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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2882

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State of Washington

60th Legislature

2008 Regular Session

**By** House Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Wood, Hudgins, Hasegawa, and Ormsby)

READ FIRST TIME 02/07/08.

1 AN ACT Relating to labeling of lead-containing products; adding a  
2 new chapter to Title 70 RCW; creating a new section; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that lead hazards  
6 associated with lead-containing consumer products represent a  
7 significant and preventable environmental health problem. Lead  
8 negatively affects every system of the body. It is harmful to  
9 individuals of all ages and is especially harmful to children and  
10 adults of childbearing age. The effects of lead on a child's  
11 cognitive, behavioral, and developmental abilities may necessitate  
12 large expenditures of public funds for health care and special  
13 education. The irreversible damage to children and subsequent  
14 expenditures could be avoided if exposure to lead is reduced. When  
15 consumers are provided with more and accurate information about  
16 products, consumers may better choose products that they feel will  
17 provide the best benefit to them individually, and the marketplace  
18 works more efficiently.

1 (2) For the welfare of the people of the state of Washington, this  
2 chapter establishes labeling requirements for lead-containing consumer  
3 products to help educate the general public regarding its exposure to  
4 lead.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Consumer" means an individual who seeks to obtain, obtains, or  
8 has obtained a lead-containing consumer product from a retailer that is  
9 to be used primarily for personal, family, or household purposes.

10 (2) "Department" means the department of ecology.

11 (3) "Director" means the director of the department of ecology.

12 (4) "Lead-containing consumer product" means a product, commodity,  
13 chemical, or compound that contains lead and is being sold to a  
14 consumer for personal, family, or household use. "Lead-containing  
15 consumer product" includes products with a component that contains lead  
16 or a lead compound.

17 (5) "Manufacturer" includes any person, firm, association,  
18 partnership, corporation, governmental entity, organization, or joint  
19 venture that produces a lead-containing consumer product or an importer  
20 or domestic distributor of a lead-containing consumer product produced  
21 in a foreign country. In the case of a multicomponent product  
22 containing lead, the manufacturer is the last manufacturer to produce  
23 or assemble the product. If the multicomponent product containing lead  
24 is produced in a foreign country, the manufacturer is the importer or  
25 domestic distributor.

26 (6) "Package" means the immediate container or wrapping in which  
27 any product is contained for marketing, protecting, handling, or for  
28 use by consumers, and also means any outer container or wrapping used  
29 in the retail display of such a product to consumers.

30 (7) "Retailer" means a retailer of a lead-containing consumer  
31 product.

32 (8) "Wholesaler" means every person who purchases, sells, or  
33 distributes lead-containing consumer products to retailers for the  
34 purpose of resale only.

35 NEW SECTION. **Sec. 3.** Nothing in this chapter should be  
36 interpreted to apply when in conflict with federal law.

1        NEW SECTION.    **Sec. 4.** (1) Effective January 1, 2010, a  
2 manufacturer or wholesaler may not sell a lead-containing consumer  
3 product at retail in this state, to a retailer in this state, or for  
4 use in this state, unless the lead-containing consumer product is  
5 labeled according to the guidelines listed under subsection (2) of this  
6 section. However, this section does not apply to: (a) Lead-containing  
7 consumer products that contain less than four one-hundredths percent  
8 lead; (b) ammunition and ammunition components; (c) lead-containing  
9 consumer products that are under one-half inch in all dimensions; (d)  
10 lead- containing consumer products in which the lead portion of the  
11 product does not come into human contact during normal use; (e) fishing  
12 gear; or (f) any lead-containing consumer product that is in compliance  
13 with (i) the provisions of directive 2002.95/EC of the European Union,  
14 adopted by the European parliament and council of the European Union on  
15 January 27, 2003; and (ii) the decisions of the technical adaptation  
16 committee established by directive 2002.95/EC that have been issued as  
17 of the effective date of this section.

18        (2) A lead-containing consumer product is considered properly  
19 labeled under this section if it has:

20        (a) A label that states the percentage content of lead in a minimum  
21 ten-point font affixed on the outer portion of the package viewable to  
22 consumers at time of purchase, or, if the lead-containing consumer  
23 product is not contained in a package, then affixed directly onto the  
24 lead-containing consumer product (for example, if the lead-containing  
25 consumer product contains eight percent lead, the label must state  
26 "eight percent lead content"); and

27        (b) An imprint directly on the lead-containing consumer product  
28 that identifies the percentage content of lead in a minimum ten-point  
29 font.

30        (3) The responsibility for affixing labels and the imprint required  
31 under this section is on the manufacturer and not on the wholesaler or  
32 retailer.

33        (4) Nothing in this section restricts the ability of a  
34 manufacturer, importer, or domestic distributor from transporting  
35 products through the state or storing products in the state for later  
36 distribution outside the state.

1        NEW SECTION.    **Sec. 5.**    A manufacturer, wholesaler, or retailer may  
2 not remove from a lead-containing consumer product any label or imprint  
3 affixed to it that relates in whole or part to lead or lead hazards and  
4 which label is required by this state.

5        NEW SECTION.    **Sec. 6.**    A violation of this chapter or any rule  
6 adopted under this chapter is punishable by a civil penalty not to  
7 exceed one thousand dollars for each violation in the case of a first  
8 violation.    Repeat violators are liable for a civil penalty not to  
9 exceed five thousand dollars for each repeat violation.    Penalties  
10 collected under this section must be deposited in the state toxics  
11 control account created in RCW 70.105D.070.

12        NEW SECTION.    **Sec. 7.**    The department may adopt rules to implement  
13 this chapter.

14        NEW SECTION.    **Sec. 8.**    Sections 1 through 7 of this act constitute  
15 a new chapter in Title 70 RCW.

16        NEW SECTION.    **Sec. 9.**    If specific funding for the purposes of this  
17 act, referencing this act by bill or chapter number, is not provided by  
18 June 30, 2008, in the omnibus appropriations act, this act is null and  
19 void.

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