

SENATE BILL 97

J1

~~EMERGENCY BILL~~

8lr1125
CF HB 62

By: **Senators Pugh, Conway, Della, Exum, Gladden, Jones, Kelley, Lenett, Madaleno, McFadden, Raskin, and Stone**

Introduced and read first time: January 16, 2008

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 1, 2008

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of prohibiting the manufacture, sale, offer for sale, importation, or
4 distribution of certain lead-containing children's products ~~or lead-adulterated~~
5 ~~consumable products~~ in a certain manner; providing that certain provisions of
6 this Act do not apply to certain electronic devices, certain distribution
7 operations or activities, or certain vehicles, products, parts, or equipment;
8 ~~authorizing an agent of the Department of Health and Mental Hygiene to enter~~
9 ~~certain factories, warehouses, and establishments to inspect certain products at~~
10 ~~any reasonable time; requiring an agent of the Department to present certain~~
11 ~~credentials to certain persons under certain circumstances; authorizing an~~
12 ~~agent of the Department to obtain a sample of any product, package, or labeling~~
13 ~~during an inspection; requiring an agent of the Department to take certain~~
14 ~~actions when obtaining a certain sample; requiring the Department to test a~~
15 ~~certain sample of a product under certain circumstances; requiring the~~
16 ~~Secretary of Health and Mental Hygiene to make certain declarations if a~~
17 ~~product is a lead-containing product or a lead-adulterated consumable product;~~
18 requiring the Department of the Environment to issue and give certain notices
19 under certain circumstances; requiring a manufacturer of a children's product to
20 conduct a certain testing of the product and issue a certain certificate under
21 certain circumstances; requiring a person to ensure that the certificate is
22 transmitted to certain distributors and retailers in a certain manner; requiring
23 certain manufacturers and retailers to maintain certain documents and to
24 provide certain documents to the Department or any person on request;
25 prohibiting a ~~distributor or retailer~~ person from selling or offering for sale a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~children's product under certain circumstances~~ that is not accompanied by a
 2 ~~certain certificate~~; requiring a certain person to send certain information to the
 3 Department under certain circumstances; requiring a certain person to submit a
 4 certain report to the Department under certain circumstances; providing that
 5 certain provisions of this Act do not affect the enforcement of certain local laws;
 6 establishing certain penalties; ~~authorizing the Comptroller to assess a certain~~
 7 ~~fine against a certain person~~; ~~requiring the Comptroller to distribute certain~~
 8 ~~finances to a certain fund~~; ~~providing that a violation of this Act is an unfair or~~
 9 ~~deceptive trade practice within the meaning of the Maryland Consumer~~
 10 ~~Protection Act and is subject to certain enforcement and penalty provisions~~;
 11 defining certain terms; authorizing the Secretary of ~~Health and Mental Hygiene~~
 12 ~~the Environment~~ to adopt certain regulations; ~~making this Act an emergency~~
 13 ~~measure~~; ~~requiring the Department to give certain notice to the Department of~~
 14 ~~Legislative Services if a federal law establishing certain consumer product~~
 15 ~~safety standards is enacted~~; ~~providing for the termination of this Act under~~
 16 ~~certain circumstances~~; ~~providing for a delayed effective date~~; and generally
 17 relating to prohibiting lead-containing children's products.

18 BY repealing and reenacting, with amendments,
 19 Article – Commercial Law
 20 Section 13-301(14)
 21 Annotated Code of Maryland
 22 (2005 Replacement Volume and 2007 Supplement)

23 BY adding to
 24 Article – ~~Health – General Environment~~
 25 Section ~~22-601 6-1301~~ through ~~22-609 6-1311~~ to be under the new subtitle
 26 “Subtitle ~~6~~ 13. Lead-Containing Children's Products”
 27 Annotated Code of Maryland
 28 (~~2005~~ 2007 Replacement Volume and 2007 Supplement)

