

Act No. 159
Public Acts of 2007
Approved by the Governor
December 20, 2007
Filed with the Secretary of State
December 21, 2007
EFFECTIVE DATE: March 20, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senators Kahn, Cherry, Richardville, Brater, Birkholz and Basham

ENROLLED SENATE BILL No. 174

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding part 54C.

The People of the State of Michigan enact:

PART 54C.

TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

Sec. 5491. As used in this part:

- (a) "Child care article" means a product designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children or to help children with sucking or teething.
- (b) "Children" means individuals who are 7 years old or younger.
- (c) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.
- (d) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (e) "Toxic substance" means a substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Toxic substance does not include glass or crystal decorative components.
- (f) "Toy" means an article designed and made for the amusement of a minor or for the minor's use in play.

Sec. 5492. (1) A person shall not use or apply a toxic substance in or on any toy or child care article in this state.

(2) A person shall not sell, offer for sale, or transfer a toy or child care article in this state that contains a toxic substance.

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

Sec. 5493. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than \$100.00 per item not to exceed \$5,000.00 total.

(b) If a person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than \$500.00 per item not to exceed \$25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than \$1,000.00 per item not to exceed \$50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

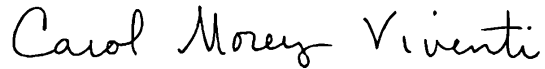
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 4132.

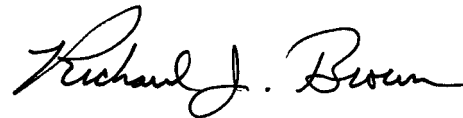
(b) House Bill No. 4399.

(c) House Bill No. 4936.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor