

HOUSE BILL No. 4764

April 2, 2009, Introduced by Reps. Geiss, Nerat, Haase, Slavens, Warren, Scripps, Segal, Liss, Kennedy, Valentine, Leland, Byrnes, Meadows and McDowell and referred to the Committee on Great Lakes and Environment.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 5491 (MCL 333.5491), as added by 2007 PA 159.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5491. As used in this part:

2 (A) "BIOACCUMULATIVE" MEANS A BIOACCUMULATION FACTOR GREATER
3 THAN 1,000, AS DEFINED IN THE GREAT LAKES BINATIONAL TOXICS
4 STRATEGY AS DEVELOPED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
5 AGENCY.

6 (B) "CHEMICAL" MEANS A SUBSTANCE WITH A DISTINCT MOLECULAR
7 COMPOSITION OR A GROUP OF STRUCTURALLY RELATED SUBSTANCES AND
8 INCLUDES THE BREAKDOWN PRODUCTS OF THE SUBSTANCE OR SUBSTANCES THAT
9 FORM THROUGH DECOMPOSITION, DEGRADATION, OR METABOLISM.

1 (C) "CHEMICAL OF CONCERN" MEANS A CHEMICAL IDENTIFIED BY THE
2 DEPARTMENT ON THE BASIS OF CREDIBLE SCIENTIFIC EVIDENCE AS BEING
3 KNOWN TO HAVE ANY OF THE FOLLOWING CHARACTERISTICS:

4 (i) HARMS THE NORMAL DEVELOPMENT OF A FETUS OR CHILD OR CAUSES
5 OTHER DEVELOPMENTAL TOXICITY.

6 (ii) CAUSES CANCER, GENETIC DAMAGE, OR REPRODUCTIVE HARM.

7 (iii) DISRUPTS THE ENDOCRINE OR HORMONE SYSTEM.

8 (iv) DAMAGES THE NERVOUS SYSTEM, IMMUNE SYSTEM, OR ORGANS OR
9 CAUSES OTHER SYSTEMIC TOXICITY.

10 (v) IS PERSISTENT, BIOACCUMULATIVE, AND TOXIC.

11 (vi) IS VERY PERSISTENT AND VERY BIOACCUMULATIVE.

12 (vii) HAS BIOLOGICAL OR CHEMICAL PROPERTIES SIMILAR TO
13 CHEMICALS THAT MEET ANY OF THE CRITERIA IN SUBPARAGRAPHS (i) TO (vi).

14 (viii) THERE ARE INSUFFICIENT CREDIBLE SCIENTIFIC DATA TO ASSESS
15 WHETHER THE CHEMICAL MAY MEET THE CRITERIA IN SUBPARAGRAPHS (i) TO
16 (vi), BUT PRELIMINARY STUDIES SUGGEST THE CHEMICAL MAY MEET 1 OR
17 MORE OF THE CRITERIA IN SUBPARAGRAPHS (i) TO (vi).

18 (D) "CHEMICAL OF HIGHEST CONCERN" MEANS A CHEMICAL OF CONCERN
19 THAT IS ANY OF THE FOLLOWING:

20 (i) USED IN CHILDREN'S PRODUCTS.

21 (ii) PRESENT IN CHILDREN, HUMAN BREAST MILK, OR CORD BLOOD TO
22 AN EXTENT DETERMINED BY THE DEPARTMENT TO BE SIGNIFICANT.

23 (iii) PRESENT IN HOUSEHOLD DUST, INDOOR AIR, DRINKING WATER, OR
24 ELSEWHERE IN THE HOME ENVIRONMENT TO AN EXTENT DETERMINED BY THE
25 DEPARTMENT TO BE SIGNIFICANT.

26 (iv) OF SPECIFIC RELEVANCE TO THE HEALTH OF MICHIGAN CHILDREN
27 AS DETERMINED BY THE DEPARTMENT.

1 (E) ~~(a)~~—"Child care article" means a product designed or
2 intended by the manufacturer to facilitate the sleep, relaxation,
3 or feeding of children or to help children with sucking or
4 teething.

5 (F) ~~(b)~~—"Children" means individuals who are 7–12 years old or
6 younger.

7 (G) "CHILDREN'S PRODUCT" MEANS A CONSUMER PRODUCT INTENDED
8 PRIMARILY FOR USE BY CHILDREN, OR FOR THE CARE OF CHILDREN, SUCH AS
9 BABY PRODUCTS, CAR SEATS, PERSONAL CARE PRODUCTS, TOYS, AND
10 CLOTHING, AND ANY CONSUMER PRODUCT CONTAINING A CHEMICAL OF HIGHEST
11 CONCERN THAT WHEN USED OR DISPOSED OF WILL LIKELY RESULT IN A CHILD
12 OR A FETUS BEING EXPOSED TO THAT CHEMICAL.

