

4055

2011-2012 Regular Sessions

I N S E N A T E

March 15, 2011

Introduced by Sens. ALESI, GRISANTI -- read twice and ordered printed,  
and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to regulating heavy  
metals in surface coating and cadmium in substrate of children's  
jewelry

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

1 Section 1. The public health law is amended by adding a new section  
2 1376-b to read as follows:  
3 S 1376-B. REGULATION OF HEAVY METAL IN SURFACE COATING AND CADMIUM IN  
4 CHILDREN'S JEWELRY. 1. DEFINITIONS. AS USED IN THIS SECTION, THE TERM:  
5 (A) "CHILD" MEANS A PERSON WHO IS SIX AND ONE-HALF YEARS OF AGE OR  
6 YOUNGER.  
7 (B) "CHILDREN'S JEWELRY" MEANS JEWELRY DESIGNED OR INTENDED PRIMARILY  
8 FOR USE BY A CHILD, AND SHALL INCLUDE JEWELRY THAT IS:  
9 (I) REPRESENTED IN ITS PACKAGING, DISPLAY, PROMOTION OR ADVERTISING AS  
10 APPROPRIATE FOR USE BY A CHILD.  
11 (II) SOLD IN CONJUNCTION WITH, ATTACHED TO, OR PACKAGED TOGETHER WITH  
12 OTHER PRODUCTS THAT ARE PACKAGED, DISPLAYED, OR ADVERTISED AS APPROPRI-  
13 ATE FOR USE BY A CHILD.  
14 (III) SIZED FOR A CHILD AND NOT DESIGNED OR INTENDED PRIMARILY FOR USE  
15 BY CONSUMERS SEVEN AND OLDER.  
16 (IV) SOLD IN ANY OF THE FOLLOWING:  
17 (A) A VENDING MACHINE;  
18 (B) A RETAIL STORE, CATALOG, OR ONLINE WEBSITE, IN WHICH A PERSON  
19 EXCLUSIVELY OFFERS FOR SALE PRODUCTS THAT ARE PACKAGED, DISPLAYED, OR  
20 ADVERTISED AS APPROPRIATE FOR USE PRIMARILY BY A CHILD; OR  
21 (C) A DISCRETE PORTION OF A RETAIL STORE, CATALOG, OR ONLINE INTERNET  
22 WEBSITE, IN WHICH A PERSON OFFERS FOR SALE PRODUCTS THAT ARE PACKAGED,  
23 DISPLAYED, OR ADVERTISED AS APPROPRIATE OR INTENDED FOR USE PRIMARILY BY  
24 A CHILD.

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

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1 (V) LABELED IN A MANNER INDICATING THAT THE PRODUCT IS DESIGNED AND  
 2 INTENDED PRIMARILY FOR A CHILD.

3 (C) "JEWELRY" MEANS A PRODUCT PRINCIPALLY DESIGNED AND INTENDED AS AN  
 4 ORNAMENT WORN BY A PERSON AND INCLUDES THE FOLLOWING:

5 (I) ANKLET;  
 6 (II) ARM CUFF;  
 7 (III) BRACELET;  
 8 (IV) BROOCH;  
 9 (V) CHAIN;  
 10 (VI) CROWN OR TIARA;  
 11 (VII) CUFF LINK;  
 12 (VIII) HAIR ACCESSORY WITH SIGNIFICANT DECORATIVE ELEMENTS;  
 13 (IX) EARRINGS;  
 14 (X) NECKLACE;  
 15 (XI) PINS;  
 16 (XII) RING;  
 17 (XIII) BODY PIERCING JEWELRY;  
 18 (XIV) JEWELRY PLACED IN THE MOUTH FOR DISPLAY OR ORNAMENT;  
 19 (XV) ANY COMPONENT OF A PRODUCT LISTED IN SUBPARAGRAPHS (I) THROUGH  
 20 (XIV) OF THIS PARAGRAPH;  
 21 (XVI) ANY CHARM, BEAD, CHAIN, LINK, PENDANT OR OTHER ATTACHMENT TO  
 22 SHOES OR CLOTHING DESIGNED TO BE REMOVED AND WORN, ALONE OR ATTACHED TO  
 23 AN ITEM LISTED IN SUBPARAGRAPHS (I) THROUGH (XIV) OF THIS PARAGRAPH, AS  
 24 AN ORNAMENT BY A PERSON;  
 25 (XVII) WATCH IN WHICH A TIMEPIECE IS A COMPONENT OF AN ORNAMENT,  
 26 EXCLUDING THE TIMEPIECE ITSELF IF THE TIMEPIECE CAN BE REMOVED FROM THE  
 27 ORNAMENT; AND  
 28 (XVIII) JEWELRY COMPONENTS IN CRAFT KITS WHERE THE FINAL ASSEMBLED  
 29 JEWELRY PRODUCT IS PRINCIPALLY DESIGNED AND INTENDED AS AN ORNAMENT WORN  
 30 BY A PERSON. TOOLS USED TO MAKE JEWELRY ARE NOT JEWELRY.