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

31 Article – Commercial Law
 32 13-301.

33 Unfair or deceptive trade practices include any:

34 (14) Violation of a provision of:

35 (i) This title;

36 (ii) An order of the Attorney General or agreement of a party
 37 relating to unit pricing under Title 14, Subtitle 1 of this article;

- 1 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer
2 Debt Collection Act;

- 3 (iv) Title 14, Subtitle 3 of this article, the Maryland
4 Door-to-Door Sales Act;

- 5 (v) Title 14, Subtitle 9 of this article, Kosher Products;

- 6 (vi) Title 14, Subtitle 10 of this article, Automotive Repair
7 Facilities;

- 8 (vii) Section 14-1302 of this article;

- 9 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
10 Act;

- 11 (ix) Section 22-415 of the Transportation Article;

- 12 (x) Title 14, Subtitle 20 of this article;

- 13 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
14 Enforcement Act;

- 15 (xii) Title 14, Subtitle 21 of this article;

- 16 (xiii) Section 18-107 of the Transportation Article;

- 17 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
18 Solicitations Act;

- 19 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash
20 Parts Act;

- 21 (xvi) Title 10, Subtitle 6 of the Real Property Article;

- 22 (xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales
23 Act;

- 24 (xviii) Title 14, Subtitle 26 of this article, the Maryland
25 Door-to-Door Solicitations Act;

- 26 (xix) Title 14, Subtitle 31 of this article, the Maryland Household
27 Goods Movers Act;

- 28 (xx) Title 14, Subtitle 32 of this article, the Maryland Telephone
29 Consumer Protection Act;

1 (xxi) Title 14, Subtitle 33 of this article, the Social Security
 2 Number Privacy Act;

3 (xxii) Section 14-1319 or § 14-1320 of this article; [or]

4 (xxiii) Section 7-304 of the Criminal Law Article; or

5 (XXIV) TITLE 6, SUBTITLE 13 OF THE ENVIRONMENT
 6 ARTICLE; OR

7 Article - ~~Health~~ - ~~General~~ Environment

8 SUBTITLE ~~6~~ 13. LEAD-CONTAINING CHILDREN'S PRODUCTS.

9 ~~22-601~~ 6-1301.

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

12 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, "CHILD
 13 CHILD" MEANS AN INDIVIDUAL WHO IS UNDER THE AGE OF 7 6 YEARS.

14 (2) IF A FEDERAL LAW ESTABLISHING THE PERMISSIBLE LEVEL
 15 OF LEAD IN CHILDREN'S PRODUCTS IS ENACTED, "CHILD" SHALL MEAN AN
 16 INDIVIDUAL WHO IS THE AGE SPECIFIED IN THE FEDERAL LAW.

17 (C) (1) "CHILDREN'S PRODUCT" MEANS:

18 ~~(1)~~ (I) A PRODUCT THAT IS MARKETED FOR USE BY A CHILD;
 19 OR

20 ~~(2)~~ (II) A PRODUCT THE USE OF WHICH BY A CHILD IS
 21 FORESEEABLE.

22 (2) "CHILDREN'S PRODUCT" DOES NOT INCLUDE FOOD AS
 23 DEFINED IN § 21-101 OF THE HEALTH - GENERAL ARTICLE.

24 ~~(D) "CONSUMABLE PRODUCT" INCLUDES:~~

25 ~~(1) CANDY AND CONFECTIONARY ITEMS THAT ARE LIKELY TO BE~~
 26 ~~CONSUMED BY A CHILD; AND~~

27 ~~(2) DIETARY SUPPLEMENTS.~~

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

3 ~~(F) “LEAD-ADULTERATED CONSUMABLE PRODUCT” MEANS ANY~~
 4 ~~CONSUMABLE PRODUCT OR ITEM OR CONSUMABLE HOMEOPATHIC REMEDY~~
 5 ~~THAT CONTAINS LEAD IN AN AMOUNT:~~

