

SUBSTITUTE FOR  
HOUSE BILL NO. 4240

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding part 54C.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1                   PART 54C. TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

2                   SEC. 5491. AS USED IN THIS PART:

3                   (A) "CHILD CARE ARTICLE" MEANS A PRODUCT DESIGNED OR INTENDED  
4 BY THE MANUFACTURER TO FACILITATE THE SLEEP, RELAXATION, OR FEEDING  
5 OF CHILDREN OR TO HELP CHILDREN WITH SUCKING OR TEETHING.

6                   (B) "CHILDREN" MEANS INDIVIDUALS WHO ARE 7 YEARS OLD OR  
7 YOUNGER.

8                   (C) "CONSUMER" MEANS THAT TERM AS USED IN THE CONSUMER PRODUCT  
9 SAFETY ACT, 15 USC 2051 TO 2085.

1 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

3 (E) "TOXIC SUBSTANCE" MEANS A SUBSTANCE THAT CONTAINS LEAD, OR  
4 A COATING ON AN ITEM THAT CONTAINS LEAD, SO THAT THE LEAD CONTENT  
5 IS MORE THAN 0.06% OF THE TOTAL WEIGHT. TOXIC SUBSTANCE DOES NOT  
6 INCLUDE GLASS OR CRYSTAL DECORATIVE COMPONENTS.

7 (F) "TOY" MEANS AN ARTICLE DESIGNED AND MADE FOR THE AMUSEMENT  
8 OF CHILDREN OR FOR CHILDREN'S USE IN PLAY.

9 SEC. 5492. (1) A PERSON SHALL NOT USE OR APPLY A TOXIC  
10 SUBSTANCE IN OR ON ANY TOY OR CHILD CARE ARTICLE IN THIS STATE.

11 (2) A PERSON SHALL NOT SELL, OFFER FOR SALE, OR TRANSFER ANY  
12 TOY OR CHILD CARE ARTICLE IN THIS STATE THAT CONTAINS A TOXIC  
13 SUBSTANCE.

14 SEC. 5493. A PERSON WHO VIOLATES THIS PART IS SUBJECT TO THE  
15 FOLLOWING:

16 (A) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE  
17 VIOLATION IS THE PERSON'S FIRST OFFENSE UNDER THIS PART, A CIVIL  
18 FINE OF NOT MORE THAN \$100.00 PER ITEM NOT TO EXCEED \$5,000.00  
19 TOTAL.

20 (B) IF A PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE  
21 VIOLATION IS THE PERSON'S SECOND OFFENSE UNDER THIS PART, A CIVIL  
22 FINE OF NOT MORE THAN \$500.00 PER ITEM NOT TO EXCEED \$25,000.00  
23 TOTAL.

24 (C) IF THE PERSON IS NOT AN INDIVIDUAL CONSUMER AND THE  
25 VIOLATION IS THE PERSON'S THIRD OR SUBSEQUENT OFFENSE UNDER THIS  
26 PART, A CIVIL FINE OF NOT MORE THAN \$1,000.00 PER ITEM NOT TO  
27 EXCEED \$50,000.00 TOTAL.

1           (D) IF A PERSON KNOWINGLY VIOLATES THIS PART AND THE PERSON IS  
2 NOT AN INDIVIDUAL CONSUMER, A CIVIL FINE EQUAL TO 3 TIMES THE  
3 AMOUNTS IN SUBDIVISION (C).

4           Enacting section 1. This amendatory act takes effect 90 days  
5 after the date it is enacted.

6           Enacting section 2. This amendatory act does not take effect  
7 unless all of the following bills of the 94th Legislature are  
8 enacted into law:

9           (a) House Bill No. 4132.

10          (b) House Bill No. 4399.