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

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 children's jewelry containing cadmium

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

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

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

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

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

(I) REPRESENTED IN ITS PACKAGING, DISPLAY OR ADVERTISING, AS APPROPRIATE FOR USE BY CHILDREN;

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

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

(IV) SOLD IN ANY OF THE FOLLOWING:

(1) A VENDING MACHINE,

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

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

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

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

S 2. This act shall take effect immediately.