6 ~~(1) IN EXCESS OF 0.1 PPM; OR~~

7 ~~(2) SET BY THE SECRETARY IN REGULATION.~~

8 ~~(G) (D)~~ “LEAD-CONTAINING PRODUCT” MEANS A PRODUCT IN WHICH
 9 ANY ~~ACCESSIBLE~~ PART, COMPONENT, OR COATING OF THE PRODUCT CONTAINS
 10 LEAD OR LEAD COMPOUNDS:

11 ~~(1) GREATER~~ GREATER THAN THE LESSER OF:

12 (1) ~~0.02%~~ 0.06% BY WEIGHT OF THE TOTAL WEIGHT OF THE PART,
 13 COMPONENT, OR ~~COATING; OR COATING.~~ COATING; OR

14 (2) THE STANDARD ESTABLISHED UNDER FEDERAL LAW
 15 REGARDING THE PERMISSIBLE LEVEL OF LEAD IN CHILDREN’S PRODUCTS.

16 ~~(2) IN AN AMOUNT SET BY THE SECRETARY IN REGULATION.~~

17 (E) “MANUFACTURER” MEANS A PERSON THAT:

18 ~~(1) PRODUCES A PRODUCT OR A COMPONENT OF A PRODUCT;~~

19 ~~(2) FOR A MULTICOMPONENT PRODUCT, PRODUCES OR~~
 20 ~~ASSEMBLES THE FINAL PRODUCT; OR~~

21 ~~(3) IS IS THE BRAND NAME OWNER OF A PRODUCT.~~

22 ~~(H) (F)~~ “PRODUCT” INCLUDES:

23 (1) ACCESSORIES AND JEWELRY;

24 (2) CLOTHING;

25 (3) DECORATIVE OBJECTS;

26 (4) FURNITURE;

1 (5) ~~HOMEOPATHIC REMEDIES~~ LUNCH BOXES AND EATING
2 UTENSILS;

3 (6) TOYS; AND

4 (7) ~~WRAPPERS~~ ANY OTHER ITEM SPECIFIED BY THE
5 DEPARTMENT IN REGULATION.

6 (1) ~~“WRAPPER” MEANS ANY PACKAGING MATERIAL THAT IS IN~~
7 ~~CONTACT WITH FOOD, INCLUDING:~~

8 (1) ~~PAPER;~~

9 (2) ~~CELLOPHANE;~~

10 (3) ~~A PLASTIC CONTAINER;~~

11 (4) ~~A STICK HANDLE;~~

12 (5) ~~A SPOON;~~

13 (6) ~~A POT;~~

14 (7) ~~A SQUEEZE TUBE; AND~~

15 (8) ~~ANY OTHER SIMILAR DEVICE.~~

16 ~~22-602.~~ 6-1302.

17 THIS SUBTITLE DOES NOT APPLY TO:

18 (1) AN ELECTRONIC DEVICE THAT IS A LEAD-CONTAINING
19 PRODUCT UNLESS THE SECRETARY DETERMINES THAT DURING THE NORMAL
20 USE OF THE ELECTRONIC DEVICE THERE IS A SIGNIFICANT RISK THAT A CHILD
21 COULD BE EXPOSED TO THE LEAD CONTAINED IN THE ELECTRONIC DEVICE;
22 ~~AND~~

23 (2) ~~ANY FACTORY, WAREHOUSE, OR ESTABLISHMENT AT A~~
24 ~~MARINE TERMINAL~~ DISTRIBUTION OPERATION OR ACTIVITY PERFORMED IN A
25 FACTORY, WAREHOUSE, OR ESTABLISHMENT, OR, IN THE COURSE OF SURFACE
26 TRANSPORTATION, AT A PORT FACILITY AS DEFINED IN § 6-101 OF THE
27 TRANSPORTATION ARTICLE; AND

1 (3) A VEHICLE AS DEFINED IN § 11-176 OF THE
2 TRANSPORTATION ARTICLE, A PRODUCT OR PART FOR USE IN A VEHICLE, OR
3 TRANSPORTATION EQUIPMENT.

