

5548

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, MAISEL, GUNTHER, JACOBS, ROBINSON,
J. RIVERA, CASTRO, JAFFEE, SPANO, ROSENTHAL, GIBSON, MILLMAN, BARRON
-- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, COOK, CRESPO,
DINOWITZ, GABRYSZAK, HOOPER, MARKEY, McENENY, NOLAN, PHEFFER, SCHIMEL,
WEISENBERG -- 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

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

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

4 2. In the absence of a federal standard for a specific type of prod-
5 uct, the commissioner shall establish the maximum quantity of [lead or]
6 cadmium (and the manner of testing therefor) which (A) may be released
7 from glazed ceramic tableware, crystal, china and other consumer
8 products, AND (B) ANY CHILDREN'S JEWELRY MAY CONTAIN. Such maximum
9 quantity shall be based on the best available scientific data and shall
10 insure the safety of the public AND CHILDREN by reducing its OR THEIR
11 exposure to [lead and] cadmium to the lowest practicable level. The
12 commissioner may amend such maximum quantity (and the manner of testing
13 therefor) where necessary or appropriate for the safety of the public
14 AND CHILDREN. Until such maximum quantity of [lead or] cadmium estab-
15 lished by the commissioner is effective, no glazed ceramic tableware OR
16 CHILDREN'S JEWELRY shall be offered for sale which releases [lead in
17 excess of 7 parts per million, or] cadmium in excess of .5 parts per
18 million.

19 [2] 3. The commissioner is hereby empowered to order the recall of or
20 confiscation, OR PROHIBIT THE SALE of glazed ceramic tableware, crystal,
21 china [or], other consumer products OR CHILDREN'S JEWELRY offered for
22 sale which do not meet the standards set forth in or pursuant to this
23 section.

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

32 S 2. This act shall take effect immediately.