

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE APRIL 12, 2010

**SENATE BILL**

**No. 1365**

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**Introduced by Senator Corbett**

February 19, 2010

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An act to amend ~~Sections 108555, 108565, 108570, and 108575~~ *Section 108555* 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. 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~~-no. 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 Part 1303 of  
11 Title 16 of the Code of Federal Regulations adopted pursuant to  
12 the Consumer Product Safety Act (Title 15 (commencing with  
13 Section 2051) of the United States ~~Code~~ *Code*) and the lead limit  
14 as reduced by Congress in Section 101(f) of the Consumer Product  
15 Safety Improvement Act of 2008 (Public Law 110-314), or soluble  
16 compounds of antimony, arsenic, cadmium, chromium, mercury,  
17 selenium, or barium, as identified in *the* ASTM International  
18 Standard F963-08 “Standard Consumer Safety Specification for  
19 Toy Safety” (ASTM F963).

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

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

26 (4) Is stuffed, padded, or lined with materials that are toxic or  
27 that would otherwise be hazardous if ingested, inhaled, or  
28 contacted.

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

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

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

37 ~~(d) If a penalty is imposed pursuant to this section by the State~~  
38 ~~Department of Public Health, a local health officer, or the~~

1 Department of Toxic Substances Control, then a penalty shall not  
2 be imposed by either of the other two enforcement entities for the  
3 same incidence of violation.

4 SEC. 2. Section 108565 of the Health and Safety Code is  
5 amended to read:

6 108565. (a) Whenever a duly authorized representative of the  
7 department, the Department of Toxic Substances Control, or a  
8 local health officer finds, or has probable cause to believe, that  
9 any toy is or would be in violation of this article, he or she shall  
10 affix to the toy or a component thereof a tag or other appropriate  
11 marking, and shall give notice that the toy is suspected of being  
12 in violation of this article, that the toy has been embargoed, and  
13 that no person shall remove the toy until permission for removal  
14 or disposal is given by an authorized agent of the department, the  
15 Department of Toxic Substances Control, the local health officer,  
16 or the court.

17 (b) A local health officer or the Department of Toxic Substances  
18 Control shall notify the department within 48 hours of any action  
19 taken pursuant to subdivision (a).

20 SEC. 3. Section 108570 of the Health and Safety Code is  
21 amended to read:

22 108570. No person shall knowingly remove, sell, or dispose  
23 of a detained or embargoed toy without permission of an authorized  
24 agent of the department, the Department of Toxic Substances  
25 Control, the local health officer, or the court. Violation of this  
26 section is a misdemeanor punishable by a fine not exceeding one  
27 thousand dollars (\$1,000) for each violation or by imprisonment  
28 in the county jail for a period not exceeding one year, or both.

29 SEC. 4. Section 108575 of the Health and Safety Code is  
30 amended to read:

31 108575. When an authorized agent of the department, the  
32 Department of Toxic Substances Control, or the local health officer  
33 finds, or has reasonable cause to believe, that an embargo will be  
34 violated, he or she may remove the embargoed toy to a place of  
35 safekeeping.