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

4102--A

2015-2016 Regular Sessions

I N S E N A T E

February 27, 2015

Introduced by Sens. BOYLE, KLEIN, ADDABBO, AMEDORE, AVELLA, BRESLIN, CARLUCCI, COMRIE, CROCI, DIAZ, DILAN, ESPAILLAT, FELDER, FUNKE, GIANARIS, GOLDEN, HAMILTON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, LANZA, LATIMER, LAVALLE, MARTINS, MONTGOMERY, PANEPINTO, PARKER, PERALTA, PERKINS, RITCHIE, RIVERA, ROBACH, SANDERS, SAVINO, SERRANO, SQUADRON, STAVISKY, STEWART-COUSINS, VALESKY, VENDITTO, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to protecting consumers from toxic chemicals found in children's products

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

Section 1. The general business law is amended by adding a new article 28-F to read as follows:

ARTICLE 28-F

CHEMICALS IN CHILDREN'S PRODUCTS ACT

SECTION 495-A. LEGISLATIVE DECLARATION.
495-B. DEFINITIONS.
495-C. PRIORITY CHEMICALS AND CHEMICALS OF HIGH CONCERN TO CHILDREN.
495-D. DISCLOSURE OF INFORMATION.
495-E. SALES PROHIBITION.
495-F. APPLICABILITY.
495-G. ENFORCEMENT AND IMPLEMENTATION.
495-H. REGULATIONS.
495-I. PREEMPTION.

S 495-A. LEGISLATIVE DECLARATION. IT IS THE POLICY OF THE STATE, CONSISTENT WITH ITS DUTY TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ITS CITIZENS, TO REDUCE EXPOSURE AMONG CHILDREN AND OTHER VULNERABLE

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

LBD09354-09-5

POPULATIONS TO HAZARDS POSED BY CHEMICALS. BY ENACTMENT OF THIS ARTICLE, THE LEGISLATURE CONFERS UPON THE DEPARTMENTS OF STATE AND HEALTH THE REGULATORY POWER TO COLLECT INFORMATION ON CHEMICAL USE AND PROHIBIT THE SALE OF CHILDREN'S PRODUCTS CONTAINING CERTAIN CHEMICALS.

S 495-B. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "CHILDREN'S APPAREL" MEANS ANY ITEM OF CLOTHING, FOOTWEAR OR APPAREL, INCLUDING, BUT NOT LIMITED TO, ACCESSORIES THAT CONSIST OF FABRIC OR RELATED MATERIAL INTENDED OR PROMOTED FOR USE IN CHILDREN'S CLOTHING. CHILDREN'S APPAREL DOES NOT MEAN PROTECTIVE EQUIPMENT DESIGNED TO PREVENT INJURY, INCLUDING, BUT NOT LIMITED TO, BICYCLE HELMETS, ATHLETIC SUPPORTERS, KNEE PADS OR ELBOW PADS.

2. "CHEMICAL" MEANS ANY ORGANIC OR INORGANIC SUBSTANCE OF A PARTICULAR MOLECULAR IDENTITY, INCLUDING: (A) ANY COMBINATION OF SUCH SUBSTANCES OCCURRING IN WHOLE OR IN PART AS A RESULT OF A CHEMICAL REACTION OR OCCURRING IN NATURE; AND (B) ANY ELEMENT OR UNCOMBINED RADICAL.

3. "CHEMICALS OF HIGH CONCERN TO CHILDREN" MEANS: (A) THE FOLLOWING CHEMICALS:

1,1,2,2-TETRACHLOROETHANE (79-34-5)
1,4-DIOXANE (123-91-1)
2,2',3,3',4,4',5,5',6,6'-DECABROMODIPHENYL ETHER; BDE-209 (1163-19-5)
2,4-DIAMINOTOLUENE (95-80-7)
2-AMINOTOLUENE (95-53-4)
2-ETHYLHEXANOIC ACID (149-57-5)
2-ETHYL-HEXYL-4-METHOXYCINNAMATE (5466-77-3)
2-METHOXYETHANOL (109-86-4)
3,3'-DIMETHYLBENZIDINE AND DYES METABOLIZED TO 3,3'-DIMETHYLBENZIDINE (119-93-7)
4-NONYLPHENOL; 4-NP AND ITS ISOMER MIXTURES INCLUDING CAS 84852-15-3 AND CAS 25154-52-3 (104-40-5)
4-TERT-OCTYLPHENOL; 1,1,3,3-TETRAMETHYL-4-BUTYLPHENOL (140-66-9)
ACETALDEHYDE (75-07-0)
ACRYLONITRILE (107-13-1)
ANILINE (62-53-3)
ANTIMONY (7440-36-0) & ANTIMONY COMPOUNDS
ARSENIC (7440-38-2) & ARSENIC COMPOUNDS INCLUDING ARSENIC TRIOXIDE (1327-53-3) & DIMETHYL ARSENIC (75-60-5)
ASBESTOS (1332-21-4)
BENZENE (71-43-2)
BENZENE, PENTACHLORO (608-93-5)
BENZOPHENONE-2 (BP-2); 2,2',4,4'-TETRAHYDROXYBENZOPHENONE (131-55-5)
BISPHENOL A (80-05-7)
BUTYL BENZYL PHTHALATE (BBP) (85-68-7)
BUTYL PARABEN (94-26-8)
BUTYLATED HYDROXYANISOLE; BHA (25013-16-5)
C.I. SOLVENT YELLOW 14 (842-07-9)
CADMIUM (7440-43-9) & CADMIUM COMPOUNDS
CARBON DISULFIDE (75-15-0)
COBALT (7440-48-4) & COBALT COMPOUNDS
DI-2-ETHYLHEXYL PHTHALATE (117-81-7)
DIBUTYL PHTHALATE (84-74-2)
DIETHYL PHTHALATE (84-66-2)
DIISODECYL PHTHALATE (DIDP) (26761-40-0)
DIISONONYL PHTHALATE (DINP) (28553-12-0)
DI-N-HEXYL PHTHALATE (84-75-3)
DI-N-OCTYL PHTHALATE (DNOP) (117-84-0)

