

ASSEMBLY BILL

No. 1512

**Introduced by Assembly Members Lieu and Jones
(Coauthor: Assembly Member Hill)**

February 27, 2009

An act to add Chapter 3.5 (commencing with Section 110286) to Part 5 of Division 104 of the Health and Safety Code, relating to food and drug safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1512, as introduced, Lieu. Food and drugs: sale.

Existing law, the Sherman Food, Drug, and Cosmetic Law, contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. A violation of any of these provisions is punishable as a misdemeanor.

This bill would prohibit a retailer from selling or permitting to be sold after the "use by" date infant formula or baby food that is required to have this date on its packaging pursuant to federal law. It would also prohibit a retailer from selling or permitting to be sold after the expiration date a drug that is required to have this expiration date on its packaging pursuant to that federal law. A violation of these provisions would, notwithstanding the above-described penalty, be punishable as an infraction with a fine of an unspecified amount. By creating a new crime, this bill would create a state-mandated local program.

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. Chapter 3.5 (commencing with Section 110286)
2 is added to Part 5 of Division 104 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 3.5. EXPIRATION AND USE BY DATES
6

7 110286. (a) A retailer shall not sell or permit to be sold after
8 the “use by” date infant formula or baby food that is required to
9 have this date on its packaging pursuant to the federal act and
10 federal regulations adopted pursuant to the federal act, including,
11 but not limited to, Section 107.20 of Title 21 of the Code of Federal
12 Regulations.

13 (b) A retailer shall not sell or permit to be sold after the
14 expiration date a drug that is required to have this expiration date
15 on its packaging pursuant to the federal act and federal regulations
16 adopted pursuant to the federal act, including, but not limited to,
17 Section 211.37 of Title 21 of the Code of Federal Regulations.

18 (c) Notwithstanding Section 111825, any person who violates
19 this section is guilty of an infraction, punishable by a fine of not
20 more than ____ dollars (\$____) for each item sold or permitted to
21 be sold after the expiration or “use by” date.

22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

O