4 ~~22-603. 6-1303.~~

5 ~~A PERSON MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, IMPORT, OR~~
6 ~~DISTRIBUTE:~~

7 ~~(1) A CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING~~
8 ~~PRODUCT; OR~~

9 ~~(2) A LEAD-ADULTERATED CONSUMABLE PRODUCT.~~

10 ~~(A) A PERSON MAY NOT MANUFACTURE:~~

11 ~~(1) MANUFACTURE A CHILDREN'S PRODUCT THAT IS A~~
12 ~~LEAD-CONTAINING PRODUCT; OR~~

13 ~~(B) (1) A MANUFACTURER MAY NOT SELL, OFFER FOR SALE, IMPORT,~~
14 ~~OR DISTRIBUTE, BY ANY MEANS, INCLUDING THROUGH A SALES OUTLET, A~~
15 ~~CATALOG, OR THE INTERNET, A CHILDREN'S PRODUCT THAT IS A~~
16 ~~LEAD-CONTAINING PRODUCT.~~

17 ~~(2) A PERSON OTHER THAN A MANUFACTURER MAY NOT~~
18 ~~KNOWINGLY SELL~~

19 ~~(2) SELL, OFFER FOR SALE, IMPORT, OR DISTRIBUTE, BY ANY~~
20 ~~MEANS, INCLUDING THROUGH A SALES OUTLET, A CATALOG, OR THE INTERNET,~~
21 ~~A CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING PRODUCT.~~

22 ~~22-604.~~

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

27 ~~(B) WHEN CONDUCTING AN INSPECTION UNDER THIS SECTION, AN~~
28 ~~AGENT OF THE DEPARTMENT IMMEDIATELY SHALL PRESENT APPROPRIATE~~
29 ~~CREDENTIALS TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE~~
30 ~~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.~~

~~(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 PRODUCT FROM THE STREAM OF COMMERCE.~~

6-1304.

(A) A MANUFACTURER OF A CHILDREN'S PRODUCT SHALL:

(1) TEST WHETHER THE CHILDREN'S PRODUCT IS A LEAD-CONTAINING PRODUCT BY USING AN INDEPENDENT THIRD PARTY QUALIFIED TESTING ENTITY THAT:

(I) ~~1.~~ IS NOT OWNED, MANAGED, CONTROLLED, OR DIRECTED BY THE MANUFACTURER; AND

~~2.~~ (II) IS ACCREDITED IN ACCORDANCE WITH AN ACCREDITATION PROCESS ESTABLISHED OR RECOGNIZED BY THE DEPARTMENT; OR AND

(H) ~~1.~~ IS OWNED, MANAGED, CONTROLLED, OR DIRECTED BY THE MANUFACTURER;

1 ~~2. IS ACCREDITED IN ACCORDANCE WITH AN~~
2 ~~ACCREDITATION PROCESS ESTABLISHED BY THE DEPARTMENT; AND~~

3 ~~3. HAS PROCEDURES APPROVED IN ACCORDANCE~~
4 ~~WITH AN APPROVAL PROCESS UNDER FEDERAL LAW OR ESTABLISHED OR~~
5 ~~RECOGNIZED BY THE DEPARTMENT TO ENSURE THAT THE TESTING ENTITY IS~~
6 ~~PROTECTED FROM UNDUE INFLUENCE; AND~~

7 (2) IF THE CHILDREN'S PRODUCT TESTED UNDER ITEM (1) OF
8 THIS SUBSECTION IS NOT A LEAD-CONTAINING PRODUCT, ISSUE A CERTIFICATE
9 THAT CERTIFIES THAT THE CHILDREN'S PRODUCT IS NOT A LEAD-CONTAINING
10 PRODUCT.

