

By the Committee on Commerce; and Senators Justice and Lynn

577-05238-08

2008886c1

1 A bill to be entitled

2 An act relating to toxic substances in children's
3 products; providing definitions; prohibiting a person from
4 using or applying a toxic substance in or on any toy or
5 child care article in this state; prohibiting a person
6 from manufacturing, selling, offering for sale, or
7 distributing a toy or child care article that contains a
8 toxic substance; providing an exception; providing civil
9 fines for manufacturing, selling, offering for sale, or
10 distributing a toy or child care article that contains a
11 toxic substance; requiring that certain civil fines be
12 waived under specified circumstances; providing that a
13 knowing and intentional violation of the act is a felony
14 of the third degree; providing criminal penalties;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Toxic substances in children's products;
20 limitations on use of toxic substance; exceptions; civil fines;
21 criminal penalties.--

22 (1) As used in this section, the term:

23 (a) "Child" means an individual who is 7 years of age or
24 younger.

25 (b) "Child care article" means a product designed or
26 intended by the manufacturer to facilitate the sleep, relaxation,
27 or feeding of a child or to help a child with sucking or
28 teething.

29 (c) "Consumer" means an individual; a child, by and through

577-05238-08

2008886c1

30 its parent or legal guardian; or a business, firm, association,
31 joint venture, partnership, estate, trust, business trust,
32 syndicate, fiduciary, corporation, any commercial entity, however
33 denominated, or any other group or combination.

34 (d) "Person" has the same meaning as provided in s. 1.01,
35 Florida Statutes.

36 (e) "Toxic substance" means a substance that contains lead,
37 or a coating on an item that contains lead, so that the lead
38 content is more than 0.06 percent of the total weight. The term
39 does not include glass or crystal decorative components.

40 (f) "Toy" means an article designed and made for the
41 amusement of a child or for the child's use in play.

42 (2) (a) A person may not use or apply a toxic substance in
43 or on any toy or child care article in this state.

44 (b) A person may not manufacture, sell, offer for sale, or
45 distribute a toy or child care article in this state which
46 contains a toxic substance.

47 (c) This section does not apply to the sale of a
48 collectible toy that is not marketed to or intended to be used by
49 a minor.

50 (3) Except as otherwise provided in subsection (4), if a
51 person who is not an individual consumer violates subsection (2),
52 that person is liable for a civil fine of not more than:

53 (a) One hundred dollars per item, not to exceed \$5,000, for
54 the first violation.

55 (b) Five hundred dollars per item, not to exceed \$25,000,
56 for a second violation.

57 (c) One thousand dollars per item, not to exceed \$50,000,
58 for a third or subsequent violation.

577-05238-08

2008886c1

59 (4) A civil fine imposed under subsection (3) must be
60 waived if the person acted in good faith to comply with this
61 section, pursued compliance with due diligence, and promptly
62 corrected any noncompliance after discovering the violation.

63 (5) If a person who is not an individual consumer knowingly
64 and intentionally violates subsection (2), that person:

65 (a) Commits a felony of the third degree, punishable as
66 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
67 Statutes; and

68 (b) Is liable for a civil fine of not more than \$3,000 per
69 item, not to exceed \$150,000 for the intentional violation.

70 Section 2. This act shall take effect July 1, 2008.