

9561

I N A S S E M B L Y

January 19, 2010

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Health

AN ACT to amend the public health law, in relation to the sale of chil-  
dren's jewelry containing cadmium

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

1 Section 1. Section 1376-a of the public health law, as amended by  
2 chapter 485 of the laws of 1992 and subdivision 3 as added by chapter  
3 721 of the laws of 1993, is amended to read as follows:

4 S 1376-a. Sale of consumer products containing [lead or] cadmium. 1.  
5 FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
6 FOLLOWING DEFINITIONS:

7 (A) "CHILDREN" MEANS CHILDREN AGED TWELVE YEARS AND YOUNGER.

8 (B) "CHILDREN'S JEWELRY" MEANS JEWELRY THAT IS MADE FOR, MARKETED FOR  
9 USE BY OR MARKETED TO CHILDREN. CHILDREN'S JEWELRY INCLUDES, BUT IS NOT  
10 LIMITED TO, JEWELRY THAT IS:

11 (I) REPRESENTED IN ITS PACKAGING, DISPLAY OR ADVERTISING, AS APPROPRI-  
12 ATE FOR USE BY CHILDREN;

13 (II) SOLD IN CONJUNCTION WITH, ATTACHED TO OR PACKAGED TOGETHER WITH  
14 OTHER PRODUCTS THAT ARE PACKAGED, DISPLAYED OR ADVERTISED AS APPROPRIATE  
15 FOR USE BY CHILDREN;

16 (III) SIZED FOR CHILDREN AND NOT INTENDED FOR USE BY ADULTS; OR

17 (IV) SOLD IN ANY OF THE FOLLOWING:

18 (1) A VENDING MACHINE,

19 (2) A RETAIL STORE, CATALOGUE OR ONLINE WEB SITE, IN WHICH A PERSON  
20 EXCLUSIVELY OFFERS FOR SALE PRODUCTS THAT ARE PACKAGED, DISPLAYED OR  
21 ADVERTISED AS APPROPRIATE FOR USE BY CHILDREN, OR

22 (3) A DISCRETE PORTION OF A RETAIL STORE, CATALOGUE OR ONLINE WEB  
23 SITE, IN WHICH A PERSON OFFERS FOR SALE PRODUCTS THAT ARE PACKAGED,  
24 DISPLAYED OR ADVERTISED AS APPROPRIATE FOR USE BY CHILDREN.

25 2. In the absence of a federal standard for a specific type of prod-  
26 uct, the commissioner shall establish the maximum quantity of [lead or]  
27 cadmium (and the manner of testing therefor) which (A) may be released  
28 from glazed ceramic tableware, crystal, china and other consumer

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

LBD15413-02-0

1 products, AND (B) ANY CHILDREN'S JEWELRY MAY CONTAIN. Such maximum  
2 quantity shall be based on the best available scientific data and shall  
3 insure the safety of the public AND CHILDREN by reducing its OR THEIR  
4 exposure to [lead and] cadmium to the lowest practicable level. The  
5 commissioner may amend such maximum quantity (and the manner of testing  
6 therefor) where necessary or appropriate for the safety of the public  
7 AND CHILDREN. Until such maximum quantity of [lead or] cadmium estab-  
8 lished by the commissioner is effective, no glazed ceramic tableware OR  
9 CHILDREN'S JEWELRY shall be offered for sale which releases [lead in  
10 excess of 7 parts per million, or] cadmium in excess of .5 parts per  
11 million.

12 [2] 3. The commissioner is hereby empowered to order the recall of or  
13 confiscation, OR PROHIBIT THE SALE of glazed ceramic tableware, crystal,  
14 china [or], other consumer products OR CHILDREN'S JEWELRY offered for  
15 sale which do not meet the standards set forth in or pursuant to this  
16 section.

17 [3] 4. The commissioner [of health] may waive the provisions of this  
18 section, WITH REGARD TO GLAZED CERAMIC TABLEWARE, CRYSTAL, CHINA AND  
19 OTHER CONSUMER PRODUCTS, in whole or in part upon a finding by the  
20 commissioner in a particular instance that there is no significant  
21 threat to the public health; with respect to miniatures the commissioner  
22 shall do so, on terms and conditions he or she shall establish, upon a  
23 final judicial or administrative finding that there is no immediate  
24 public health threat in that instance.

25 S 2. This act shall take effect immediately.