



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)*

PART 3. PRODUCT SAFETY [108040 - 109052] (*Part 3 added by Stats. 1995, Ch. 415, Sec. 6.)*

CHAPTER 4. California Hazardous Substances Act [108100 - 108515] (*Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)*

ARTICLE 1. General Provisions and Definitions [108100 - 108225] (*Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)*

108100. This chapter shall be known as the California Hazardous Substances Act.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108105. Unless the provisions or the context otherwise requires, these definitions, rules of construction, and general provisions shall govern the construction of this chapter.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108110. The term "art or craft material" means any raw or processed material or manufactured product marketed or being represented by the manufacturer, repackager or retailer as being suitable for use in any phase of the creation of any work of visual or graphic art of any medium. These mediums may include, but shall not be limited to, paintings, drawings, prints, sculpture, ceramics, enamels, jewelry, stained glass, plastic sculpture, photographs, and leather and textile goods. The term shall not include economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stats. 163) or Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code; or to drugs, devices, or cosmetics, that are subject to the Federal Food, Drug and Cosmetics Act (52 Stats. 1040) or Part 5 (commencing with Section 109875).

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108115. "Department" means the State Department of Health Services.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108120. As used in this chapter, "federal act" means the Federal Hazardous Substances Act (74 Stats. 372; 15 U.S.C., Sec. 1261, et seq.).

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108125. The term "hazardous substance" means:

(a) Any substance or mixture of substances that (1) is toxic, (2) is corrosive, (3) is an irritant, (4) is a strong sensitizer, (5) is flammable or combustible, or (6) generates pressure through decomposition, heat, or other means; if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(b) Any substances that the department by regulation finds pursuant to the provisions of Section 108320 meet the requirements of subdivision (a) of this section.

(c) Any radioactive substance, if, with respect to the substance as used in a particular class of article or as packaged, the department determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this chapter in order to protect the public health.

(d) Any toy or other article intended for use by children that the department determines, by regulation, pursuant to the provisions of Section 108320, presents an electrical, mechanical, or thermal hazard.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

108130. The term “hazardous substance” shall not apply to any of the following:

- (a) Foods, drugs, or cosmetics subject to the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040) or Part 5 (commencing with Section 109875).
- (b) Substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house.
- (c) Source material, special nuclear material, or byproduct material, as defined in the Atomic Energy Act of 1954 (68 Stat. 919), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.
- (d) Fertilizing materials regulated by Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural Code.
- (e) Livestock remedies regulated by Chapter 4 (commencing with Section 14200) of Division 7 of the Food and Agricultural Code.
- (f) Economic poisons regulated by Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code, except as provided in Section 108135.
- (g) Economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163), except as provided in Section 108135.
- (h) Injurious substances as defined and regulated by Article 112 (commencing with Section 5225) of Group 16 of Subchapter 7 of Chapter 4 of Title 8 of the California Code of Regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108135. The term “hazardous substance” shall apply to any article that is not itself an economic poison within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act or Chapter 2 (commencing with Section 12751) of Division 7, of the Food and Agricultural Code, but that is a hazardous substance within the meaning of Section 108125 by reason of bearing or containing an economic poison.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108140. The term “human carcinogen” means any substance listed as a human carcinogen by the International Agency for Research on Cancer.

The term “potential human carcinogen” means one of the following:

- (1) Any substance that does not meet the definition of human carcinogen, but for which there exists sufficient evidence of carcinogenicity in animals, as determined by the International Agency for Research on Cancer.
- (2) Any chemical shown to be changed by the human body into a human carcinogen.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108145. The term “toxic” shall apply to any substance, other than a radioactive substance, that has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108150. The term “toxic substance causing chronic illness” means any of the following:

- (1) Human carcinogens.
- (2) Potential human carcinogens.
- (3) Any substance included in the list of hazardous substances prepared by the Director of Industrial Relations, pursuant to Section 6382 of the Labor Code, notwithstanding exemptions made for substances on the list that are used in particular forms, circumstances, or concentrations, if the health hazard presented by the substance is not the subject of label statements required by federal law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108155. “Highly toxic” means any substance that falls within any of the following categories:

- (a) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner.

