

AMENDED IN ASSEMBLY MAY 20, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2297**

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**Introduced by Assembly Member Vargas**

February 19, 2004

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An act to add a heading as Article 1 (commencing with Section 105275) to, and to add Article 2 (commencing with Section 105312) to, Chapter 5 of Part 5 of Division 102 of the Health and Safety Code, relating to imported candy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2297, as amended, Vargas. Imported candy: lead contamination.

Existing law, the Sherman Food, Drug, and Cosmetic Law, requires the State Department of Health Services to regulate manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act.

Under existing law, the State Department of Health Services is responsible for administering the Childhood Lead Poisoning Prevention Act of 1991. Existing law requires the department to establish a childhood lead poisoning prevention program to identify and conduct medical followup of high-risk children, and to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposures. Existing

law requires the department to assess a fee for these purposes against persons who contributed to sources of lead contamination.

This bill would amend the Childhood Lead Poisoning Prevention Act of 1991 to require the department to, *as a component of that program, regulate lead in imported candy and use those fees, upon appropriation by the Legislature, to regulate the lead content of imported candy.* The bill would require the department to test imported candy to determine the presence of lead, to issue related health advisories, to order removal of, and to embargo, imported candy found to contain lead. The bill would require the department to adopt related regulations and to form an interagency collaborative. The bill would authorize the department to enter into contracts with county health officers and to provide grants to environmental justice organizations.

By requiring enforcement of these provisions in part by county health officials, this bill would impose 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. A heading is added as Article 1 (commencing  
2 with Section 105275) to Chapter 5 of Part 5 of Division 102 of the  
3 Health and Safety Code, to read:

4  
5 Article 1. General  
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7 SEC. 2. Article 2 (commencing with Section 105312) is  
8 added to Chapter 5 of Part 5 of Division 102 of the Health and  
9 Safety Code, to read:

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Article 2. Imported Candy

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105312. (a) The department, as a component of its other regulatory duties pursuant to this chapter, shall have jurisdiction over the regulation of imported candy to ensure that the candy is lead free.

(b) For the purposes of this chapter, “candy” includes only candy imported from a foreign country and its packaging or wrapper.

(c) Funds deposited into the Childhood Lead Poisoning Prevention Fund established pursuant to Section 105310 shall, upon appropriation by the Legislature, be available to the department for the purposes of this article.

105313. The department shall do all of the following:

(a) Establish a lead content standard of zero, or the lowest detection limit, for imported candy.

(b) Establish a collaborative as set forth in Section 105314.

(c) Require the testing of imported candy to determine its lead content. Priority shall be given to testing samples of imported candy received by community-based organizations.

(d) Issue health advisories when candy has been found to contain any detectible level of lead.

(e) Order local health officers to remove from ~~seives~~ *shelves* of retailers, any candy found to contain lead.

(f) Order an embargo against a manufacturer of candy that is found to contain lead, until the manufacturer demonstrates that the lead contamination no longer exists.

(g) Promote enforcement of this article by making the elimination of lead in imported candy a major goal of its Childhood Lead Poisoning Prevention ~~Branch~~ *branch*.

(h) Through its Childhood Lead Poisoning Prevention ~~Branch~~ *branch*, enter into contracts with county health officers and county environmental health officers to collect samples of imported candy for submission to the Food and Drug ~~Branch~~ *branch* of the department for testing pursuant to this article.

(i) Through its Food and Drug ~~Branch~~ *branch*, test the samples of imported candy collected pursuant to this article.

~~(j) Through its Childhood Lead Poisoning Prevention Branch, provide grants to between 5 and 10 environmental justice organizations throughout the state to identify retail establishments~~



1 ~~and imported candy for obtaining test samples. Pursuant to these~~  
2 ~~grants, the organization shall conduct inspections of retail~~  
3 ~~establishments to determine the presence of imported candy and~~  
4 ~~shall report its findings to the county health officer for the~~  
5 ~~collection and testing of samples pursuant to this chapter, and for~~  
6 ~~enforcement actions if banned candy is found. The organizations~~  
7 ~~shall conduct a media campaign as a central part of their public~~  
8 ~~education and outreach efforts under this article.~~

9 ~~(k)~~

10 (j) Through its Childhood Lead Poisoning Prevention ~~Branch~~  
11 ~~branch~~, draft, periodically update, and distribute a community  
12 flyer that identifies all imported candy found to contain lead  
13 pursuant to this article, for use by the department and by  
14 environmental justice organizations to inform the public and to  
15 educate retailers.

16 ~~(l)~~

17 (k) Adopt regulations necessary for the enforcement of this  
18 article. Evaluate the regulatory process, identify problems, and  
19 report to the Legislature, as necessary.

20 105314. (a) The department shall establish an interagency  
21 collaborative on the lead content of imported candy to be  
22 composed of the following members:

23 (1) The department, including its Childhood Lead Poisoning  
24 ~~Branch~~ ~~branch~~ and its Food and Drug ~~Branch~~ ~~branch~~.

25 (2) County health officers.

26 (3) Environmental health organizations receiving grants  
27 pursuant to this article.

28 (4) Health ministers of affected foreign governments.

29 (5) ~~Manufactures~~ *Manufacturers* of imported candy.

30 (6) Community-based organizations.

31 (b) The department, in consultation with its partners in the  
32 collaborative, shall do all of the following:

33 (1) Identify the reasons for, and problems associated with, lead  
34 contamination of imported candy.

35 (2) Identify obstacles to *the* removal of lead from imported  
36 candy, and develop strategies for overcoming the obstacles.

37 (3) Develop recommended feasible manufacturing process  
38 shifts designed to result in lead-free candy.

39 SEC. 3. Notwithstanding Section 17610 of the Government  
40 Code, if the Commission on State Mandates determines that this



1 act contains costs mandated by the state, reimbursement to local  
2 agencies and school districts for those costs shall be made pursuant  
3 to Part 7 (commencing with Section 17500) of Division 4 of Title  
4 2 of the Government Code. If the statewide cost of the claim for  
5 reimbursement does not exceed one million dollars (\$1,000,000),  
6 reimbursement shall be made from the State Mandates Claims  
7 Fund.

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