

AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 774

Introduced by Senator Ridley-Thomas

February 23, 2007

An act to amend Sections 25214.14 and 25214.16 of the Health and Safety Code, relating to hazardous packaging.

LEGISLATIVE COUNSEL'S DIGEST

SB 774, as amended, Ridley-Thomas. Hazardous packaging.

Existing

(1) *Existing* law, the Toxics in Packaging Prevention Act, prohibits a manufacturer, importer, agent, or supplier, as defined, from offering for sale or for promotional purposes in this state a package or packaging component that includes specified regulated metals and prohibits a person from offering for sale or for promotional purposes in the state a product in a package that includes those intentionally introduced regulated metals. A violation of the hazardous waste control laws, including the act, is a crime.

The act exempts from its requirements a package or a packaging component that meets any of specified conditions. One of these conditions, until January 1, 2010, is met when the package or a packaging component that has a vitrified label, when tested in accordance with a prescribed test, does not exceed 5.0 ppm for lead.

This bill would revise this condition to require that, with respect to a glass bottle package with any paint or applied ceramic decoration on the bottle, the exemption only applies if the bottle does not contain lead or lead compounds in excess of 0.06 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

By changing the definition of a crime, this bill would impose a state-mandated local program.

~~Existing~~

(2) ~~Existing~~ law also requires each manufacturer or supplier, as defined, to furnish a certification of compliance to the purchaser, as defined, stating that the package or packaging component is in compliance with the act or the package is exempt, as specified.

This bill would also provide that a purchaser includes a supplier for purposes of the above-described certification of compliance requirement.

~~The~~

(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.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The problem of lead contamination on various brands of
4 soda bottles manufactured outside of the state represents a health
5 risk to California consumers. In addition, there is a huge “grey
6 market” industry in California.

7 (b) These imported soda products have become increasingly
8 popular in the United States because of their distinctive taste, and
9 because they are sold in distinctive “returnable” glass bottles.

10 (c) ~~Glass~~ *Some glass* bottles manufactured outside this country
11 and sold in this state are decorated with paint containing high levels
12 of lead.

13 (d) Consumers, including children and pregnant women, are
14 exposed to this lead through hand-to-mouth contact when they
15 touch the bottles, or when they eat hand-held food, like sandwiches
16 and chips, after touching the bottles.

17 (e) In addition, lead can occasionally find its way from the
18 painted label into the soda itself.

19 (f) Lead poisoning is a very serious problem for children six
20 years of age because lead is a neurotoxin and causes irreversible

1 neurological damage. There is no safe level of lead in the blood.
2 By the time a child has five micrograms of lead per deciliter of
3 blood, he or she has already lost seven IQ points.

4 (g) Children with lead poisoning not only lose IQ points but
5 also suffer life-long behavior and learning problems.

6 (h) Lead is a listed carcinogen and a known reproductive toxin
7 that can cause birth defects, serious developmental disorders in
8 infants and children, and harm to the male and female reproductive
9 systems.

10 (i) Lead is so toxic that even minuscule amounts can be
11 hazardous to human health.

12 (j) Studies by the United States Health and Human Services
13 Agency and the Agency for Toxic Substance and Disease Registry
14 report that lead can be transferred to the growing fetus, and high
15 levels of lead exposure may cause increased risk of spontaneous
16 abortions, miscarriages, and stillbirths.

17 (k) Studies also show that even ~~at~~ low levels of lead exposure
18 can adversely affect a pregnancy, causing premature birth,
19 shortened gestation, decreased fetal growth and retarded fetal
20 mental development.

21 (l) Newborns can be exposed to lead through the mother's milk.

22 (m) Young children are more susceptible to the harmful effects
23 of lead than adults because their brains, nervous systems, and other
24 organs are still developing.

25 (n) High levels of lead exposure in young children's blood may
26 lead to progressive loss of memory and cognitive ability,
27 personality changes, inability to concentrate, lethargy, muscle
28 weakness and atrophy, tremors, involuntary muscular twitching,
29 rapid and involuntary eye movement, dementia, seizures, loss of
30 ability to swallow or speak, and progressive loss of consciousness.
31 In severe cases, retardation, experiencing recurrent convulsions
32 and a higher risk of death may occur.

33 (o) Recent studies have shown that even low levels of childhood
34 lead exposure can cause or contribute to anemia, slowed growth,
35 impaired speech and hearing, learning disabilities, decreased
36 intelligence, diminishment of balance, visual skills, fine motor
37 skills, verbal skills, attention and concentration, and impulse
38 control, early signs of attention deficit hyperactivity disorder or
39 "ADHD" and increased criminal behavior.

1 (p) In 1991, the Childhood Lead Poisoning Act was enacted,
2 which expressed that childhood lead exposure represents the most
3 significant childhood environmental health problem in the state
4 today.

5 (q) Lead exposure in adults affects principally the brain and
6 central nervous system, but can also adversely impact the body's
7 production of blood, impair the functioning of the kidneys,
8 contribute to high blood pressure and harm both male and female
9 reproductive organs.

