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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 3. Prohibitions [108240 - 108305] (*Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)*

108240. The manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, or the introduction into this state from any other state, territory, or the District of Columbia, or from any foreign country, of any package of a misbranded hazardous substance or banned hazardous substance is prohibited.

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

108245. Any person who imports or receives from any other state or territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any other person, any misbranded hazardous substance or banned hazardous substance or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale in the State of California any misbranded hazardous substance or banned hazardous substance, shall be guilty of a misdemeanor punishable as provided in Section 108295.

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

108250. The packing, selling, offering for sale, or keeping for sale of a hazardous substance in a reused food, drug, or cosmetic container or in a container that, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification, is unlawful. Such an act shall result in the hazardous substance being in a misbranded package. As used in this section, the terms "cosmetic," "drug" and "food" shall have the same meaning as in Chapter 1 (commencing with Section 109875) of Part 5.

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

108255. The department may by regulation prohibit the use of any other container for hazardous substances if it determines that the container may be mistaken for a food, drug, or cosmetic container and has a closure that presents a health hazard due to ease of opening.

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

108260. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a hazardous substance is unlawful if the act results in the article being a misbranded hazardous substance or banned hazardous substance.

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

108265. It shall be unlawful to refuse to permit entry or inspection authorized by Section 108370 or to permit access to and copying of any record as authorized by Section 108300.

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

108270. No person shall be prosecuted under this chapter if, after receipt of a hazardous substance, he or she can establish a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded hazardous substance or a banned hazardous substance within the meaning of these terms, as defined by this chapter.

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

108275. If the guarantee is to the effect that the article is not misbranded or banned within the meaning of the Federal Hazardous Substances Act (Public Law 86-813, 74 Stat. 372), it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere.

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

108280. The giving of a guarantee referred to in Section 108270 that is false, is prohibited, except by a person who relied upon a guarantee to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous substance.

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

108285. No person shall be prosecuted under this chapter if the hazardous substance is shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but if the hazardous substance is sold or offered for sale in domestic commerce, this section shall not apply.

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

108290. The use by any person to his or her own advantage, or revealing other than to the department or any agent of the department or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under authority of this chapter concerning any method of process that as a trade secret is entitled to protection is prohibited.

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

108295. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars (\$50) or more than one thousand dollars (\$1,000), or by imprisonment in the county jail for a term not exceeding six months, or by both fine and imprisonment.

If the violation is committed with intent to defraud or mislead, or after a conviction of the person under this section has become final, the person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than two thousand dollars (\$2,000), or both the imprisonment and fine.

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

108300. For the purpose of enforcing this chapter, carriers engaged in commerce, and persons receiving or holding hazardous substances shall upon the request of an agent of the department, permit the agent, at reasonable times, to have access to and to copy all records showing the movement of any hazardous substance, or the holding thereof during or after the movement, and the quantity, shipper, and consignee thereof, provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained, provided, further, that carriers shall not be subject to this chapter by reason of their receipt, carriage, holding, or delivery of hazardous substances in the usual course of business as carriers.

As used in this section, "carrier" means a person engaged in transporting property from one place to another and who has no other interest in the ownership of the property.

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

108305. Before any violation of this chapter is reported to the district attorney of the county, or the prosecuting officer of the city, for institution of a criminal proceeding the person against whom the proceeding is contemplated may be given appropriate notice and an opportunity to present his or her view, either orally or in writing, with regard to each contemplated proceeding.

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