

By Senator Justice

16-01422A-10

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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
5 any item of children's jewelry, toy, or child care
6 article sold in this state; providing an exception;
7 providing civil fines for the sale of an item of
8 children's jewelry, toy, or child care article that
9 contains cadmium; requiring that certain civil fines
10 be waived under specified circumstances; providing
11 that a knowing and intentional violation of the act is
12 a felony of the third degree; providing criminal
13 penalties; providing an 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 through
29 its parent or legal guardian; or a business, firm, association,

16-01422A-10

20102120

30 joint venture, partnership, estate, trust, business trust,
31 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 ASTM International Safety Specification on
42 Toy Safety, ASTM standard F-963, if the product is sold in this
43 state. This section does not apply to the sale of a collectible
44 toy that is not marketed to or intended to be used for play by a
45 child younger than 14 years of age.

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

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

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

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

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

16-01422A-10

20102120__

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

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

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

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