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House Bill 4132 (Substitute H-3 as passed by the House)
House Bill 4399 (Substitute H-1 as passed by the House)
Sponsor: Representative Edward Gaffney, Jr. (H.B. 4132)
Representative Lisa Wojno (H.B. 4399)

House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 10-8-07

CONTENT

The bills would add Part 54B (Lead-Bearing Substances) to the Public Health Code to do the following:

- **Prohibit a person from using or applying a lead-bearing substance in or on any children's jewelry in Michigan.**
- **Prohibit a person from selling, offering for sale, or transferring in Michigan any children's jewelry that contained a lead-bearing substance.**
- **Prohibit a person from selling or offering for sale or use in Michigan a lunch box that contained a lead-bearing substance.**
- **Require the Department of Community Health (DCH) to post on its website information about the hazards of lead-bearing substances, as well as educational programs regarding lead-bearing hazards offered by the Department.**
- **Prescribe a civil fine for a violation of Part 54B by someone other than an individual consumer.**

House Bill 4132 (H-1) would take effect 90 days after it was enacted. The bills are tie-barred to each other and to House Bill 4240. House Bill 4240 (H-2) would add Part 54C (Toxic Substances in Children's Products) to the Code to do the following:

- Prohibit a person from using or applying a toxic substance (a substance or coating on an item containing more than 0.06% lead) in or on any toy or child care article in Michigan.
- Prohibit a person from selling, offering for sale, or transferring in Michigan any toy or child care article that contained a toxic substance.
- Prescribe a civil fine for a violation.

House Bill 4132 (H-3)

The bill would prohibit a person from using or applying a lead-bearing substance in or on any children's jewelry in Michigan. The bill also would prohibit a person from selling, offering for sale, or transferring in Michigan any children's jewelry that contained a lead-bearing substance.

"Lead-bearing substance" would mean an item or 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. The term would not include glass or crystal decorative components. "Children's jewelry" would mean jewelry that is made for, marketed for use by, or marketed to children, including all of the following:

- Jewelry represented in its packaging, display, or advertising as appropriate for use by children.
- Jewelry sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children.
- Jewelry sized for children and not intended for use by adults.
- Jewelry sold in a vending machine.
- Jewelry sold in a retail store, catalog, or online website in which a person offers for sale exclusively products that are packaged, displayed, or advertised as appropriate for use by children.
- Jewelry sold in a discrete portion of a retail store, catalog, or online website in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

The DCH would have to post on its website information about the hazards of lead-bearing substances and any programs it offered designed to educate individuals about those hazards.

A person who was not an individual consumer and who violated proposed Part 54B would be subject to the following:

- If the violation were the person's first offense under Part 54B, a civil fine of up to \$100 per item, not to exceed \$5,000 total.
- If the violation were the person's second offense under Part 54B, a civil fine of up to \$500 per item, not to exceed \$25,000 total.
- If the violation were the person's third or subsequent offense under Part 54B, a civil fine of up to \$1,000 per item, not to exceed \$50,000 total.
- If the person knowingly violated Part 54B, a civil fine equal to three times the amounts prescribed for a third or subsequent offense.

House Bill 4399 (H-1)

The bill would prohibit a person from selling or offering for sale or use in Michigan a lunch box that contained a lead-bearing substance. The prohibition would not apply to the sale of a collectible lunch box no longer intended to be used to carry food or drink for human consumption.

"Lunch box" would mean a fabricated container marketed or intended to be used to carry packaged or unpackaged food or drink for human consumption.

Proposed MCL 333.5481 et al. (H.B. 4132)
Proposed MCL 333.5485 (H.B. 4399)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 4132 (H-3)

The bill would impose civil fines for a violation of Chapter 54B, as described above. The bill does not indicate that a violation would constitute a civil infraction. Civil fine revenue that is not collected for civil infractions or specifically dedicated defaults to the General Fund. There are no data to indicate how much revenue would be received under the bill.

House Bill 4399 (H-1)

The Department of Community Health would see a minor increase in cost associated with updating the website.

Fiscal Analyst: David Fosdick
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.