

SENATE BILL No. 174

February 6, 2007, Introduced by Senators KAHN, CHERRY, RICHARDVILLE, BRATER and BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding part 54B.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 54B. TOXIC SUBSTANCES IN CHILDREN'S TOYS
2 SEC. 5481. AS USED IN THIS PART, "TOY" MEANS AN ARTICLE
3 DESIGNED AND MADE FOR THE AMUSEMENT OF A MINOR OR FOR THE MINOR'S
4 USE IN PLAY.

5 SEC. 5483. (1) A PERSON SHALL NOT MANUFACTURE, SELL, OR
6 EXCHANGE, HAVE IN HIS OR HER POSSESSION WITH INTENT TO SELL OR
7 EXCHANGE, OR EXPOSE OR OFFER FOR SALE OR EXCHANGE TO A RETAILER, A
8 TOY IN THIS STATE THAT IS CONTAMINATED WITH A TOXIC SUBSTANCE OR TO
9 WHICH 1 OR MORE OF THE FOLLOWING APPLY:

1 (A) THE TOY IS COATED WITH PAINT OR LACQUER CONTAINING LEAD
2 COMPOUNDS OF WHICH THE LEAD CONTENT, CALCULATED AS PB, IS IN EXCESS
3 OF THAT PERMITTED BY FEDERAL REGULATIONS CONTAINED IN 16 CFR
4 1500.17, ADOPTED UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT, 15 USC
5 1261 TO 1278, OR A SOLUBLE COMPOUND OF ANTIMONY, ARSENIC, CADMIUM,
6 MERCURY, SELENIUM, OR BARIUM, INTRODUCED AS SUCH. FOR PURPOSES OF
7 THIS PART, A COMPOUND IS SOLUBLE IF QUANTITIES IN EXCESS OF 0.1%
8 ARE DISSOLVED BY 5% HYDROCHLORIC ACID AFTER STIRRING FOR 10 MINUTES
9 AT ROOM TEMPERATURE.

10 (B) THE TOY CONSISTS IN WHOLE OR IN PART OF A DISEASED,
11 CONTAMINATED, FILTHY, PUTRID, OR DECOMPOSED SUBSTANCE.

12 (C) THE TOY HAS BEEN PRODUCED, PREPARED, PACKED, SHIPPED, OR
13 HELD UNDER UNSANITARY OR OTHER CONDITIONS AS A RESULT OF WHICH IT
14 MAY HAVE BECOME CONTAMINATED WITH FILTH OR HAZARDOUS MATERIALS OR
15 OTHERWISE RENDERED INJURIOUS TO HEALTH.

16 (D) THE TOY IS STUFFED, PADDED, OR LINED WITH MATERIALS THAT
17 ARE TOXIC OR THAT WOULD OTHERWISE BE HAZARDOUS IF INGESTED,
18 INHALED, OR CONTACTED.

19 (E) THE TOY IS A STUFFED, PADDED, OR LINED TOY THAT IS NOT
20 SECURELY WRAPPED OR PACKAGED.

21 (2) THE DEPARTMENT AND LOCAL HEALTH OFFICERS SHALL ENFORCE
22 THIS PART.

23 (3) A VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY
24 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
25 \$1,000.00, OR BOTH.

26 SEC. 5485. (1) A PERSON SHALL NOT MANUFACTURE, SELL, OR
27 EXCHANGE, HAVE IN HIS OR HER POSSESSION WITH INTENT TO SELL OR

1 EXCHANGE, OR EXPOSE OR OFFER FOR SALE OR EXCHANGE TO A RETAILER, A
2 TOY IN THIS STATE THAT DOES NOT CONTAIN A LABEL WITH THE NAME AND
3 PLACE OF BUSINESS OF THE MANUFACTURER, DISTRIBUTOR, OR IMPORTER IN
4 THE UNITED STATES.

5 (2) A PERSON SHALL PROVIDE ANY INFORMATION REQUIRED BY THIS
6 SECTION ON THE REQUEST OF THE DEPARTMENT.

7 SEC. 5487. (1) IF AN AUTHORIZED REPRESENTATIVE OF THE
8 DEPARTMENT OR A LOCAL HEALTH OFFICER FINDS OR HAS PROBABLE CAUSE TO
9 BELIEVE THAT THE SALE OR EXCHANGE OF A TOY IS OR WOULD BE IN
10 VIOLATION OF THIS PART, THE REPRESENTATIVE SHALL AFFIX TO THE TOY
11 OR A COMPONENT OF THE TOY A TAG OR OTHER APPROPRIATE MARKING AND
12 SHALL GIVE NOTICE THAT THE TOY IS SUSPECTED OF BEING IN VIOLATION
13 OF THIS PART, THAT THE TOY HAS BEEN EMBARGOED, AND THAT A PERSON
14 SHALL NOT REMOVE THE TOY UNTIL PERMISSION FOR REMOVAL OR DISPOSAL
15 IS GIVEN BY AN AUTHORIZED AGENT OF THE DEPARTMENT, THE LOCAL HEALTH
16 OFFICER, OR A COURT.

17 (2) A LOCAL HEALTH OFFICER SHALL NOTIFY THE DEPARTMENT WITHIN
18 48 HOURS OF ANY ACTION TAKEN BY THE LOCAL HEALTH OFFICER UNDER
19 SUBSECTION (1).

20 SEC. 5489. A PERSON SHALL NOT KNOWINGLY REMOVE, SELL, OR
21 DISPOSE OF A TOY EMBARGOED UNDER SECTION 5487 WITHOUT PERMISSION OF
22 AN AUTHORIZED AGENT OF THE DEPARTMENT, THE LOCAL HEALTH OFFICER, OR
23 A COURT. A VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY
24 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
25 \$1,000.00, OR BOTH.

26 SEC. 5491. IF AN AUTHORIZED AGENT OF THE DEPARTMENT OR THE
27 LOCAL HEALTH OFFICER FINDS OR HAS REASONABLE CAUSE TO BELIEVE THAT

1 AN EMBARGO UNDER SECTION 5487 WILL BE VIOLATED, THE AUTHORIZED
2 AGENT MAY REMOVE THE EMBARGOED TOY TO A PLACE OF SAFEKEEPING.

3 SEC. 5493. IF THE MANUFACTURE, SALE, OR EXCHANGE OF A TOY IS
4 ALLEGED TO BE IN VIOLATION OF THIS PART, THE DEPARTMENT OR A LOCAL
5 HEALTH OFFICER SHALL COMMENCE PROCEEDINGS IN THE CIRCUIT COURT IN
6 THE COUNTY WHERE THE TOY IS LOCATED, FOR CONDEMNATION OF THE TOY.