

Act No. 161
Public Acts of 2007
Approved by the Governor
December 20, 2007
Filed with the Secretary of State
December 21, 2007
EFFECTIVE DATE: March 20, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Rep. Gaffney

ENROLLED HOUSE BILL No. 4132

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding part 54B.

The People of the State of Michigan enact:

PART 54B. LEAD-BEARING SUBSTANCES

Sec. 5481. As used in this part:

- (a) "Children" means individuals who are 7 years old or younger.
- (b) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.
- (c) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children, including, but not limited to, the following:
 - (i) Jewelry represented in its packaging, display, or advertising as appropriate for use by children.
 - (ii) Jewelry sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children.
 - (iii) Jewelry sized for children and not intended for use by adults.
 - (iv) Jewelry sold in a vending machine.
 - (v) Jewelry sold in a retail store, catalog, or online website in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.
 - (vi) Jewelry sold in a discrete portion of a retail store, catalog, or online website in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(d) "Lead-bearing substance" means an item or substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Lead-bearing substance does not include glass or crystal decorative components.

(e) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

Sec. 5482. A person shall not use or apply a lead-bearing substance in or on any children's jewelry in this state.

Sec. 5483. A person shall not sell, offer for sale, or transfer to any person any children's jewelry in this state that contains a lead-bearing substance.

Sec. 5484. The department shall post on its website information about the hazards of lead-bearing substances and any programs it offers designed to educate individuals about those hazards.

Sec. 5486. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than \$100.00 per item, not to exceed \$5,000.00 total.

(b) If the person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than \$500.00 per item, not to exceed \$25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than \$1,000.00 per item, not to exceed \$50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

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

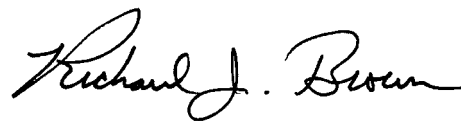
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 174.

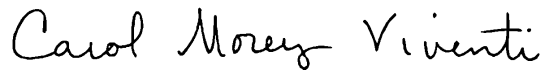
(b) House Bill No. 4399.

(c) House Bill No. 4936.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor