

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4132

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 54B. LEAD-BEARING SUBSTANCES

2 SEC. 5481. AS USED IN THIS PART:

3 (A) "CHILDREN" MEANS INDIVIDUALS WHO ARE 7 YEARS OLD OR
4 YOUNGER.

5 (B) "CONSUMER" MEANS THAT TERM AS USED IN THE CONSUMER PRODUCT
6 SAFETY ACT, 15 USC 2051 TO 2085.

7 (C) "CHILDREN'S JEWELRY" MEANS JEWELRY THAT IS MADE FOR,
8 MARKETED FOR USE BY, OR MARKETED TO CHILDREN, INCLUDING, BUT NOT
9 LIMITED TO, THE FOLLOWING:

1 (i) JEWELRY REPRESENTED IN ITS PACKAGING, DISPLAY, OR
2 ADVERTISING AS APPROPRIATE FOR USE BY CHILDREN.

3 (ii) JEWELRY SOLD IN CONJUNCTION WITH, ATTACHED TO, OR PACKAGED
4 TOGETHER WITH OTHER PRODUCTS THAT ARE PACKAGED, DISPLAYED, OR
5 ADVERTISED AS APPROPRIATE FOR USE BY CHILDREN.

6 (iii) JEWELRY SIZED FOR CHILDREN AND NOT INTENDED FOR USE BY
7 ADULTS.

8 (iv) JEWELRY SOLD IN A VENDING MACHINE.

9 (v) JEWELRY SOLD IN A RETAIL STORE, CATALOG, OR ONLINE WEBSITE
10 IN WHICH A PERSON EXCLUSIVELY OFFERS FOR SALE PRODUCTS THAT ARE
11 PACKAGED, DISPLAYED, OR ADVERTISED AS APPROPRIATE FOR USE BY
12 CHILDREN.

13 (vi) JEWELRY SOLD IN A DISCRETE PORTION OF A RETAIL STORE,
14 CATALOG, OR ONLINE WEBSITE IN WHICH A PERSON OFFERS FOR SALE
15 PRODUCTS THAT ARE PACKAGED, DISPLAYED, OR ADVERTISED AS APPROPRIATE
16 FOR USE BY CHILDREN.

17 (D) "LEAD-BEARING SUBSTANCE" MEANS AN ITEM OR SUBSTANCE THAT
18 CONTAINS LEAD, OR A COATING ON AN ITEM THAT CONTAINS LEAD, SO THAT
19 THE LEAD CONTENT IS MORE THAN 0.06% OF THE TOTAL WEIGHT. LEAD-
20 BEARING SUBSTANCE DOES NOT INCLUDE GLASS OR CRYSTAL DECORATIVE
21 COMPONENTS.

22 (E) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
23 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

24 SEC. 5482. A PERSON SHALL NOT USE OR APPLY A LEAD-BEARING
25 SUBSTANCE IN OR ON ANY CHILDREN'S JEWELRY IN THIS STATE.

26 SEC. 5483. A PERSON SHALL NOT SELL, OFFER FOR SALE, OR
27 TRANSFER TO ANY PERSON ANY CHILDREN'S JEWELRY IN THIS STATE THAT

1 CONTAINS A LEAD-BEARING SUBSTANCE.

2 SEC. 5484. THE DEPARTMENT SHALL POST ON ITS WEBSITE
3 INFORMATION ABOUT THE HAZARDS OF LEAD-BEARING SUBSTANCES AND ANY
4 PROGRAMS IT OFFERS DESIGNED TO EDUCATE INDIVIDUALS ABOUT THOSE
5 HAZARDS.

6 SEC. 5486. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
7 A PERSON WHO VIOLATES THIS PART IS SUBJECT TO THE FOLLOWING:

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

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

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

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

23 (2) A CIVIL FINE IMPOSED UNDER THIS SECTION SHALL BE WAIVED IF
24 IT IS DETERMINED THAT A PERSON ACTED IN GOOD FAITH TO BE IN
25 COMPLIANCE WITH THIS PART, PURSUED COMPLIANCE WITH DUE DILIGENCE,
26 AND PROMPTLY CORRECTED ANY NONCOMPLIANCE AFTER DISCOVERY OF THE
27 VIOLATION.

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

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

6 (a) Senate Bill No. 174.

7 (b) House Bill No. 4399.

8 (c) House Bill No. 4936.