ESTRAGOLE (140-67-0)
ETHYL PARABEN (120-47-8)
ETHYLBENZENE (100-41-4)
ETHYLENE GLYCOL (107-21-1)
ETHYLENE GLYCOL MONOETHYL ESTER (110-80-5)
FORMALDEHYDE (50-00-0)
HEXABROMOCYCLODODECANE (25637-99-4)
HEXACHLOROBENZENE (118-74-1)
HEXACHLOROBUTADIENE (87-68-3)
LEAD (7439-92-1)
MERCURY (7439-97-6) & MERCURY COMPOUNDS INCLUDING METHYL MERCURY (22967-92-6)
METHYL ETHYL KETONE (78-93-3)
METHYL PARABEN (99-76-3)
METHYLENE CHLORIDE (75-09-2)
MOLYBDENUM (7439-98-7) & MOLYBDENUM COMPOUNDS
N-METHYLPYRROLIDONE (872-50-4)
N-NITROSODIMETHYLAMINE (62-75-9)
N-NITROSODIPHENYLAMINE (86-30-6)
OCTAMETHYLCYCLOTETRASILOXANE (556-67-2)
PARA-CHLOROANILINE (106-47-8)
PERCHLOROETHYLENE (127-18-4)
PERFLUOROOCTANYL SULPHONIC ACID AND ITS SALTS; PFOS (1763-23-1)
PHENOL (108-95-2)
PHENOL, 4-OCTYL- (1806-26-4)
PHTHALIC ANHYDRIDE (85-44-9)
P-HYDROXYBENZOIC ACID (99-96-7)
PROPYL PARABEN (94-13-3)
STYRENE (100-42-5)
TETRABROMOBISPHENOL A (79-94-7)
TOLUENE (108-88-3)
TRIS(1,3-DICHLORO-2-PROPYL)PHOSPHATE (13674-87-8)
TRIS(2-CHLOROETHYL) PHOSPHATE (115-96-8)
VINYL CHLORIDE (75-01-4); AND

(B) ALL PHTHALATES SPECIFIED AS PERMANENTLY BANNED FROM CHILDREN'S TOYS AND CHILD CARE ARTICLES PURSUANT TO SECTION 108(A) OF THE US CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008.

4. "CHILD OR CHILDREN" MEANS A PERSON OR PERSONS TWELVE YEARS OF AGE OR YOUNGER AND "CHILDREN" MEANS PERSONS TWELVE YEARS OF AGE OR YOUNGER.

5. "CHILDREN'S PRODUCT" MEANS A PRODUCT PRIMARILY INTENDED FOR, MADE FOR, OR MARKETED FOR USE BY CHILDREN, INCLUDING BUT NOT LIMITED TO: BABY PRODUCTS; TOYS; CAR SEATS; CHILDREN'S COSMETICS; SCHOOL SUPPLIES; A PRODUCT DESIGNED OR INTENDED BY THE MANUFACTURER TO HELP A CHILD WITH SUCKING OR TEETHING, TO FACILITATE SLEEP, RELAXATION, OR THE FEEDING OF A CHILD; CHILDREN'S NOVELTY PRODUCTS; CHILDREN'S JEWELRY; CHILDREN'S BEDDING, FURNITURE, AND FURNISHINGS; AND CHILDREN'S APPAREL. THIS TERM SHALL NOT INCLUDE: (A) BATTERIES; (B) CONSUMER ELECTRONIC PRODUCTS, INCLUDING, BUT NOT LIMITED TO, PERSONAL COMPUTERS, AUDIO AND VIDEO EQUIPMENT, CALCULATORS, WIRELESS TELEPHONES, GAME CONSOLES, AND HANDHELD DEVICES INCORPORATING A VIDEO SCREEN USED TO ACCESS INTERACTIVE SOFTWARE, AND THEIR ASSOCIATED PERIPHERALS; (C) A DRUG, SUPPLEMENT, SOAP, FOOD OR BEVERAGE OR AN ADDITIVE TO A FOOD OR BEVERAGE REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION; (D) A DRUG, BIOLOGIC, OR MEDICAL DEVICE REGULATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION; OR (E) A PESTICIDE PRODUCT REGULATED BY THE UNITED STATES ENVI-

RONMENTAL PROTECTION AGENCY AND REGISTERED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

6. "SCIENTIFIC EVIDENCE" MEANS PUBLISHED SCIENTIFIC RESEARCH AND ANALYSES OBTAINED FROM RELIABLE SOURCES, INCLUDING, BUT NOT LIMITED TO, PEER-REVIEWED SCIENTIFIC JOURNALS, AND REPORTS FROM AUTHORITATIVE PUBLIC-HEALTH AND ENVIRONMENTAL ORGANIZATIONS.

7. "COMPONENT" MEANS A UNIQUELY IDENTIFIABLE OR REASONABLY SEPARATE, MATERIAL THAT IS INTENDED TO BE INCLUDED AS A PART OF A FINISHED CHILDREN'S PRODUCT. A SINGLE CHEMICAL IS NOT CONSIDERED A "COMPONENT" UNLESS THE ENTIRE MATERIAL IS COMPOSED OF THAT SINGLE CHEMICAL.

