

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

PART 54C.

TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

333.5491 Definitions.

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.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5492 Toxic substance in toy or child care article; prohibited conduct; exception.

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.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5493 Violation; penalties; waiver.

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.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368