

1 A bill to be entitled
 2 An act relating to cadmium in children's products;
 3 defining terms; prohibiting a person from using or
 4 applying cadmium in excess of a specified amount on any
 5 item of children's jewelry, toy, or child care article
 6 sold in this state; providing an exception; providing
 7 civil fines for the sale of an item of children's jewelry,
 8 toy, or child care article that contains cadmium;
 9 requiring that certain civil fines be waived under
 10 specified circumstances; providing that a knowing and
 11 intentional violation of the act is a felony of the third
 12 degree; providing criminal penalties; providing an
 13 effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Cadmium in children's products; limitations on
 18 use of cadmium; exceptions; civil fines; criminal penalties.—

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

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

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

26 (c) "Children's jewelry" means jewelry that is made for,
 27 marketed for use by, or sold to a child.

28 (d) "Consumer" means an individual; a child, by and

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

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

35 (f) "Toy" means an article designed and made for the
36 amusement of a child and for the child's use during play.

37 (2) (a) A person may not use or apply cadmium in excess of
38 75 parts per million on any surface coating or substrate
39 material on any item of children's jewelry, toy, or child care
40 article, as determined through solubility testing for heavy
41 metals defined in the American Society for Testing and Materials
42 International Safety Specification on Toy Safety, ASTM standard
43 F963, if the product is sold in this state.

44 (b) This section does not apply to the sale of a
45 collectible toy that is not marketed to or intended to be used
46 for play by a minor younger than 14 years of age.

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

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

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

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

56 (4) A civil fine imposed under subsection (3) must be

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57 waived if the person acted in good faith to comply with this
58 section, pursued compliance with due diligence, and promptly
59 corrected any noncompliance after discovering the violation.

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

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

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

68 Section 2. This act shall take effect July 1, 2010.