8. "CONTAMINANT" MEANS A TRACE AMOUNT OF ANY CHEMICAL INCIDENTAL TO MANUFACTURING, WHICH SERVES NO INTENDED FUNCTION IN THE FINISHED CHILDREN'S PRODUCT. A "CONTAMINANT" INCLUDES A CHEMICAL THAT IS: AN UNINTENDED BYPRODUCT OF CHEMICAL REACTIONS DURING THE MANUFACTURE OF THE CHILDREN'S PRODUCT; OTHERWISE OCCURRING IN THE ENVIRONMENT; A TRACE IMPURITY IN FEED-STOCK; A COMPONENT OF INCOMPLETELY REACTED CHEMICAL MIXTURES; AND/OR A PRODUCT OF DEGRADATION.

9. "COMMISSIONER" MEANS THE COMMISSIONER OF HEALTH.

10. "DISTRIBUTOR" MEANS A PERSON WHO SELLS CHILDREN'S PRODUCTS TO RETAIL ESTABLISHMENTS.

11. "INTENTIONALLY ADDED" MEANS THE DELIBERATE USE OF A CHEMICAL IN THE FORMULATION OF A PRODUCT OR COMPONENT WHERE ITS PRESENCE IS DESIRED IN THE FINAL PRODUCT OR COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC, APPEARANCE OR QUALITY.

12. "MANUFACTURER" MEANS ANY PERSON WHO CURRENTLY PRODUCES A CHILDREN'S PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE CHILDREN'S PRODUCT. IN THE CASE OF A CHILDREN'S PRODUCT THAT WAS IMPORTED INTO THE UNITED STATES, "MANUFACTURER" MEANS ANY PERSON WHO CURRENTLY PRODUCES A CHILDREN'S PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE CHILDREN'S PRODUCT. IN THE CASE OF A CHILDREN'S PRODUCT THAT WAS IMPORTED INTO THE UNITED STATES, "MANUFACTURER" INCLUDES THE IMPORTER OR RELATED CORPORATE ENTITY THAT IS REGISTERED IN ANY STATE OR HAS NOT CONTRACTED THE SERVICES OF AN AGENT IN THE UNITED STATES.

13. "PRACTICAL QUANTIFICATION LIMIT" (PQL) IS THE LOWEST CONCENTRATION THAT CAN BE RELIABLY MEASURED WITHIN SPECIFIED LIMITS OF PRECISION, ACCURACY, REPRESENTATIVENESS, COMPLETENESS, AND COMPARABILITY DURING ROUTINE LABORATORY OPERATING CONDITIONS. THIS VALUE IS BASED ON SCIENTIFICALLY DEFENSIBLE, STANDARD ANALYTICAL METHODS. THE VALUE FOR A GIVEN CHEMICAL COULD BE DIFFERENT DEPENDING ON THE MATRIX AND THE ANALYTICAL METHOD USED. PQLS ARE TO BE ESTABLISHED BY THE DEPARTMENT OF STATE IN RELIANCE UPON FINDINGS MADE BY THE DEPARTMENT OF HEALTH AFTER REVIEW OF SCIENTIFIC EVIDENCE AND MEASUREMENTS USING STANDARD ANALYTICAL METHODS AND IN CONSIDERATION OF COMPARABLE VALUES ESTABLISHED BY OTHER AUTHORITATIVE BODIES, INCLUDING OTHER STATES.

14. "PRIORITY CHEMICAL" MEANS:

(A) THE FOLLOWING CHEMICALS:

ANTIMONY AND ANTIMONY COMPOUNDS

ARSENIC AND ARSENIC COMPOUNDS

ASBESTOS

BENZENE (CASRN 71-43-2)

CADMIUM AND CADMIUM COMPOUNDS

FORMALDEHYDE (CASRN 50-00-0)

LEAD AND LEAD COMPOUNDS

MERCURY AND MERCURY COMPOUNDS

TRIS (1, 3 DICHLORO-2-PROPYL) PHOSPHATE (TDCPP, CASRN 13674-87-8)

PHOSPHATE (TCEP, CASRN 115-96-8); AND

(B) A CHEMICAL ADOPTED BY THE DEPARTMENT, AS RECOMMENDED BY THE DEPARTMENT OF HEALTH, PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE-C OF THIS ARTICLE.

15. "PRODUCT CATEGORY" MEANS THE "BRICK" LEVEL OF THE GS1 GLOBAL PRODUCT CLASSIFICATION (GPC) STANDARD, WHICH IDENTIFIES A CATEGORY INCORPORATING PRODUCTS (GLOBAL TRADE ITEM NUMBERS (GTINS)) THAT SERVE A COMMON PURPOSE, ARE OF A SIMILAR FORM AND MATERIAL, AND SHARE THE SAME SET OF CATEGORY ATTRIBUTES.

16. "RETAILER" MEANS ANY PERSON WHO SELLS OR LEASES CHILDREN'S PRODUCTS FOR-PROFIT IN THE STATE TO CONSUMERS. SUCH TERM SHALL NOT INCLUDE: (A) SOMEONE WHO PURCHASED OR ACQUIRED A PRODUCT PRIMARILY FOR PERSONAL USE AND WHO SUBSEQUENTLY RESELLS THE PRODUCT; OR (B) ANY SECONDHAND DEALER.