31 (D) "JEWELRY" DOES NOT INCLUDE:

32 (I) TOY JEWELRY OR ANY OTHER PRODUCTS INTENDED FOR USE BY A CHILD WHEN  
 33 THE CHILD PLAYS (E.G., A NECKLACE WORN BY A DOLL OR STUFFED ANIMAL;  
 34 NOVELTY JEWELRY WITH PLAY VALUE);  
 35 (II) ACCESSORIES;  
 36 (III) APPAREL;  
 37 (IV) FOOTWEAR; AND  
 38 (V) ANY OTHER ITEM WHOSE PRIMARY PURPOSE IS FUNCTIONAL AND NOT PRIMA-  
 39 RILY INTENDED TO BE WORN AS A PERSONAL ITEM OR ORNAMENTATION.

40 2. PROHIBITIONS. (A) HEAVY METALS IN PAINT OR SURFACE COATINGS OF  
 41 CHILDREN'S JEWELRY. COMPOUNDS OF ANTIMONY, ARSENIC, BARIUM, CADMIUM,  
 42 CHROMIUM, MERCURY, OR SELENIUM IN ANY PAINT OR SURFACE COATING APPLIED  
 43 ON OR TO CHILDREN'S JEWELRY SHALL NOT EXCEED LEVELS IN THE TABLE BELOW,  
 44 AS DETERMINED THROUGH SOLUBILITY TESTING DEFINED IN THE ASTM INTERNA-  
 45 TIONAL SAFETY SPECIFICATION ON TOY SAFETY, ASTM F-963, OR SUBSEQUENT  
 46 PUBLISHED VERSIONS OF THAT STANDARD. AN ALTERNATIVE METHOD MAY BE USED  
 47 IF IT IS DEMONSTRATED TO BE AS STRINGENT AS, OR MORE STRINGENT THAN, THE  
 48 REFERENCED METHOD.

49 ELEMENT	ANTIMONY	ARSENIC	BARIUM	CADMIUM	CHROMIUM	MERCURY	SELENIUM
50 (SB)	(AS)	(BA)	(CD)	(CR)	(HG)	(SE)	
51 MAXIMUM	60	25	1000	75	60	60	500
52 SOLUBLE							
53 ELEMENT							
54 (IN MG/KG							
55 OR PPM)							
56 IN PAINT							

1 OR  
2 SURFACE  
3 COATINGS  
4 OF CHILD-  
5 REN'S  
6 JEWELRY

7 (B) CADMIUM IN PLASTIC COMPONENTS OF CHILDREN'S JEWELRY.

8 (I) PLASTIC COMPONENTS OF CHILDREN'S JEWELRY, EXCLUSIVE OF PAINT OR  
9 SURFACE COATING, THAT ARE SMALL PARTS AS DEFINED IN 16 C.F.R.1501.4  
10 SHALL BE SCREENED FOR TOTAL CADMIUM CONTENT. COVERED PLASTIC COMPONENTS  
11 OF CHILDREN'S JEWELRY CONTAINING 300 PPM OR LESS TOTAL CADMIUM DO NOT  
12 NEED TO BE TESTED FOR MIGRATABLE CADMIUM. COVERED PLASTIC COMPONENTS OF  
13 CHILDREN'S JEWELRY THAT EXCEED THIS 300 PPM TOTAL CONTENT SCREENING  
14 LEVEL SHALL NOT EXCEED 75 PARTS PER MILLION (PPM) CADMIUM, AS DETERMINED  
15 THROUGH SOLUBILITY TESTING DEFINED IN EN-71-3, OR SUBSEQUENT VERSIONS OF  
16 THAT STANDARD. AN ALTERNATIVE METHOD MAY BE USED IF IT IS DEMONSTRATED  
17 TO BE AS STRINGENT AS, OR MORE STRINGENT THAN, THE REFERENCED METHOD.

