

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1365

Introduced by Senator Corbett

February 19, 2010

An act to amend ~~Section 108555~~ *Sections 108555, 108565, 108570, and 108575* of the Health and Safety Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1365, as amended, Corbett. Public safety: consumer products.

Existing law provides no person shall manufacture, sell, or exchange, have in his or her possession with intent to sell or exchange, or expose or offer for sale or exchange to any retailer, any toy that is contaminated with any toxic substance, as provided, *including, but not limited to, paints and lacquers containing compounds of lead in excess of that permitted by federal law, as specified*. Existing law provides for enforcement of these provisions by the State Department of Public Health and local health officers.

This bill would also allow the Department of Toxic Substances Control to enforce these provisions ~~if existing resources exist~~. This bill would provide that when a penalty is imposed by any of the enforcement agencies, as provided, the other 2 may not also impose a penalty for the same incidence of violation. *The bill would also revise the cross-reference to federal law.*

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

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

1 SECTION 1. Section 108555 of the Health and Safety Code
2 is amended to read:

3 108555. (a) No person shall manufacture, sell, or exchange,
4 have in his or her possession with intent to sell or exchange, or
5 expose or offer for sale or exchange to any retailer, any toy that is
6 contaminated with any toxic substance or that is any of the
7 following:

8 (1) Is coated with paints and lacquers containing compounds
9 of lead of which the lead content (calculated as Pb) is in excess of
10 that permitted by federal regulations contained in ~~Section 1500.17~~
11 ~~of Title 16 of the Code of Federal Regulations adopted pursuant~~
12 ~~to the Federal Hazardous Substances Act, Chapter 30 (commencing~~
13 ~~with Section 1261) of Title 15 of the United States Code, or soluble~~
14 ~~Part 1303 of Title 16 of the Code of Federal Regulations adopted~~
15 ~~pursuant to the Consumer Product Safety Act (Title 15~~
16 ~~(commencing with Section 2051) of the United States Code and~~
17 ~~the lead limit as reduced by Congress in Section 101(f) of the~~
18 ~~Consumer Product Safety Improvement Act of 2008 (Public Law~~
19 ~~110-314), or soluble compounds of antimony, arsenic, cadmium,~~
20 ~~chromium, mercury, selenium, or barium, introduced as such.~~
21 ~~Compounds shall be considered soluble if quantities in excess of~~
22 ~~0.1 percent are dissolved by 5 percent hydrochloric acid after~~
23 ~~stirring for 10 minutes at room temperature. barium, as identified~~
24 ~~in ASTM International Standard F963-08 "Standard Consumer~~
25 ~~Safety Specification for Toy Safety" (ASTM F963).~~

26 (2) Consists in whole or in part of a diseased, contaminated,
27 filthy, putrid, or decomposed substance.

28 (3) Has been produced, prepared, packed, shipped, or held under
29 unsanitary or other conditions whereby it may have become
30 contaminated with filth or hazardous materials or otherwise
31 rendered injurious to health.

32 (4) Is stuffed, padded, or lined with materials that are toxic or
33 that would otherwise be hazardous if ingested, inhaled, or
34 contacted.

35 (5) Is a stuffed, padded, or lined toy that is not securely wrapped
36 or packaged.

37 (b) The department, *the Department of Toxic Substances*
38 *Control*, and local health officers shall enforce this article. ~~The~~

1 ~~Department of Toxic Substances Control may also enforce this~~
2 ~~article if existing resources are available.~~

3 (c) Violation of this section is a misdemeanor punishable by a
4 fine not exceeding one thousand dollars (\$1,000) for each violation
5 or by imprisonment in the county jail for a period not exceeding
6 one year, or both.

7 (d) If a penalty is imposed pursuant to this section by the State
8 Department of Public Health, a local health officer, or the
9 Department of Toxic Substances Control, then a penalty shall not
10 be imposed by either of the other two enforcement entities for the
11 same incidence of violation.

12 *SEC. 2. Section 108565 of the Health and Safety Code is*
13 *amended to read:*

14 108565. (a) Whenever a duly authorized representative of the
15 department, *the Department of Toxic Substances Control*, or a
16 local health officer finds, or has probable cause to believe, that
17 any toy is or would be in violation of this article, he or she shall
18 affix to the toy or a component thereof a tag or other appropriate
19 marking, and shall give notice that the toy is suspected of being
20 in violation of this article, that the toy has been embargoed, and
21 that no person shall remove the toy until permission for removal
22 or disposal is given by an authorized agent of the department, *the*
23 *Department of Toxic Substances Control*, the local health officer,
24 or the court.

25 (b) A local health officer *or the Department of Toxic Substances*
26 *Control* shall notify the department within 48 hours of any action
27 ~~taken by the local health officer~~ pursuant to subdivision (a).

28 *SEC. 3. Section 108570 of the Health and Safety Code is*
29 *amended to read:*

30 108570. No person shall knowingly remove, sell, or dispose
31 of a detained or embargoed toy without permission of an authorized
32 agent of the department, *the Department of Toxic Substances*
33 *Control*, the local health officer, or the court. Violation of this
34 section is a misdemeanor punishable by a fine not exceeding one
35 thousand dollars (\$1,000) for each violation or by imprisonment
36 in the county jail for a period not exceeding one year, or both.

37 *SEC. 4. Section 108575 of the Health and Safety Code is*
38 *amended to read:*

39 108575. When an authorized agent of the department, *the*
40 *Department of Toxic Substances Control*, or the local health officer

- 1 finds, or has reasonable cause to believe, that an embargo will be
- 2 violated, he or she may remove the embargoed toy to a place of
- 3 safekeeping.

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