17. "SCREENING PROHIBITION LEVEL" MEANS THE CONCENTRATION OF A PRIORITY CHEMICAL MEASURED IN A CHILDREN'S PRODUCT COMPONENT ABOVE WHICH THE PRODUCT WILL BE SUBJECT TO THE SALES PROHIBITION REQUIREMENTS OF SECTION FOUR HUNDRED NINETY-FIVE-E OF THIS ARTICLE. WHENEVER THE FEDERAL GOVERNMENT UNDER THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008 (CPSIA) HAS A FINAL RULE IN EFFECT AND ENFORCEABLE WITH RESPECT TO A CHILDREN'S PRODUCT SAFETY STANDARD THAT APPLIES TO THE PRESENCE OF A SPECIFIC CHEMICAL IN A CHILDREN'S PRODUCT THAT PREEMPTS STATE ACTION, THE FEDERAL CONSUMER PRODUCT SAFETY STANDARD SHALL BE USED FOR THE SPECIFIC CHEMICAL AND PRODUCT, UNLESS THE STATE OBTAINS AN EXEMPTION FROM THE US CONSUMER PRODUCT SAFETY COMMISSION.

18. "SECRETARY" MEANS SECRETARY OF STATE.

S 495-C. PRIORITY CHEMICALS AND CHEMICALS OF HIGH CONCERN TO CHILDREN.

1. PUBLISHING OF LISTS. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE DEPARTMENT OF STATE SHALL POST LISTS OF PRIORITY CHEMICALS AND CHEMICALS OF HIGH CONCERN TO CHILDREN ON ITS WEBSITE.

2. PERIODIC REVIEW. THE DEPARTMENT OF HEALTH MAY PERIODICALLY REVIEW THE LISTS OF PRIORITY CHEMICALS AND CHEMICALS OF HIGH CONCERN TO CHILDREN AND, THROUGH REGULATION, ADD OR REMOVE PRIORITY CHEMICALS OR CHEMICALS OF HIGH CONCERN FROM SUCH LISTS IN RELIANCE UPON FINDINGS MADE BY THE DEPARTMENT OF HEALTH AFTER REVIEW OF SCIENTIFIC EVIDENCE, THAT A CHEMICAL PROPOSED FOR ADDITION TO THE LIST MEETS PARAGRAPHS (A) OR (B) OF THIS SUBDIVISION FOR CHEMICALS OF HIGH CONCERN TO CHILDREN AND ALSO PARAGRAPH (C) OF THIS SUBDIVISION FOR PRIORITY CHEMICALS.

(A) THE COMMISSIONER OF HEALTH HAS DETERMINED THAT AN AUTHORITATIVE GOVERNMENTAL ENTITY OR ACCREDITED RESEARCH UNIVERSITY HAS DEMONSTRATED THAT THE CHEMICAL DOES ONE OF THE FOLLOWING:

(I) HARMS THE NORMAL DEVELOPMENT OF A FETUS OR CHILD OR CAUSES OTHER DEVELOPMENTAL TOXICITY IN AN INTACT ORGANISM;

(II) IS LINKED TO CANCER, GENETIC DAMAGE, IS AN ASTHMAGEN, OR IS LINKED TO REPRODUCTIVE HARM IN AN INTACT ORGANISM;

(III) DISRUPTS THE ENDOCRINE SYSTEM TO CAUSE ADVERSE EFFECTS IN CHILDREN;

(IV) DAMAGES THE NERVOUS SYSTEM, IMMUNE SYSTEM, OR ORGANS OR CAUSES OTHER SYSTEMIC TOXICITY IN AN INTACT ORGANISM; OR

(V) IS VERY PERSISTENT AND VERY BIOACCUMULATIVE.

(B) THE CHEMICAL HAS BEEN FOUND TO BE PRESENT THROUGH ANY OF THE FOLLOWING:

(I) BIOMONITORING TO BE PRESENT IN HUMAN BLOOD, UMBILICAL CORD BLOOD, BREAST MILK, URINE, OR OTHER BODILY TISSUES OR FLUIDS;

(II) SAMPLING AND ANALYSIS TO BE PRESENT ABOVE IN HOUSEHOLD DUST, INDOOR AIR, DRINKING WATER, OR ELSEWHERE IN THE HOME ENVIRONMENT; OR

(III) MONITORING TO BE PRESENT ABOVE IN FISH, WILDLIFE, OR THE NATURAL ENVIRONMENT.

(C) THERE ARE LIKELY EXPOSURES TO CHEMICALS IN CHILDREN'S PRODUCTS. EVIDENCE OF LIKELY EXPOSURE MAY INCLUDE, BUT IS NOT LIMITED TO, AT LEAST TWO YEARS OF REPORTING DATA ABOUT A SPECIFIC CHEMICAL UNDER SECTION FOUR HUNDRED NINETY-FIVE-D OF THIS ARTICLE.

(D) A MANUFACTURER OF A PRODUCT THAT IS SUBJECT TO THE PROVISIONS OF THIS SECTION, MAY APPLY TO THE DEPARTMENT OF STATE FOR WAIVER OF THE REQUIREMENTS, UPON PROOF THAT THERE ARE NO AVAILABLE ALTERNATIVES. A MANUFACTURER OF A PRODUCT PROHIBITED TO BE SOLD OR OFFERED FOR SALE PURSUANT TO THIS TITLE SHALL NOT REPLACE A PRIORITY CHEMICAL WITH ANOTHER CHEMICAL THAT HAS BEEN DEEMED A HUMAN CARCINOGEN BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, A DEVELOPMENTAL TOXIN, AN ENDOCRINE DISRUPTER OR A REPRODUCTIVE TOXIN.