11 (B) A PERSON SHALL ENSURE THAT THE CERTIFICATE ISSUED IN
12 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IS TRANSMITTED WITH
13 THE CHILDREN'S PRODUCT TO ANY DISTRIBUTOR OR RETAILER WHO RECEIVES
14 THE CHILDREN'S PRODUCT.

15 (C) A MANUFACTURER SHALL:

16 (1) MAINTAIN A COPY OF ANY DOCUMENTS RELATED TO LEAD
17 TESTING AND ANY CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A)
18 OF THIS SECTION; AND

19 (2) PROVIDE A COPY TO THE DEPARTMENT OR ANY PERSON ON
20 REQUEST.

21 (D) A RETAILER SHALL:

22 (1) MAINTAIN A COPY OF ANY CERTIFICATE ISSUED IN
23 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

24 (2) PROVIDE A COPY TO THE DEPARTMENT OR ANY PERSON ON
25 REQUEST.

26 (E) ~~A DISTRIBUTOR OR RETAILER~~ A PERSON MAY NOT SELL OR OFFER
27 FOR SALE IN THE STATE, BY ANY MEANS, INCLUDING TRANSACTIONS
28 CONDUCTED THROUGH A SALES OUTLET, A CATALOG, OR THE INTERNET, A
29 CHILDREN'S PRODUCT FOR WHICH THERE IS NO CERTIFICATE ISSUED IN
30 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

31 (F) A CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF
32 THIS SECTION SHALL BE:

1 **(1) BASED ON A TEST OF EACH CHILDREN'S PRODUCT OR ON A**
 2 **TESTING PROTOCOL THAT IS ESTABLISHED OR RECOGNIZED BY THE**
 3 **DEPARTMENT; AND**

4 **(2) ON A FORM CREATED OR APPROVED BY THE DEPARTMENT.**

5 ~~22-605. 6-1305.~~

6 **(A) IF THE DEPARTMENT DETERMINES THAT A PERSON HAS VIOLATED**
 7 **§ ~~22-603~~ 6-1303 OF THIS SUBTITLE, THE DEPARTMENT SHALL:**

8 **~~(1) ISSUE A HEALTH ADVISORY NOTICE TO LOCAL HEALTH~~**
 9 **~~OFFICERS; AND~~**

10 **~~(2) GIVE GIVE~~ GIVE WRITTEN NOTICE TO THE PERSON DETERMINED TO**
 11 **HAVE VIOLATED § ~~22-603~~ 6-1303 OF THIS SUBTITLE THAT IDENTIFIES THE**
 12 **CHILDREN'S PRODUCT THAT IS A LEAD-CONTAINING PRODUCT ~~OR THE~~**
 13 **~~LEAD-ADULTERATED CONSUMABLE PRODUCT AND THE ASSOCIATED HEALTH~~**
 14 **~~HAZARD.~~**

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

18 **(1) A LIST OF ALL CHILDREN'S PRODUCTS OF THE SAME STYLE**
 19 **PRODUCED BY THE SAME MANUFACTURER ~~AS THE SAMPLE OBTAINED BY THE~~**
 20 **~~AGENT OF THE DEPARTMENT UNDER § ~~22-604~~ OF THIS SUBTITLE;~~**

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

25 **(3) THE NAME OF EACH PERSON DISTRIBUTOR OR RETAILER TO**
 26 **WHOM THE PERSON TRANSFERRED THE CHILDREN'S PRODUCT THAT IS A**
 27 **LEAD-CONTAINING PRODUCT ~~OR THE LEAD-ADULTERATED CONSUMABLE~~**
 28 **~~PRODUCT~~ OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER.**

29 ~~22-606. 6-1306.~~

30 **WITHIN 24 HOURS AFTER A PERSON DETERMINES THAT THE PERSON HAS**
 31 **MANUFACTURED, SOLD, OFFERED FOR SALE, IMPORTED, OR DISTRIBUTED A**
 32 **CHILDREN'S PRODUCT IN VIOLATION OF § ~~22-603~~ 6-1303 OF THIS SUBTITLE,**
 33 **THE PERSON SHALL SUBMIT A REPORT TO THE DEPARTMENT IN A FORM**
 34 **REQUIRED BY THE DEPARTMENT.**

1 ~~22-607. 6-1307.~~

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

4 (2) THE CIVIL PENALTY UNDER PARAGRAPH (1) OF THIS
5 SUBSECTION MAY BE ASSESSED AND RECOVERED IN ANY COURT OF COMPETENT
6 JURISDICTION.

