

4212

2011-2012 Regular Sessions

I N A S S E M B L Y

February 2, 2011

Introduced by M. of A. P. RIVERA, COLTON, MAISEL, GABRYSZAK, ROBINSON, BENEDETTO, LAVINE, ZEBROWSKI, ORTIZ, JAFFEE, BOYLAND, LUPARDO, WEISENBERG, MARKEY, MAYERSOHN, SPANO -- Multi-Sponsored by -- M. of A. ABBATE, CAMARA, FINCH, V. LOPEZ, MAGEE, McDONOUGH, MILLMAN, PEOPLES-STOKES, REILLY, SCHIMEL, THIELE, TOBACCO -- read once and referred to the Committee on Consumer Affairs and 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:

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

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

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

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

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

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

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

3 2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPA-  
4 NY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE  
5 ANY TOY OR CHILD CARE PRODUCT CONTAINING DI(2-ETHYLEXYL)PHTHALATE, DIBU-  
6 TYL PHTHALATE OR BUTYL BENZYL PHTHALATE IN CONCENTRATIONS IN EXCESS OF  
7 0.1 PERCENT.

8 3. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPA-  
9 NY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE  
10 ANY TOY OR CHILD CARE PRODUCT CONTAINING DI-ISONONYL PHTHALATE, DI-ISO-  
11 DECYL PHTHALATE OR DI-N-OCTYL PHTHALATE IN CONCENTRATIONS IN EXCESS OF  
12 0.1 PERCENT, INTENDED FOR USE BY A CHILD UNDER THREE YEARS OF AGE WHEN  
13 SUCH TOY OR PRODUCT MAY BE PLACED IN THE CHILD'S MOUTH.

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

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

28 S 3. This act shall take effect January 1, 2012.