13 (H) ~~(e)~~—"Consumer" means that term as used in the consumer
14 product safety act, 15 USC 2051 to ~~2085–2089~~.

15 (I) "CONSUMER PRODUCT" MEANS ANY ITEM SOLD FOR RESIDENTIAL OR
16 COMMERCIAL USE, INCLUDING ANY COMPONENT PARTS AND PACKAGING.
17 CONSUMER PRODUCT DOES NOT INCLUDE A DRUG OR BIOLOGIC REGULATED BY
18 THE UNITED STATES FOOD AND DRUG ADMINISTRATION, A FOOD OR BEVERAGE
19 OR AN ADDITIVE TO A FOOD OR BEVERAGE, A TOBACCO PRODUCT, OR A
20 PESTICIDE REGULATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
21 AGENCY, EXCEPT THAT CONSUMER PRODUCT MAY INCLUDE A CONTAINER OR
22 PACKAGING IN WHICH SUCH AN ITEM IS SOLD.

23 (J) "DISTRIBUTOR" MEANS A PERSON WHO SELLS CONSUMER PRODUCTS
24 TO RETAIL ESTABLISHMENTS ON A WHOLESALE BASIS.

25 (K) "MANUFACTURER" MEANS ANY PERSON WHO MANUFACTURES A FINAL
26 CONSUMER PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO THE CONSUMER
27 PRODUCT. IN THE CASE OF A CONSUMER PRODUCT THAT IS IMPORTED INTO

1 THE UNITED STATES, MANUFACTURER INCLUDES THE IMPORTER OR DOMESTIC
2 DISTRIBUTOR OF THE CONSUMER PRODUCT IF THE PERSON WHO MANUFACTURED
3 OR ASSEMBLED THE CONSUMER PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO
4 THE CONSUMER PRODUCT DOES NOT HAVE A PRESENCE IN THE UNITED STATES.

5 (I) "PERSISTENT" MEANS A HALF-LIFE IN WATER, SEDIMENT, OR BIOTA
6 OF GREATER THAN 7 DAYS, AS DEFINED IN THE GREAT LAKES BINATIONAL
7 TOXICS STRATEGY AS DEVELOPED BY THE UNITED STATES ENVIRONMENTAL
8 PROTECTION AGENCY.

9 (M) ~~(d)~~—"Person" means an individual, partnership,
10 corporation, association, governmental entity, or other legal
11 entity.

12 (N) "SAFER ALTERNATIVE" MEANS AN ALTERNATIVE THAT, WHEN
13 COMPARED TO A CHEMICAL OF CONCERN THAT IT COULD REPLACE, WOULD
14 REDUCE THE POTENTIAL FOR HARM TO HUMAN HEALTH OR THE ENVIRONMENT OR
15 THAT HAS NOT BEEN SHOWN TO POSE THE SAME OR GREATER POTENTIAL FOR
16 HARM TO HUMAN HEALTH OR THE ENVIRONMENT AS THAT CHEMICAL OF
17 CONCERN.

18 (O) ~~(e)~~—"Toxic substance" means a substance that contains
19 lead, or a coating on an item that contains lead, so that the lead
20 content is more than 0.06% of the total weight. Toxic substance
21 does not include glass or crystal decorative components.

22 (P) ~~(f)~~—"Toy" means an article designed and made for the
23 amusement of a minor or for the minor's use in play.

24 (Q) "VERY PERSISTENT" MEANS A HALF-LIFE IN WATER, SEDIMENT, OR
25 BIOTA OF GREATER THAN 56 DAYS.

26 (R) "VERY BIOACCUMULATIVE" MEANS A BIOACCUMULATION FACTOR
27 GREATER THAN 5,000.

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 95th Legislature are
3 enacted into law:

4 (a) Senate Bill No.____ or House Bill No.____ (request no.
5 02617'09).

6 (b) Senate Bill No.____ or House Bill No.____ (request no.
7 02689'09).

8 (c) Senate Bill No.____ or House Bill No.____ (request no.
9 02690'09).

10 (d) Senate Bill No.____ or House Bill No.____ (request no.
11 02691'09).

12 (e) Senate Bill No.____ or House Bill No.____ (request no.
13 02692'09).

14 (f) Senate Bill No.____ or House Bill No.____ (request no.
15 02693'09).