10 SEC. 2. Section 25214.14 of the Health and Safety Code is
11 amended to read:

12 25214.14. A package or a packaging component is exempt
13 from the requirements of Section 25214.13, and shall be deemed
14 in compliance with this article, if the manufacturer or supplier
15 complies with the applicable documentation requirements specified
16 in Section 25214.15 and the package or packaging component
17 meets any of the following conditions:

18 (a) The package or packaging component is marked with a code
19 indicating a date of manufacture prior to January 1, 2006.

20 (b) A regulated metal has been added to the package or
21 packaging component in the manufacturing, forming, printing, or
22 distribution process, to comply with the health or safety
23 requirements of a federal or state law.

24 (c) (1) The package or packaging component contains no
25 intentionally introduced regulated metals, but exceeds the
26 applicable maximum concentration level set forth in subdivision
27 (c) of Section 25214.13 only because of the addition of a recycled
28 material.

29 (2) This subdivision, and all exemptions provided pursuant to
30 it, expire on January 1, 2010.

31 (d) (1) A regulated metal has been added to the package or
32 packaging component in the manufacturing, forming, printing, or
33 distribution process for a use for which there is no feasible
34 alternative.

35 (2) For purposes of this subdivision, "a use for which there is
36 no feasible alternative" means a use, other than for purposes of
37 marketing, for which a regulated metal is essential to the protection,
38 safe handling, or function, of the package's contents, and technical
39 constraints preclude the substitution of other materials.

1 (e) (1) The package or packaging component is reused and
2 contains no intentionally introduced regulated metals, but exceeds
3 the applicable maximum concentration level set forth in subdivision
4 (c) of Section 25214.13, and all of the following apply:

5 (A) The product being conveyed by the package, the package,
6 or packaging component is otherwise regulated under a federal or
7 state health or safety requirement.

8 (B) The transportation of the packaged product is regulated
9 under federal or state transportation requirements.

10 (C) The disposal of the package is otherwise performed
11 according to the requirements of this chapter or Chapter 8
12 (commencing with Section 114960) of Part 9 of Division 104.

13 (2) This subdivision, and all exemptions provided pursuant to
14 it, expire on January 1, 2010.

15 (f) (1) The package or packaging component has a controlled
16 distribution and reuse and contains no intentionally introduced
17 regulated metals, but exceeds the applicable maximum
18 concentration level set forth in subdivision (c) of Section 25214.13.

19 (2) This subdivision, and all exemptions provided pursuant to
20 it, expire on January 1, 2010.

21 (g) (1) (A) The packaging or packaging component is a glass
22 or ceramic package or packaging component that has a vitrified
23 label, and that, when tested in accordance with the Waste
24 Extraction Test, described in Appendix II of Chapter 11
25 (commencing with Section 66261.1) of Division 4.5 of Title 22
26 of the California Code of Regulations does not exceed 1.0 ppm
27 for cadmium, 5.0 ppm for hexavalent chromium, or 5.0 ppm for
28 lead.

29 (B) Notwithstanding subparagraph (A) with respect to a glass
30 bottle package with any paint or applied ceramic decoration on
31 the bottle, the exemption provided for subparagraph (A) shall only
32 apply if the package does not contain lead or lead compounds in
33 excess of 0.06 percent by weight of the total nonvolatile content
34 of the paint or the weight of the dried paint film. A glass or ceramic
35 package or packaging component containing mercury is not
36 exempted pursuant to this subdivision.

37 (2) This subdivision, and all exemptions provided pursuant to
38 it, expire on January 1, 2010.

39 SEC. 3. Section 25214.16 of the Health and Safety Code is
40 amended to read:

1 25214.16. (a) On and after January 1, 2006, each manufacturer
2 or supplier shall furnish a certificate of compliance to the purchaser
3 of a package or packaging component, even when the purchaser
4 is also a supplier, stating that the package or packaging component
5 is in compliance with the requirements of this article. However,
6 if, pursuant to Section 25214.14, the package is exempt from the
7 requirements of Section 25214.13, the certificate of compliance
8 shall state the specific basis upon which the exemption is claimed.
9 The certificate of compliance shall be signed by an authorized
10 official of the manufacturer or supplier. A copy of the certificate
11 of compliance shall be kept on file by the manufacturer or supplier
12 of the package or packaging component.

13 (b) A purchaser of a package or packaging component subject
14 to subdivision (a) shall retain the certificate of compliance for as
15 long as the package or packaging component is in use by the
16 purchaser.

17 (c) The manufacturer or supplier shall furnish to the department
18 a copy of the certificate of compliance for each package or
19 packaging component for which an exemption is claimed under
20 Section 25214.14 at the time when a certificate of compliance for
21 that package or packaging component is first furnished to a
22 purchaser. If no exemption is claimed for a package or packaging
23 component, the manufacturer or supplier shall provide to the
24 department upon request a copy of the certificate of compliance
25 for that package or packaging component.

26 (d) If a manufacturer or supplier of a package or packaging
27 component subject to subdivision (a) reformulates or creates a new
28 package or packaging component, the manufacturer or supplier
29 shall provide the purchaser, and, if the package or packaging
30 component is exempt, the department, with an amended or new
31 certificate of compliance for the reformulated or new package or
32 packaging component.

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O