S T A T E O F N E W Y O R K

372

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting the manufacture, distribution and sale of toys and child care products containing phthalates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings. The legislature hereby finds that phthalates are a class of chemicals used in polyvinyl chloride (PVC) plastic to improve flexibility and in cosmetics to bind fragrance to the product. Phthalates are used in many products intended for use by young children including, but not limited to, teethers, toys and soft plastic books.

It is further found that there is extensive scientific literature reporting the hormone disrupting effect of phthalates, and substantial evidence that levels of the phthalates of concern are found in humans at levels associated with adverse effects. Population studies show that virtually everyone carries some level of phthalates in their body. For the general population, the oral route of exposure is considered a major route.

S 2. The general business law is amended by adding a new section 397-b to read as follows:

S 397-B. TOYS AND CHILD CARE PRODUCTS; PHTHALATES. 1. FOR THE PURPOSES OF THIS SECTION:

(A) "CHILD CARE ARTICLE" MEANS ALL PRODUCTS DESIGNED OR INTENDED BY THE MANUFACTURER TO FACILITATE SLEEP, RELAXATION OR THE FEEDING OF CHILDREN, OR TO HELP CHILDREN WITH SUCKING OR TEETHING;

(B) "TOY" MEANS ALL PRODUCTS DESIGNED OR INTENDED BY THE MANUFACTURER TO BE USED BY CHILDREN WHEN THEY PLAY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE ANY TOY OR CHILD CARE PRODUCT CONTAINING DI(2-ETHYLEXYL)PHTHALATE, DIBUTYL PHTHALATE OR BUTYL BENZYL PHTHALATE IN CONCENTRATIONS IN EXCESS OF 0.1 PERCENT.

3. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE ANY TOY OR CHILD CARE PRODUCT CONTAINING DI-ISONONYL PHTHALATE, DI-ISODECYL PHTHALATE OR DI-N-OCTYL PHTHALATE IN CONCENTRATIONS IN EXCESS OF 0.1 PERCENT, INTENDED FOR USE BY A CHILD UNDER THREE YEARS OF AGE WHEN SUCH TOY OR PRODUCT MAY BE PLACED IN THE CHILD'S MOUTH.

4. EVERY MANUFACTURER OF A PRODUCT OR TOY PROHIBITED BY THIS SECTION SHALL USE THE LEAST TOXIC ALTERNATIVE TO THE BISPHENOL-A OR PHTHALATE IN THE TOY OR PRODUCT. SUCH ALTERNATIVE SHALL NOT BE (I) A CARCINOGEN RATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A, B OR C CARCINOGENS, OR SUBSTANCES LISTED AS KNOWN OR LIKELY CARCINOGENS, KNOWN TO BE HUMAN CARCINOGENS, LIKELY TO BE HUMAN CARCINOGENS OR SUGGESTIVE OF BEING HUMAN CARCINOGENS, AS DESCRIBED IN THE "LIST OF CHEMICALS EVALUATED FOR CARCINOGEN POTENTIAL"; OR (II) REPRODUCTIVE TOXICANTS THAT CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM OR DEVELOPMENTAL HARM AS IDENTIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

5. ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION WHICH VIOLATES ANY PROVISION OF THIS SECTION SHALL BE LIABLE FOR A CIVIL FINE OF NOT LESS THAN TEN THOUSAND DOLLARS FOR EACH DAY OF SUCH VIOLATION.

S 3. This act shall take effect January 1, 2010.