

BY: Health and Government Operations Committee

**AMENDMENTS TO HOUSE BILL 1214**

(First Reading File Bill)

**AMENDMENT NO. 1**

On page 1, in the sponsor line, strike “Delegate Hubbard” and substitute “Delegates Hubbard, Hammen, Costa, Elliott, Kach, Kipke, McDonough, Mizeur, Montgomery, Morhaim, Nathan–Pulliam, Oaks, Pena–Melnik, Pendergrass, Riley, Tarrant, V. Turner, and Weldon”; in line 2, strike “Children’s Health –”; in line 3, strike “or possession” and substitute “offer for sale, importation, or distribution”; in the same line, after “of” insert “certain”; in line 4, after “lead-containing” insert “children’s”; in the same line, after “products” insert “or lead–adulterated consumable products”; strike beginning with “intended” in line 4 down through “court” in line 13 and substitute “; providing that certain provisions of this Act do not apply to certain electronic devices; authorizing an agent of the Department of Health and Mental Hygiene to enter certain factories, warehouses, and establishments to inspect certain products at any reasonable time; requiring an agent of the Department to present certain credentials to certain persons under certain circumstances; authorizing an agent of the Department to obtain a sample of any product, package, or labeling during an inspection; requiring an agent of the Department to take certain actions when obtaining a certain sample; requiring the Department to test a certain sample of a product under certain circumstances; requiring the Secretary of Health and Mental Hygiene to make certain declarations if a product is a lead–containing product or a lead–adulterated consumable product; requiring the Department to issue and give certain notices under certain circumstances; requiring a certain person to send certain information to the Department under certain circumstances; requiring a certain person to submit a certain report to the Department under certain circumstances; providing that certain provisions of this Act do not affect the enforcement of certain local laws; requiring the Department to convene a certain workgroup; requiring the workgroup to make a certain report to certain committees of the General Assembly on or before a certain date”; in line 15, strike “intended for use or consumption by children”; and in line 18, strike “22–605” and substitute “22–608”.

(Over)

AMENDMENT NO. 2

On page 2, after line 5, insert:

“(B) “CHILD” MEANS AN INDIVIDUAL WHO IS UNDER THE AGE OF 7 YEARS.

(C) “CHILDREN’S PRODUCT” MEANS:

(1) A PRODUCT THAT IS MARKETING FOR USE BY A CHILD; OR

(2) A PRODUCT THE USE OF WHICH BY A CHILD IS FORESEEABLE.”;

in line 6, strike “(B)” and substitute “(D)”; after line 7, insert:

“(E) “LEAD-ADULTERATED CONSUMABLE PRODUCT” MEANS ANY CONSUMABLE PRODUCT OR ITEM OR CONSUMABLE HOMEOPATHIC REMEDY THAT CONTAINS LEAD IN AN AMOUNT:

(1) IN EXCESS OF 0.1 PPM; OR

(2) SET BY THE SECRETARY IN REGULATION.”;

in line 8, strike “(C)” and substitute “(F)”; in the same line, after the second “PRODUCT” insert “OR COMPONENT OF A PRODUCT”; in line 9, strike “MORE” and substitute “:

(1) MORE”;

in the same line, strike “**0.6%**” and substitute “**0.06%**”; in line 10, after “**WEIGHT**” insert “**; OR**”

**(2) THE AMOUNT SET BY THE SECRETARY IN REGULATION**;

in line 11, strike “**(D)**” and substitute “**(G)**”; in lines 12, 13, 14, 15, 16, 17, 18, 19, 20, and 22, strike “**(I)**”, “**(II)**”, “**(III)**”, “**1.**”, “**2.**”, “**3.**”, “**4.**”, “**5.**”, “**(IV)**”, and “**(VI)**”, respectively, and substitute “**(1)**”, “**(2)**”, “**(3)**”, “**(I)**”, “**(II)**”, “**(III)**”, “**(IV)**”, “**(V)**”, “**(4)**”, and “**(5)**”, respectively; in line 18, strike “**AND**”; in line 19, after “**SPICES;**” insert:

**“(VI) DIETARY SUPPLEMENTS; AND**

**(VII) WRAPPERS;**

and strike line 21 in its entirety.

**AMENDMENT NO. 3**

On page 3, in line 1, strike “**(VII)**” and substitute “**(6)**”; in line 2, strike “**(VIII)**” and substitute “**(7)**”; after line 2, insert:

**“(H) (1) “WRAPPER” MEANS ANY PACKAGING MATERIAL THAT IS IN CONTACT WITH A CONSUMABLE PRODUCT.**

**(2) “WRAPPER” INCLUDES:**

**(I) PAPER;**

**(II) CELLOPHANE;**

**(III) A PLASTIC CONTAINER;**

(Over)

(IV) A STICK HANDLE;

(V) A SPOON;

(VI) A SQUEEZE TUBE; AND

(VII) ANY OTHER SIMILAR MATERIAL.”;

after line 3, insert:

“THIS SUBTITLE DOES NOT APPLY TO AN ELECTRONIC DEVICE THAT IS A LEAD-CONTAINING PRODUCT UNLESS THE SECRETARY DETERMINES THAT DURING THE NORMAL USE OF THE ELECTRONIC DEVICE THERE IS A SIGNIFICANT RISK THAT A CHILD COULD BE EXPOSED TO THE LEAD CONTAINED IN THE ELECTRONIC DEVICE.

22-603.”;

in lines 4 and 5, strike “POSSESS, OR TRANSFER POSSESSION OF A” and substitute “IMPORT, OR DISTRIBUTE:

(1) A CHILDREN’S PRODUCT THAT IS A”;

in line 5, after “PRODUCT” insert “; OR

(2) A LEAD-ADULTERATED CONSUMABLE PRODUCT”;

and strike beginning with “INTENDED” in line 5 down through “CHILDREN” in line 6.