S 495-D. DISCLOSURE OF INFORMATION. 1. REPORTING OF CHEMICAL OCCURRENCE. EVERY MANUFACTURER WHO OFFERS FOR SALE OR DISTRIBUTION IN THIS STATE A CHILDREN'S PRODUCT SHALL REPORT TO THE DEPARTMENT OF STATE IF A CHEMICAL OF HIGH CONCERN TO CHILDREN IS INTENTIONALLY ADDED TO A CHILDREN'S PRODUCT COMPONENT AT A LEVEL ABOVE THE PQL; OR PRESENT IN A CHILDREN'S PRODUCT COMPONENT PRODUCED BY THE MANUFACTURER AS A CONTAMINANT AT A CONCENTRATION ABOVE ONE HUNDRED PARTS PER MILLION.

(A) TO BE IN COMPLIANCE WITH THIS REQUIREMENT, SUCH REPORT SHALL BE SUBMITTED TO THE DEPARTMENT OF STATE:

(I) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE; OR

(II) WITHIN NINETY DAYS OF THE ADDITION OF A CHEMICAL TO THE CHEMICALS OF HIGH CONCERN LIST PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE-C OF THIS ARTICLE.

(B) FORMAT FOR NOTICE. THE SECRETARY OF STATE SHALL SPECIFY THE FORMAT FOR SUBMISSION OF THE NOTICE REQUIRED BY THIS SECTION, PROVIDED THAT THE REQUIRED FORMAT SHALL BE CONSISTENT WITH THE FORMAT FOR SUBMISSION OF NOTICE IN OTHER STATES WITH REQUIREMENTS SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS OF THIS SECTION. ANY NOTICE SUBMITTED UNDER THIS SECTION SHALL CONTAIN THE FOLLOWING INFORMATION:

(I) THE NAME OF THE CHEMICAL USED OR PRODUCED AND ITS CHEMICAL ABSTRACTS SERVICE REGISTRY NUMBER OR ACCESSION NUMBER;

(II) A DESCRIPTION OF THE CATEGORY OR CATEGORIES IN WHICH IT OCCURS CONTAINING THE CHEMICAL;

(III) THE AMOUNT OF THE CHEMICAL CONTAINED IN EACH UNIT OF THE PRODUCT OR PRODUCT COMPONENT, REPORTED BY WEIGHT OR PARTS PER MILLION IN RANGES AS FOLLOWS:

(1) EQUAL TO OR MORE THAN THE PQL BUT LESS THAN 100 PPM (0.01%);

(2) EQUAL TO OR MORE THAN 100 PPM (0.01%) BUT LESS THAN 500 PPM (0.05%);

(3) EQUAL TO OR MORE THAN 500 PPM (0.05%) BUT LESS THAN 1,000 PPM (0.10%);

(4) EQUAL TO OR MORE THAN 1,000 PPM (0.10%) BUT LESS THAN 5,000 PPM (0.5%); OR

(5) EQUAL TO OR MORE THAN 5,000 PPM (0.5%) BUT LESS THAN 10,000 PPM (1.0%); OR

(6) EQUAL TO OR MORE THAN 10,000 PPM (1.0%).

(C) THE DEPARTMENT OF STATE AND THE DEPARTMENT OF HEALTH ARE AUTHORIZED TO PARTICIPATE IN AN INTERSTATE CHEMICALS CLEARINGHOUSE TO ASSIST IN CARRYING OUT THE REQUIREMENTS OF THIS ARTICLE. THE DEPARTMENT OF STATE MAY ALSO ENTER INTO RECIPROCAL DATA-SHARING AGREEMENTS WITH OTHER STATES IN WHICH A MANUFACTURER OF CHILDREN'S PRODUCTS IS ALSO REQUIRED

TO DISCLOSE INFORMATION RELATED TO CHEMICALS OF HIGH CONCERN TO CHILDREN IN CHILDREN'S PRODUCTS.

2. WAIVER OF REPORTING. UPON APPLICATION BY A MANUFACTURER, THE SECRETARY MAY WAIVE ALL OR PART OF THE REPORTING REQUIREMENTS UNDER SUBDIVISION ONE OF THIS SECTION FOR ONE OR MORE SPECIFIED USES OF A PRIORITY CHEMICAL. IN MAKING SUCH DETERMINATION, THE SECRETARY MAY CONSIDER:

(A) WHETHER SUBSTANTIALLY EQUIVALENT INFORMATION IS ALREADY PUBLICLY AVAILABLE OR SUCH INFORMATION IS NOT NEEDED FOR THE PURPOSES OF THIS ARTICLE;

(B) WHETHER SIMILAR WAIVERS HAVE BEEN GRANTED BY OTHER STATES;

(C) WHETHER THE SPECIFIED USE OR USES ARE MINOR IN VOLUME;

(D) WHETHER THE MANUFACTURER EITHER INDIVIDUALLY OR JOINTLY SUBMITS THE INFORMATION REQUIRED IN A NOTICE UNDER THIS SECTION TO:

(I) A STATE WITH WHICH THE DEPARTMENT OF STATE HAS ENTERED A RECIPROCAL DATA-SHARING AGREEMENT; OR

(II) A TRADE ASSOCIATION, THE INTERSTATE CHEMICALS CLEARINGHOUSE, A FEDERAL GOVERNMENTAL AGENCY, OR OTHER INDEPENDENT THIRD PARTY, WHO MAKES THAT DATA AVAILABLE TO THE DEPARTMENT OF STATE ON BEHALF OF THE MANUFACTURER;

(E) WHETHER THE INFORMATION REQUIRED TO BE REPORTED IN A NOTICE UNDER THIS SECTION IS PROVIDED TO THE DEPARTMENT OF STATE IN AN ALTERNATE BUT COMPLETE FORMAT, INCLUDING REFERENCE TO INFORMATION PUBLICLY AVAILABLE IN OTHER STATES OR BY INDEPENDENT THIRD PARTIES; OR

(F) WHETHER THE INFORMATION REQUIRED TO BE REPORTED IN A NOTICE UNDER THIS SECTION IS AVAILABLE ON OR ACCESSIBLE FROM THE DEPARTMENT OF STATE'S WEBSITE.

