

HOUSE BILL 1214

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71r3089

By: **Delegate Hubbard**

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Children's Health – Lead-Containing Products – Prohibition**

3 FOR the purpose of prohibiting the manufacture, sale, or possession of
4 lead-containing products intended for use or consumption by children; requiring
5 certain authorized agents of the Department of Health and Mental Hygiene or a
6 local health officer to take certain actions against certain persons if the agent or
7 local health officer has probable cause to believe that the person is
8 manufacturing, selling, or in possession of certain lead-containing products;
9 requiring a certain local health officer to report certain actions to the
10 Department; authorizing certain authorized agents and local health officers to
11 remove certain products to a place of safekeeping under certain circumstances;
12 requiring the Department to commence certain condemnation proceedings
13 against certain persons in a certain court; establishing certain penalties;
14 defining certain terms; and generally relating to prohibiting lead-containing
15 products intended for use or consumption by children.

16 BY adding to

17 Article – Health – General

18 Section 22–601 through 22–605 to be under the new subtitle “Subtitle 6.
19 Lead-Containing Products”

20 Annotated Code of Maryland

21 (2005 Replacement Volume and 2006 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General**SUBTITLE 6. LEAD-CONTAINING PRODUCTS.****22-601.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “HOMEOPATHIC REMEDY” MEANS A SUBSTANCE OR COMPOUND USED BY AN INDIVIDUAL TO TREAT A DISEASE, AILMENT, OR CONDITION.

(C) “LEAD-CONTAINING PRODUCT” MEANS A PRODUCT CONTAINING OR COATED WITH LEAD IN A CONCENTRATION THAT IS MORE THAN 0.6% OF THE PRODUCT’S TOTAL WEIGHT.

(D) “PRODUCT” INCLUDES:

(I) ACCESSORIES AND JEWELRY;

(II) CLOTHING;

(III) CONSUMABLE PRODUCTS OR ITEMS, INCLUDING:

1. WATER AND OTHER BEVERAGES;

2. CONDIMENTS;

3. CANDY AND CONFECTIONARY ITEMS;

4. FOOD; AND

5. HERBS AND SPICES;

(IV) DECORATIVE OBJECTS;

(V) DIETARY SUPPLEMENTS;

(VI) FURNITURE;

(VII) HOMEOPATHIC REMEDIES; AND

(VIII) TOYS.

22-602.

A PERSON MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, POSSESS, OR TRANSFER POSSESSION OF A LEAD-CONTAINING PRODUCT INTENDED FOR USE OR CONSUMPTION BY CHILDREN.

22-603.

(A) (1) IF AN AUTHORIZED AGENT OF THE DEPARTMENT OR A LOCAL HEALTH OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON IS MANUFACTURING, SELLING, OFFERING FOR SALE, OR IN POSSESSION OF A LEAD-CONTAINING PRODUCT IN VIOLATION OF THIS SUBTITLE, THE AUTHORIZED AGENT OR LOCAL HEALTH OFFICER SHALL:

(I) AFFIX A LABEL, TAG, OR OTHER MARKER TO THE PRODUCT; AND

(II) GIVE NOTICE TO THE MANUFACTURER, SELLER, OR POSSESSOR OF THE PRODUCT THAT:

1. THE PRODUCT IS SUSPECTED OF BEING A LEAD-CONTAINING PRODUCT IN VIOLATION OF THIS SUBTITLE; AND

2. THE PRODUCT MAY NOT REMOVED, SOLD, OR TRANSFERRED FROM THE ESTABLISHMENT WITHOUT THE AUTHORIZATION OF THE DEPARTMENT OR COURT.

(2) IF A LOCAL HEALTH OFFICER TAKES ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL HEALTH OFFICER SHALL NOTIFY THE DEPARTMENT WITHIN 48 HOURS OF TAKING THE ACTION.

(B) IF AN AUTHORIZED AGENT OR A LOCAL HEALTH OFFICER FINDS OR HAS REASONABLE CAUSE TO BELIEVE THAT A MANUFACTURER, SELLER, OR POSSESSOR THAT HAS RECEIVED NOTICE UNDER SUBSECTION (A) OF THIS

1 SECTION HAS ATTEMPTED TO REMOVE, SELL, OR TRANSFER A SUSPECTED
2 LEAD-CONTAINING PRODUCT, THE AGENT OR LOCAL HEALTH OFFICER MAY
3 REMOVE THE PRODUCT FROM THE PERSON TO A PLACE OF SAFEKEEPING.

4 **22-604.**

5 THE DEPARTMENT SHALL COMMENCE CONDEMNATION PROCEEDINGS
6 AGAINST THE MANUFACTURER, SELLER, OR POSSESSOR THAT IS IN VIOLATION
7 OF THE PROVISIONS OF THIS SUBTITLE IN THE CIRCUIT COURT OF THE COUNTY
8 IN WHICH THE SUSPECTED LEAD-CONTAINING PRODUCT IS FOUND.

9 **22-605.**

10 A PERSON WHO WILLFULLY VIOLATES ANY PROVISION OF THIS SUBTITLE
11 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
12 EXCEEDING \$1,000 FOR EACH VIOLATION OR IMPRISONMENT NOT EXCEEDING
13 1 YEAR OR BOTH.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2007.