
2 product, for resale in this state, from a person who did not
3 manufacture the consumer product in this state.

4 108672. On or before March 31, 2008, a manufacturer or
5 wholesaler of a consumer product shall provide a notice that lists
6 all substances, identified by a number or other unique identifier,
7 that are contained in that product by more than one-tenth of 1
8 percent.

9 108673. (a) A manufacturer or wholesaler shall provide the
10 notice required by Section 108672 by posting the information on
11 the manufacturer’s or wholesaler’s Web site.

12 (b) A manufacturer or wholesaler subject to this section that
13 does not maintain an Web site shall establish an Web site for
14 purposes of compliance with this article.

15 108674. The provisions of this article are severable. If any
16 provision of this article or its application is held invalid, that
17 invalidity shall not affect other provisions or applications that can
18 be given effect without the invalid provision or application.

19 ~~SECTION 1. (a) In June 2004, the International Agency for~~
20 ~~Research on Cancer (IARC), a part of the World Health~~
21 ~~Organization, reclassified formaldehyde as a known human~~
22 ~~carcinogen based on sufficient evidence in both humans and~~
23 ~~experimental animals. The IARC Working Group also concluded~~
24 ~~there is “... strong but not sufficient evidence for a causal~~
25 ~~relationship between leukemia and occupational exposure to~~
26 ~~formaldehyde.”~~

27 ~~(b) California has long known formaldehyde to be a danger to~~
28 ~~humans and in 1992 the Office of Environmental Health Hazard~~
29 ~~Assessment declared formaldehyde a toxic air contaminant and,~~
30 ~~“... that formaldehyde be treated as having no safe threshold~~
31 ~~exposure level below which no significant adverse health impacts~~
32 ~~are anticipated.”~~

33 ~~(c) In spite of the overwhelming and longstanding concerns~~
34 ~~over the safety of formaldehyde emissions, there are no regulations~~
35 ~~regarding these emissions in the United States. The European~~
36 ~~Union, Japan, and China each have domestic regulations limiting~~
37 ~~the amount of formaldehyde that can be emitted from these~~
38 ~~products.~~

39 ~~(d) The dangers to Californians from exposures to the release~~
40 ~~of formaldehyde contained in composite wood products in the~~

1 home environment is of particular concern due to the increased
2 exposures for children, who are especially susceptible to this
3 carcinogenic toxin.

4 SEC. 2. Section 41713 is added to the Health and Safety Code,
5 to read:

6 41713. (a) Commencing January 1, 2009, a person shall not
7 manufacture, sell, import, supply, or distribute for use in the state
8 composite wood products, including, but not limited to, hardwood
9 plywood, medium-density fiberboard, and particleboard panel,
10 and the end-use applications for which those products are utilized,
11 including, but not limited to, kitchen cabinets, casework, and
12 furniture, unless the wood product and the end-use application
13 comply with an emission limit not exceeding 0.08 parts per million
14 (ppm) of formaldehyde.

15 (b) Commencing January 1, 2011, a person shall not
16 manufacture, sell, import, supply, or distribute for use in the state
17 composite wood products, including, but not limited to, hardwood
18 plywood, medium-density fiberboard, and particleboard panel,
19 and the end-use applications for which those products are utilized,
20 including, but not limited to, kitchen cabinets, casework, and
21 furniture, unless the wood product and the end-use application
22 comply with an emission limit not exceeding 0.05 ppm of
23 formaldehyde.

24 (c) Commencing January 1, 2013, a person shall not
25 manufacture, sell, import, supply, or distribute for use in the state
26 composite wood products, including, but not limited to, hardwood
27 plywood, medium-density fiberboard, and particleboard panel,
28 and the end-use applications for which those products are utilized,
29 including, but not limited to, kitchen cabinets, casework, and
30 furniture, unless the wood product and the end-use application
31 comply with an emission limit of _____.

32 (d) As used in this section, “emission limit” means an allowable
33 panel surface emission based on formaldehyde concentration made
34 using the American Society for Testing and Materials (ASTM)
35 testing method E 1333-96.

36 SEC. 3. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 ~~for a crime or infraction, within the meaning of Section 17556 of~~
2 ~~the Government Code, or changes the definition of a crime within~~
3 ~~the meaning of Section 6 of Article XIII B of the California~~
4 ~~Constitution.~~

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