3. NOTICE TO RETAILERS. A MANUFACTURER OF A CHILDREN'S PRODUCT CONTAINING A CHEMICAL OF HIGH CONCERN TO CHILDREN SHALL NOTIFY, IN A FORM PRESCRIBED BY THE DEPARTMENT OF STATE, RETAILERS THAT OFFER THE CHILDREN'S PRODUCT FOR SALE OR DISTRIBUTION IN THE STATE OF THE PRESENCE OF SUCH CHEMICAL OF HIGH CONCERN TO CHILDREN AND ANY OTHER INFORMATION THE DEPARTMENTS OF STATE AND HEALTH DEEM APPROPRIATE.

4. NOTICE TO CONSUMERS. THE DEPARTMENT OF STATE, AS DEEMED APPROPRIATE BY THE SECRETARY, SHALL NOTIFY CONSUMERS ABOUT CHILDREN'S PRODUCTS CONTAINING CHEMICALS OF HIGH CONCERN AND PRIORITY CHEMICALS. THE NOTIFICATION SHALL BE PUBLISHED ON THE DEPARTMENT OF STATE'S WEBSITE IN A FORM AND MANNER DETERMINED BY THE SECRETARY.

5. FEES. THE DEPARTMENT OF STATE MAY PROMULGATE RULES SETTING AN APPROPRIATE FEE SCHEDULE FOR MANUFACTURERS TO HELP DEFRAY THE DEPARTMENT OF STATE'S AND DEPARTMENT OF HEALTH'S PROGRAM COSTS.

6. CERTIFICATE OF COMPLIANCE. A MANUFACTURER REQUIRED TO SUBMIT NOTICE UNDER THIS SECTION TO THE SECRETARY OF STATE MAY RELY ON A CERTIFICATE OF COMPLIANCE, DATA, OR INFORMATION FROM SUPPLIERS FOR DETERMINING REPORTING OBLIGATIONS. A CERTIFICATE OF COMPLIANCE PROVIDED BY A SUPPLIER UNDER THIS SUBDIVISION SHALL BE SOLELY FOR THE PURPOSE OF COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE.

S 495-E. SALES PROHIBITION. 1. EFFECTIVE JANUARY FIRST, TWO THOUSAND EIGHTEEN, NO MANUFACTURER, DISTRIBUTOR, OR RETAILER SHALL SELL OR OFFER FOR SALE IN THIS STATE A CHILDREN'S PRODUCT CONTAINING A COMPONENT CONTAINING ANY PRIORITY CHEMICAL IDENTIFIED PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE-C OF THIS ARTICLE THAT EXCEEDS THE FOLLOWING SCREENING PROHIBITION LEVELS IN TOTAL CONTENT:

(A) 260 PARTS PER MILLION ANTIMONY OR ANTIMONY COMPOUNDS, PROVIDED, HOWEVER, THAT THE DEPARTMENT OF HEALTH SHALL ESTABLISH THROUGH REGULATION AND PUBLIC COMMENT THE SCREENING PROHIBITION LEVEL FOR "CHIL-

DREN'S APPAREL" AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED NINETY-FIVE-B OF THIS ARTICLE.

(B) 100 PARTS PER MILLION ARSENIC OR ARSENIC COMPOUNDS.

(C) 100 PARTS PER MILLION ASBESTOS.

(D) 100 PARTS PER MILLION BENZENE (CASRN 71-43-2).

(E) 75 PARTS PER MILLION CADMIUM OR CADMIUM COMPOUNDS.

(F) 20 PARTS PER MILLION FORMALDEHYDE (CASRN 50-00-0) IN TEXTILES INTENDED FOR USE BY A CHILD UNDER EIGHTEEN MONTHS, 75 PARTS PER MILLION FOR TEXTILES IN DIRECT SKIN CONTACT, 300 PARTS PER MILLION FOR TEXTILES NOT IN DIRECT SKIN CONTACT, AND 200 PARTS PER MILLION FOR ANY OTHER USE WHICH IS NOT CHEMICALLY BOUND TO ANY OTHER CHEMICAL SPECIES OR BOUND WITHIN A MATRIX. THE FOLLOWING EMISSION STANDARDS USE ASTM E-1333-96 (2002): FOR HARDWOOD PLYWOOD WITH A VENEER OR COMPOSITE CORE, 0.05 PARTS PER MILLION FORMALDEHYDE; FOR MEDIUM-DENSITY FIBERBOARD, 0.11 PARTS PER MILLION FORMALDEHYDE; FOR THIN MEDIUM DENSITY FIBERBOARD, 0.13 PARTS PER MILLION FORMALDEHYDE; FOR PARTICLEBOARD, 0.09 PARTS PER MILLION FORMALDEHYDE.

(G) 100 PARTS PER MILLION LEAD OR LEAD COMPOUNDS.

(H) 100 PARTS PER MILLION LEAD OR LEAD COMPOUNDS.

(I) 100 PARTS PER MILLION MERCURY OR MERCURY COMPOUNDS.

(J) 100 PARTS PER MILLION TRIS (1, 3 DICHLORO-2-PROPYL) PHOSPHATE (TDCPP, CASRN 13674-87-8).