7 (B) A PERSON WHO WILLFULLY VIOLATES ANY PROVISION OF THIS
8 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
9 FINE NOT EXCEEDING ~~\$1,000~~ \$10,000 FOR EACH VIOLATION OR IMPRISONMENT
10 NOT EXCEEDING 1 YEAR OR BOTH.

11 6-1308.

12 (A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE
13 COMPTROLLER MAY ASSESS AGAINST A PERSON WHO VIOLATES § 6-1304(E) OF
14 THIS SUBTITLE A FINE NOT EXCEEDING \$1,000 FOR EACH VIOLATION, UP TO A
15 MAXIMUM OF \$50,000.

16 (B) A FINE ASSESSED UNDER SUBSECTION (A) OF THIS SECTION MAY
17 NOT BE ASSESSED UNTIL THE PERSON WHO COMMITTED THE VIOLATION HAS
18 BEEN ISSUED THREE WARNINGS REGARDING THE VIOLATION.

19 (C) EACH DAY ON WHICH A VIOLATION OCCURS OR CONTINUES IS A
20 SEPARATE VIOLATION UNDER THIS SECTION.

21 (D) AT THE END OF EACH QUARTER, THE COMPTROLLER SHALL
22 DISTRIBUTE ALL FINES ASSESSED UNDER THIS SECTION TO THE LEAD
23 POISONING PREVENTION FUND IN A MANNER DETERMINED BY THE
24 DEPARTMENT AND THE COMPTROLLER.

25 6-1309.

26 IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A VIOLATION OF
27 THIS SUBTITLE IS:

28 (1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
29 MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

30 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
31 CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

1 ~~22-608. 6-1310.~~

2 ~~(A) THE SECRETARY MAY ADOPT REGULATIONS THAT SET THE AMOUNT~~
 3 ~~OF LEAD THAT MAY BE CONTAINED IN A LEAD-CONTAINING PRODUCT AND A~~
 4 ~~LEAD-ADULTERATED CONSUMABLE PRODUCT.~~

5 ~~(B) ANY REGULATION ADOPTED UNDER SUBSECTION (A) OF THIS~~
 6 ~~SECTION SHALL BE CONSISTENT WITH APPLICABLE GUIDELINES PUBLISHED BY~~
 7 ~~THE FEDERAL FOOD AND DRUG ADMINISTRATION TO CARRY OUT THE~~
 8 ~~PROVISIONS OF THIS SUBTITLE.~~

9 ~~22-609. 6-1311.~~

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

14 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, if a federal law~~
 15 ~~establishing consumer product safety standards for lead content in children's products~~
 16 ~~is enacted:~~

17 ~~(1) within 10 days after its enactment, the Department of the~~
 18 ~~Environment shall notify the Department of Legislative Services about the enactment~~
 19 ~~of the federal law; and~~

20 ~~(2) 5 days after the date the Department of Legislative Services~~
 21 ~~receives notice under item (1) of this section, with no further action required by the~~
 22 ~~General Assembly, this Act shall be abrogated and of no further force and effect.~~

23 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act ~~is an~~
 24 ~~emergency measure, is necessary for the immediate preservation of the public health~~
 25 ~~or safety, has been passed by a yea and nay vote supported by three fifths of all the~~
 26 ~~members elected to each of the two Houses of the General Assembly, and shall take~~
 27 ~~effect from the date it is enacted~~ shall take effect ~~June 1, 2009~~ July 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.