(c) Produces death within 14 days in half or more than half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108160. If the department finds that available data on human experience with any substance indicate results different from those obtained on animals with the dosages or concentrations stated in Section 108155, the human data shall take precedence.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108165. "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108170. "Irritant" means any substance not corrosive within the meaning of Section 108165 that on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108175. "Strong sensitizer" means a substance that will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity that becomes evident on reapplication of the same substance and that is designated by the department. Before designating any substance as a strong sensitizer, the department, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108180. The term "extremely flammable" shall apply to any substance that has a flashpoint at or below 20 degrees Fahrenheit, as determined by the Tagliabue open-cup tester, the term "flammable" or "combustible" shall apply to any substance that has a flashpoint of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue open-cup tester, and the term "combustible" shall apply to any substance that has a flashpoint above 80 degrees Fahrenheit to and including 150 degrees, as determined by the Tagliabue open-cup tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the department to be generally applicable to the materials or containers, respectively, and established by regulations issued by it, which regulations shall also define the terms "flammable" and "combustible" and "extremely flammable" in accord with those methods.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108185. "Radioactive substance" means a substance that emits ionizing radiation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108190. "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance or, in the case of an article that is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of the matter directly upon the article involved, or upon a tag or other suitable material affixed thereto, and a requirement made by, or pursuant to, this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless the word, statement, or other information also appears (a) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (b) on all accompanying literature where there are directions for use, written or otherwise.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108195. The term "immediate container" does not include package liners.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108200. The term "misbranded hazardous substance" means a hazardous substance (including a toy or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted) intended, or packaged in a form suitable for use in the household or by children if the packaging or labeling of the substance is in violation of an applicable regulation issued pursuant to Section

108685 or 108700, or if the substance, except as otherwise provided by, or pursuant to, Section 108320, 108355, or 108360, fails to bear a label that states conspicuously, as prescribed in Chapter 8 (commencing with Section 108800): (1) the name and place of business of the manufacturer, packer, distributor, or seller; (2) the common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component that contributes substantially to its hazard, unless the department by regulation permits or requires the use of a recognized generic name; (3) the signal word "DANGER" on substances that are extremely flammable, corrosive, or highly toxic; (4) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (5) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor harmful," "Causes burns," "Absorbed through skin," or similar wording descriptive of the hazard; (6) precautionary measures describing the action to be followed or avoided, except when modified by the department pursuant to Section 108320, 108325, 108330, 108355, or 108360; (7) instructions, when necessary or appropriate, for first aid treatment; (8) the word "Poison" for any hazardous substance that is defined as "highly toxic" by Section 108155; (9) instructions for handling and storage of packages that require special care in handling or storage; and (10) the statement "Keep out of the reach of children," or its practical equivalent, or if the article is intended for use by children and is not a banned hazardous substance, adequate direction for the protection of children from the hazard. The term "misbranded hazardous substance" also includes a household substance as defined in subdivision (b) of Section 108680 if it is a substance described in Section 108125 and its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 108685 or 108700.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108205. The term "banned hazardous substance" means either:

(a) Any toy, or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted.

(b) Any hazardous substance intended or packaged in a form suitable, for use in the household, that the department by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding the cautionary labeling as is or may be required under this chapter for that substance, the degree or nature of the hazard involved in the presence or use of that substance in households is that the objective of the protection of the public health and safety can be adequately served only by keeping that substance, when so intended or packaged, out of the channels of intrastate commerce.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108210. (a) An article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.

(b) An article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness from any of the following:

- (1) Fracture, fragmentation, or disassembly of the article.
- (2) Propulsion of the article or any part or accessory thereof.
- (3) Points or other protrusions, surfaces, edges, openings, or closures.
- (4) Moving parts.
- (5) Lack or insufficiency of controls to reduce or stop motion.
- (6) As a result of self-adhering characteristics of the article.
- (7) Because the article, or any part or accessory thereof, may be aspirated or ingested.
- (8) Because of instability.
- (9) Because of any other aspect of the article's design or manufacture.

(c) An article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108215. The department, by regulation, shall exempt from subdivision (a) of Section 108205 (1) articles such as chemical sets, that by reason of their functional purpose require the inclusion of the hazardous substance involved or necessarily present an electrical,

mechanical, or thermal hazard and that bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed the directions and warnings and (2) fireworks subject to control under Part 2 (commencing with Section 12500) of Division 11.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108220. Proceedings for the issuance, amendment, or repeal of regulations pursuant to subdivision (b) of Section 108205 and Section 108215 shall be in the manner prescribed in Section 108335. If the department, however, finds that the distribution for household use of the hazardous substance involved presents an imminent hazard to the public health, it may by order publish a notice of the findings, and thereupon the substance when intended or offered for household use or when so packaged as to be suitable for that use shall be deemed to be a "banned hazardous substance" pending the completion of proceedings relating to the issuance of the regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

108225. Notwithstanding any other provision of this chapter, no substance or article shall be deemed to violate any provision of this chapter except Article 6 (commencing with Section 108500), if the substance or article complies with federal law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)