2. ADDITIONAL PRIORITY CHEMICALS. ONCE THE DEPARTMENT OF STATE ESTABLISHES ADDITIONAL PRIORITY CHEMICALS UNDER SECTION FOUR HUNDRED NINETY-FIVE-C OF THIS ARTICLE, THE DEPARTMENT OF STATE SHALL ALSO SPECIFY SCREENING PROHIBITION LEVELS FOR THOSE ADDITIONAL CHEMICALS.

3. SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY TO A CHILDREN'S PRODUCT SOLELY BASED ON IT CONTAINING AN ENCLOSED BATTERY OR ENCLOSED ELECTRONIC COMPONENTS. THE SECRETARY MAY EXEMPT A CHILDREN'S PRODUCT FROM THIS PROHIBITION IF, IN THE SECRETARY'S JUDGMENT, THE LACK OF AVAILABILITY OF THE CHILDREN'S PRODUCT COULD POSE AN UNREASONABLE RISK TO PUBLIC HEALTH, SAFETY, OR WELFARE.

4. EFFECTIVE THREE YEARS AFTER A CHEMICAL IS ADDED TO THE PRIORITY CHEMICALS LIST PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE-C OF THIS ARTICLE, NO MANUFACTURER, DISTRIBUTOR, OR RETAILER SHALL DISTRIBUTE, SELL, OR OFFER FOR SALE IN THIS STATE A CHILDREN'S PRODUCT THAT CONTAINS SUCH CHEMICAL ABOVE THE SCREENING PROHIBITION LEVEL ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION.

5. DURING THE PERIOD BETWEEN IDENTIFICATION OF A CHEMICAL AS A PRIORITY CHEMICAL AND PROHIBITION, A CHILDREN'S PRODUCT CONTAINING A PRIORITY CHEMICAL ABOVE THE SCREENING PROHIBITION LEVEL ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION MAY NOT BE SOLD, OFFERED FOR SALE OR DISTRIBUTED FOR SALE IN THIS STATE UNLESS THE MANUFACTURER HAS PROVIDED THE NOTIFICATION REQUIRED UNDER SECTION FOUR HUNDRED NINETY-FIVE-D OF THIS ARTICLE. THE SECRETARY MAY EXEMPT A CHILDREN'S PRODUCT FROM THIS PROHIBITION IF, IN THE SECRETARY'S JUDGMENT IN CONSULTATION WITH THE COMMISSIONER, THE LACK OF AVAILABILITY OF THE CHILDREN'S PRODUCT COULD POSE AN UNREASONABLE RISK TO PUBLIC HEALTH, SAFETY OR WELFARE.

S 495-F. APPLICABILITY. 1. NEW CHILDREN'S PRODUCTS. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO CHEMICALS IN CHILDREN'S PRODUCTS SOLD OR DISTRIBUTED AS NEW. IT SHALL NOT APPLY TO USED CHILDREN'S PRODUCTS THAT ARE SOLD OR DISTRIBUTED FOR FREE AT SECONDHAND STORES, YARD SALES, ON THE INTERNET, OR DONATED TO CHARITIES. MANUFACTURERS ARE PROHIBITED FROM DONATING, DISCOUNT SELLING, OR USING ANY OTHER MEANS AVAILABLE TO PLACE IN THE MARKETPLACE ANY CHILDREN'S PRODUCTS THAT ARE PROHIBITED FOR SALE

PURSUANT TO SUBDIVISIONS ONE AND TWO OF SECTION FOUR HUNDRED NINETY-FIVE-E OF THIS ARTICLE.

2. MANUFACTURING CONTROL. THE REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO A CHEMICAL THAT OCCURS IN A PRODUCT COMPONENT ONLY AS A CONTAMINANT IF THE MANUFACTURER HAD IN PLACE A MANUFACTURING CONTROL PROGRAM AND EXERCISED DUE DILIGENCE TO MINIMIZE THE PRESENCE OF THE CONTAMINANT IN THE COMPONENT. SUCH A MANUFACTURING CONTROL PROGRAM SHALL CONSIST OF ANY OR ALL OF THE FOLLOWING: MONITORING OF THE LEVEL OF A CHCC IN RAW MATERIALS; MONITORING OF MANUFACTURING PROCESS PARAMETERS; AND/OR MONITORING THE LEVEL OF A CHCC IN FINISHED PRODUCTS OR COMPONENTS. UPON REQUEST OF THE DEPARTMENT A MANUFACTURER SHALL SUBMIT PARAMETERS OF SUCH A PROGRAM.

3. INACCESSIBLE COMPONENTS. COMPONENTS THAT DURING REASONABLY FORESEEABLE USE AND ABUSE OF THE PRODUCT WOULD NOT COME INTO DIRECT CONTACT WITH THE CHILD'S SKIN OR MOUTH WILL NOT BE SUBJECT TO THE REQUIREMENTS OF SECTIONS FOUR HUNDRED NINETY-FIVE-D AND FOUR HUNDRED NINETY-FIVE-E OF THIS ARTICLE, EXCEPT BY RULE, BASED ON A CASE-BY-CASE EVALUATION BY THE DEPARTMENT OF STATE.

4. INDUSTRY. THE REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO PRIORITY CHEMICALS USED IN OR FOR INDUSTRY OR MANUFACTURING, INCLUDING CHEMICALS PROCESSED OR OTHERWISE USED IN OR FOR INDUSTRIAL OR MANUFACTURING PROCESSES AND NOT INCLUDED IN THE FINAL PRODUCT.

