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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 7. Children's Poison Prevention Packaging Act [108750 - 108785] (*Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.*)

108750. This chapter shall be known and may be cited as the Children's Poison Protection Act of 1990.

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

108755. As used in this chapter:

(a) "Household" means any product used under any of the following circumstances:

- (1) Directly on humans or pets.
- (2) In, on, or around any structure, vehicle, article, surface, or area associated with the household, including, but not limited to, nonagricultural outbuildings, noncommercial greenhouses, pleasure boats, and recreational vehicles.
- (3) In or around any preschool or day care facility.

(b) "Liquid" means a liquid preparation that flows readily in its natural state at room temperature containing one or more soluble chemical substances usually dissolved in water or other solvents. "Solvent" includes, but is not limited to, aqueous acids (acetic, hydrochloric, and nitric acids) and nonaqueous solutions (spirits, liniments).

(c) "Toxic household product" means any substance or mixture of substances that are customarily produced or distributed for sale for use in or about the household, or are customarily stored by individuals in or about the household, and the substance or mixture of substances have the capacity to produce significant personal injury or illness to humans when orally ingested in moderate amounts.

"Toxic household product" shall not include any of the following:

- (1) Products that contain hydrocarbons in which the only known toxicity is through lung aspiration of minute amounts and not absorption through the stomach.
- (2) Products that are intended for use in or around the mouth or are reasonably expected to be used orally or ingested.
- (3) Economic poisons packaged in containers of more than one gallon liquid or more than 10 pounds dry weight.
- (4) With the exception of products containing 2.5 percent or more by weight camphor in liquid formulations, any drug, as defined in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) and the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).
- (5) Products that, immediately upon ingestion, cause severe damage or irritation to the mouth or tongue, or are fatal upon a single taste.
- (6) Products packaged in pressurized aerosol containers.
- (7) Products containing ethylene glycol that are described in paragraphs (7), (9), and (38) of subdivision (a) of Section 1500.83 of Part 1500 of Title 16 of the Code of Federal Regulations.

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

108760. (a) Except as provided in subdivision (b), any toxic household product that contains any substance listed in subdivision (a) of Section 108765, and manufactured on and after January 1, 1992, and sold in California, shall include within the product a bittering agent that is nontoxic, in a concentration so as to render the product aversively bitter, unless the product is packaged with child-resistant safety closures in accordance with the federal Poison Prevention Packaging Act of 1970 (15 U.S.C. Sec. 1471 et seq.) and regulations adopted thereunder (16 C.F.R. 1700.1 et seq.).

(b) Any toxic household product that (1) is required to be registered with the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 135 et seq.), (2) is formulated for outdoor or food use economic poisons purposes, and (3) will be reformulated to include a bittering agent, shall comply with subdivision (a) no later than two years from the date when the Environmental Protection Agency has approved a bittering agent for use in outdoor or food use economic poisons.

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

108765. (a) Manufacturers of toxic household products that contain any of the following substances shall comply with Section 108760, unless the manufacturer documents that there are no signs of toxicity at an oral dose of five grams of product per kilogram of body weight, or the product's container, when full, contains a dose less than that which has previously been documented by the manufacturer to be nontoxic:

- (1) Acetonitrile.
- (2) Sodium bromate (600 mg or more).
- (3) Potassium bromate (50 mg or more).
- (4) Carbamates (used in insecticide formulations).
- (5) Chlorinated hydrocarbon insecticides and solvents (5 percent or more by weight).
- (6) Cyanide.
- (7) Diquat.
- (8) Ethylene glycol (10 percent or more by weight).
- (9) Organophosphate insecticides.
- (10) Metaldehyde.
- (11) Methanol (methyl alcohol)(4 percent or more by weight).
- (12) Phenol (10 percent or more by weight).
- (13) Pine oil, in concentrations of 20 percent or more.
- (14) Strychnine formulations.

(b) Due to the lack of long-term testing results for dermal exposure of available bittering agents, manufacturers of toxic household products that contain any of the following substances in liquid formulations shall, in lieu of complying with Section 108760, package their products with child-resistant safety closures in accordance with the federal Poison Prevention Packaging Act of 1970 (15 U.S.C. Sec. 1471 et seq.) and regulations adopted thereunder (16 C.F.R. 1700.1 et seq.):

- (1) Camphor (2.5 percent or more by weight).
- (2) Diethyltoluamide (5 percent or more by weight).
- (3) Ethylhexanediol (5 percent or more by weight).

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

108770. (a) It is unlawful for any person to distribute or sell a toxic household product or cause a toxic household product to be distributed or sold in this state if it does not meet the requirements of this chapter.

(b) The prohibition contained in subdivision (a) shall not apply to a person engaged in the business of wholesale or retail distribution of a toxic household product, unless the person is engaged in the manufacture of the product, or has knowledge that a toxic household product that he or she is distributing or selling is in violation of this chapter.

(c) Nothing in this section shall be construed to exempt a distributor of a house brand from any provision of this chapter.

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

108775. (a) Any person may bring a civil action in a court of competent jurisdiction to enforce the requirements of this chapter. The court may grant injunctive relief in any action brought pursuant to this section.

(b) Exemplary damages, as provided for in Section 3294 of the Civil Code, may also be awarded in any action brought pursuant to this section.

(c) Whenever the person bringing the action pursuant to this section is the prevailing party, he or she shall be awarded attorney's fees and costs by the court.

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

108780. Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each day of violation, that shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction.

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

108785. All civil penalties collected pursuant to Section 108780 shall be deposited in the Children's Poison Protection Act of 1990 Fund, that is hereby created in the State Treasury. Money in the fund shall be allocated by the Emergency Medical Services Authority, when appropriated thereto by the Legislature, to the California Regional Poison Control Centers for the purpose of their poisoning prevention education programs.

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