18 (II) PLASTIC COMPONENTS OF CHILDREN'S JEWELRY, EXCLUSIVE OF PAINT OR  
19 SURFACE COATING, THAT ARE NOT SMALL PARTS AS DEFINED IN 16 C.F.R.1501.4  
20 SHALL BE SCREENED FOR TOTAL CADMIUM CONTENT. COVERED PLASTIC COMPONENTS  
21 OF CHILDREN'S JEWELRY CONTAINING 300 PPM OR LESS TOTAL CADMIUM DO NOT  
22 NEED TO BE TESTED FOR MIGRATABLE CADMIUM. COVERED PLASTIC COMPONENTS OF  
23 CHILDREN'S JEWELRY THAT EXCEED THIS 300 PPM TOTAL CONTENT SCREENING  
24 LEVEL SHALL NOT EXCEED 18 MCG CADMIUM, AS DETERMINED THROUGH SALINE  
25 TESTING IN ACCORDANCE WITH A PROCEDURE APPROVED BY THE CONSUMER PRODUCT  
26 SAFETY COMMISSION, OR SUBSEQUENT VERSIONS OF SUCH PROCEDURE. AN ALTERNA-  
27 TIVE METHOD MAY BE USED IF IT IS DEMONSTRATED TO BE AS STRINGENT AS, OR  
28 MORE STRINGENT THAN, THE REFERENCED METHOD.

29 (C) CADMIUM IN METAL COMPONENTS OF CHILDREN'S JEWELRY.

30 (I) METAL COMPONENTS OF CHILDREN'S JEWELRY, EXCLUSIVE OF PAINT OR  
31 SURFACE COATING, THAT ARE SMALL PARTS AS DEFINED IN 16 C.F.R. 1501.4  
32 SHALL BE SCREENED FOR TOTAL CADMIUM CONTENT. COVERED METAL COMPONENTS OF  
33 CHILDREN'S JEWELRY CONTAINING 300 PPM OR LESS TOTAL CADMIUM DO NOT NEED  
34 TO BE TESTED FOR MIGRATABLE CADMIUM. COVERED METAL COMPONENTS OF CHIL-  
35 DREN'S JEWELRY THAT EXCEEDS THIS 300 PPM TOTAL CONTENT SCREENING LEVEL  
36 SHALL NOT EXCEED 200 MCG CADMIUM, AS DETERMINED THROUGH SOLUBILITY TEST-  
37 ING IN ACCORDANCE WITH THE CONSUMER PRODUCT SAFETY COMMISSION TEST METH-  
38 OD: CPSC-CH-E1004-11, STANDARD OPERATING PROCEDURE FOR DETERMINING  
39 CADMIUM (CD) EXTRACTABILITY FROM CHILDREN'S METAL JEWELRY, JANUARY 24,  
40 2011, OR ANY SUCCESSOR STANDARD. AN ALTERNATIVE METHOD MAY BE USED IF IT  
41 IS DEMONSTRATED TO BE AS STRINGENT AS, OR MORE STRINGENT THAN, THE  
42 REFERENCED METHOD.

43 (II) METAL COMPONENTS OF CHILDREN'S JEWELRY, EXCLUSIVE OF PAINT OR  
44 SURFACED COATING, THAT ARE NOT SMALL PARTS AS DEFINED IN 16 C.F.R.  
45 1501.4 SHALL BE SCREENED FOR TOTAL CADMIUM CONTENT. COVERED METAL COMPO-  
46 NENTS OF CHILDREN'S JEWELRY CONTAINING 300 PPM OR LESS TOTAL CADMIUM DO  
47 NOT NEED TO BE TESTED FOR MIGRATABLE CADMIUM. COVERED METAL COMPONENTS  
48 OF CHILDREN'S JEWELRY THAT EXCEED THIS 300 PPM TOTAL CONTENT SCREENING  
49 LEVEL SHALL NOT EXCEED 18 MCG CADMIUM, AS DETERMINED THROUGH SALINE  
50 TESTING IN ACCORDANCE WITH A PROCEDURE APPROVED BY THE CONSUMER PRODUCT  
51 SAFETY COMMISSION, OR SUBSEQUENT VERSIONS OF SUCH PROCEDURE. AN ALTERNA-  
52 TIVE METHOD MAY BE USED IF IT IS DEMONSTRATED TO BE AS STRINGENT AS, OR  
53 MORE STRINGENT THAN, THE REFERENCED METHOD.

54 (D) THE REQUIREMENTS SET FORTH IN PARAGRAPHS (B) AND (C) OF THIS  
55 SUBDIVISION SHALL APPLY ONLY TO PLASTIC OR METAL COMPONENTS OF CHIL-

1 DREN'S JEWELRY. ALL OTHER MATERIALS ARE SPECIFICALLY EXCLUDED FROM THESE  
2 REQUIREMENTS.

3 (E) THIS SECTION SHALL NOT REGULATE ANY SUBSTANCE OR MATERIAL USED IN  
4 CHILDREN'S JEWELRY FOR WHICH A FEDERAL STANDARD IS IN EFFECT.

5 S 2. This act shall take effect one year after it shall have become a  
6 law; provided, however that the addition, amendment and/or repeal of any  
7 rule or regulation necessary for the implementation of this act on its  
8 effective date are authorized and directed to be made and completed on  
9 or before such effective date.