5. TRANSPORTATION. THE REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO MOTOR VEHICLES OR THEIR COMPONENT PARTS, WATERCRAFT OF THEIR COMPONENT PARTS, ALL TERRAIN VEHICLES OR THEIR COMPONENT PARTS, OR OFF-HIGHWAY MOTORCYCLES OR THEIR COMPONENT PARTS, EXCEPT THAT THE USE OF PRIORITY CHEMICALS IN DETACHABLE CAR SEATS IS NOT EXEMPT.

6. COMBUSTION. THE REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO PRIORITY CHEMICALS GENERATED SOLELY AS COMBUSTION BYPRODUCTS OR THAT ARE PRESENT IN COMBUSTIBLE FUELS.

S 495-G. ENFORCEMENT AND IMPLEMENTATION. 1. STATEMENT OF COMPLIANCE. IF THE DEPARTMENT OF STATE SUSPECTS THAT A CHILDREN'S PRODUCT IS BEING OFFERED OR SOLD IN VIOLATION OF THIS ARTICLE, THE DEPARTMENT OF STATE MAY REQUEST THE MANUFACTURER OF THE CHILDREN'S PRODUCT TO PROVIDE WITHIN THIRTY DAYS OF RECEIPT OF A REQUEST FROM THE DEPARTMENT OF STATE, A STATEMENT OF COMPLIANCE ON A FORM PROVIDED BY THE DEPARTMENT OF STATE. THE STATEMENT OF COMPLIANCE SHALL:

(A) ATTEST THAT THE CHILDREN'S PRODUCT DOES NOT CONTAIN THE CHEMICAL OF HIGH CONCERN TO CHILDREN OR PRIORITY CHEMICAL; OR

(B) ATTEST AND PROVIDE THE DEPARTMENT OF STATE WITH DOCUMENTATION THAT NOTIFICATION OF THE PRESENCE OF A CHEMICAL OF HIGH CONCERN TO CHILDREN WAS PROVIDED TO THE DEPARTMENT PURSUANT TO SECTION FOUR HUNDRED NINETY-FIVE-D OF THIS ARTICLE; OR

(C) ATTEST THAT THE MANUFACTURER HAS NOTIFIED RETAILERS OF THE PRESENCE OF CHEMICAL OF HIGH CONCERN TO CHILDREN PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINETY-FIVE-D OF THIS ARTICLE.

2. UNAUTHORIZED SALES. THE SECRETARY MAY ISSUE AN ORDER DIRECTING THE CESSATION OF THE SALE OR DISTRIBUTION BY MANUFACTURERS, DISTRIBUTORS, OR RETAILERS OF ANY CHILDREN'S PRODUCT BEING DISTRIBUTED, SOLD, LEASED, OR OTHERWISE OFFERED FOR SALE IN THIS STATE THAT IS IN VIOLATION OF THIS ARTICLE. IN THE INSTANCE OF NON-COMPLIANCE WITH SUCH ORDER, THE DEPARTMENT OF STATE SHALL PROVIDE THE ATTORNEY GENERAL ANY INFORMATION ON THE SALE, LEASE, OR DISTRIBUTION OF PROHIBITED CHILDREN'S PRODUCTS.

3. ENFORCEMENT. WHERE IT IS DETERMINED, FOLLOWING A HEARING, THAT A PERSON HAS VIOLATED ONE OR MORE PROVISIONS OF THIS ARTICLE, THE SECRETARY MAY ASSESS A CIVIL PENALTY NO GREATER THAN FIVE THOUSAND DOLLARS

PER VIOLATION. UPON THE OCCASION OF A SECOND VIOLATION, OR SUBSEQUENT VIOLATIONS OF THIS ARTICLE, A CIVIL PENALTY OF NO GREATER THAN FIFTY THOUSAND DOLLARS MAY BE ASSESSED. ANY PROCEEDING CONDUCTED PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO THE STATE ADMINISTRATIVE PROCEDURE ACT. THE HEARING OFFICER SHALL CONSIDER WHETHER A RETAILER KNOWINGLY OFFERED SUCH ITEMS FOR SALE AS A DEFENSE TO VIOLATIONS OF THIS SECTION.

4. VIOLATIONS. PURSUANT TO SECTION SIXTY-THREE OF THE EXECUTIVE LAW, THE ATTORNEY GENERAL SHALL ENFORCE VIOLATIONS OF THIS ARTICLE.

S 495-H. REGULATIONS. THE DEPARTMENTS OF STATE AND HEALTH MAY ADOPT SUCH RULES AND REGULATIONS, AS WELL AS INFORMAL GUIDANCE CONSISTENT WITH OTHER STATES, DEEMED NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

S 495-I. PREEMPTION. NO CITY, TOWN, COUNTY, OR OTHER POLITICAL SUBDIVISION OF THIS STATE SHALL ADOPT OR CONTINUE IN EFFECT ANY ORDINANCE, RULE, REGULATION OR STATUTE REGARDING CHEMICALS IN CHILDREN'S PRODUCTS. THIS SECTION SHALL NOT BE CONSTRUED AS AFFECTING OR LIMITING THE AUTHORITY OF POLITICAL SUBDIVISIONS OF THE STATE TO EXERCISE CONTROL OVER AND ABATE PUBLIC NUISANCES, PURSUANT TO ARTICLE THIRTEEN OF THE PUBLIC HEALTH LAW AND SECTION FIVE HUNDRED FIFTY-SIX OF THE NEW YORK CITY CHARTER.

S 2. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

S 3. This act shall take effect April 1, 2016; provided, however, that section 495-d of the general business law as added by section one of this act shall take effect one year after it shall have become a law.