On pages 3 and 4, strike in their entirety the lines beginning with line 7 on page 3 through line 9 on page 4, inclusive.

AMENDMENT NO. 4

On page 4, after line 9, insert:

“22-604.

(A) AT ANY REASONABLE TIME, AN AGENT OF THE DEPARTMENT MAY ENTER A FACTORY, WAREHOUSE, OR ESTABLISHMENT IN WHICH A PRODUCT IS MANUFACTURED, PROCESSED, PACKAGED, STORED, SOLD, OR OFFERED FOR SALE TO INSPECT ANY FINISHED OR UNFINISHED PRODUCT.

(B) WHEN CONDUCTING AN INSPECTION UNDER THIS SECTION, AN AGENT OF THE DEPARTMENT IMMEDIATELY SHALL PRESENT APPROPRIATE CREDENTIALS TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE FACTORY, WAREHOUSE, OR ESTABLISHMENT.

(C) (1) DURING AN INSPECTION CONDUCTED UNDER THIS SECTION, AN AGENT OF THE DEPARTMENT MAY OBTAIN A SAMPLE OF ANY PRODUCT, PACKAGE, OR LABELING.

(2) AN AGENT OF THE DEPARTMENT WHO OBTAINS A SAMPLE SHALL:

(I) PAY OR OFFER TO PAY FOR THE SAMPLE; AND

(II) GIVE TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE FACTORY, WAREHOUSE, OR ESTABLISHMENT A RECEIPT THAT DESCRIBES THE SAMPLE.

(Over)

(D) THE DEPARTMENT SHALL TEST A SAMPLE OF A PRODUCT OBTAINED BY AN AGENT TO DETERMINE WHETHER THE PRODUCT IS A LEAD-CONTAINING PRODUCT OR A LEAD-ADULTERATED CONSUMABLE PRODUCT.

(E) IF THE PRODUCT IS A LEAD-CONTAINING PRODUCT OR A LEAD-ADULTERATED CONSUMABLE PRODUCT, THE SECRETARY SHALL:

(1) DECLARE THE PRODUCT HAZARDOUS AND REQUIRE THE REMOVAL OF THE PRODUCT FROM THE STREAM OF COMMERCE; AND

(2) DECLARE ALL PRODUCTS OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER TO BE HAZARDOUS AND REQUIRE THE REMOVAL OF THE PRODUCTS FROM THE STREAM OF COMMERCE.

22-605.

(A) IF THE DEPARTMENT DETERMINES THAT A PERSON HAS VIOLATED § 22-603 OF THIS SUBTITLE, THE DEPARTMENT SHALL:

(1) ISSUE A HEALTH ADVISORY NOTICE TO LOCAL HEALTH OFFICERS; AND

(2) GIVE WRITTEN NOTICE TO THE PERSON DETERMINED TO HAVE VIOLATED § 22-603 OF THIS SUBTITLE THAT IDENTIFIES THE CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING PRODUCT OR THE LEAD-ADULTERATED CONSUMABLE PRODUCT AND THE ASSOCIATED HEALTH HAZARD.

(B) WITHIN 15 DAYS AFTER RECEIVING THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION, THE PERSON SHALL SEND TO THE DEPARTMENT THE FOLLOWING INFORMATION:

(1) A LIST OF ALL PRODUCTS OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER AS THE SAMPLE OBTAINED BY THE AGENT OF THE DEPARTMENT UNDER § 22-604 OF THIS SUBTITLE;

(2) THE NAME OF THE MANUFACTURER OR SELLER FROM WHOM THE PERSON OBTAINED THE CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING PRODUCT OR THE LEAD-ADULTERATED CONSUMABLE PRODUCT; AND

(3) THE NAME OF EACH PERSON TO WHOM THE PERSON TRANSFERRED THE CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING PRODUCT OR THE LEAD-ADULTERATED CONSUMABLE PRODUCT OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER.

22-606.

WITHIN 24 HOURS AFTER A PERSON DETERMINES THAT THE PERSON HAS MANUFACTURED, SOLD, OFFERED FOR SALE, IMPORTED, OR DISTRIBUTED A PRODUCT IN VIOLATION OF § 22-603 OF THIS SUBTITLE, THE PERSON SHALL SUBMIT A REPORT TO THE DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT.

22-607.

(A) (1) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 PER DAY FOR EACH VIOLATION.

(Over)

**(2) THE CIVIL PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE ASSESSED AND RECOVERED IN ANY COURT OF COMPETENT JURISDICTION.”;**

in line 10, before “A” insert “(B)”; after line 13, insert:

**“22-608.**

**THE PROVISIONS OF THIS SUBTITLE DO NOT AFFECT THE AUTHORITY OF A LOCAL AGENCY TO ENFORCE A LOCAL LAW GOVERNING THE AMOUNT OF LEAD CONTAINED IN A PRODUCT IF THE LOCAL LAW IS AT LEAST AS RESTRICTIVE AS THE PROVISIONS OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene shall convene a workgroup consisting of the Maryland Department of the Environment, the Maryland Retailers Association, advocates, and other interested stakeholders to examine the issue of labeling lead-containing products.

(b) The workgroup shall determine appropriate requirements for labeling lead-containing products including the size and placement of the label, the entity that should be responsible for labeling the product, and whether any lead-containing products should be exempted from the labeling requirement.

(c) On or before December 1, 2007, the workgroup shall report its findings and recommendations, including legislative recommendations, in accordance with § 2-1246 of the State Government Article, to the House Health and Government Operations Committee and the Senate Finance Committee.”;



and in line 14, strike “2.” and substitute “3.”.