

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Cadmium-Safe Kids Act.

Section 5. Legislative findings. The General Assembly finds:

(1) Children's jewelry that could expose children to high levels of accessible cadmium could cause potential harm to children's health and the environment.

(2) Because children's bodies are growing and developing, they are especially vulnerable to the effects of toxic chemicals.

(3) To protect children's health, it is important to limit children's exposure to accessible cadmium in children's jewelry and to determine whether further action is required.

Section 10. Definitions. In this Act:

"Agency" means the Illinois Environmental Protection Agency.

"Body piercing jewelry" means any part of jewelry that is manufactured or sold for placement in a new piercing or a mucous membrane, but does not include any part of that jewelry

that is not placed within a new piercing or a mucous membrane.

"Children's jewelry" means jewelry that is made, marketed, or designed for or intended primarily for use by children under the age of 12 and includes jewelry that meets any of the following conditions:

(1) represented in its packaging, display, or advertising as appropriate for use by children under the age of 12;

(2) sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(3) sized for children and not intended for use by adults; or

(4) sold in any of the following:

(i) a vending machine;

(ii) a retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) a discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

"Children's jewelry" does not include any product category for which an existing federal standard regulates cadmium exposure in surface coatings and accessible substrate

materials as required under ASTM International Consumer Safety Specification for Toy Safety, ASTM Standard F-963, or subsequent versions of this standard.

"Distributor" means a person who sells products to retail establishments on a wholesale basis.

"Jewelry" means any of the following ornaments worn by a person:

- (A) Ankle bracelet.
- (B) Arm cuff.
- (C) Bracelet.
- (D) Brooch.
- (E) Chain.
- (F) Crown.
- (G) Cuff link.
- (H) Hair accessory.
- (I) Earring.
- (J) Necklace.
- (K) Decorative pin.
- (L) Ring.
- (M) Body piercing jewelry.
- (N) Jewelry placed in the mouth for display ornament.
- (O) Charm, bead, chain, link, pendant, or any other component of the items listed in this definition.
- (P) Charm, bead, chain, link, pendant, or any other attachment to shoes or clothing that can be removed and may be used as a component of an item listed in this

definition.

(Q) Watch, if the timepiece is a component of an item list in this definition, excluding the timepiece itself if the timepiece can be removed from the ornament.

"Manufacturer" means the person who manufactured a final product. In the case of a product that was imported into the United States, "manufacturer" includes the importer or domestic distributor of the product if the person who manufactured the product does not have a presence in the United States.

Section 15. Regulation of cadmium in children's jewelry. No person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this State children's jewelry containing cadmium in any paint or surface coating or accessible substrate that exceeds 75 parts per million, as determined through solubility testing for heavy metals defined in the ASTM International Safety Specification on Toy Safety, ASTM Standard F-963, and subsequent versions of this standard, unless superseded by a federal standard applicable to children's jewelry. This Section only applies to products that are manufactured after July 1, 2011.

Section 20. Interstate clearinghouse. The Agency is authorized to participate, along with other states and governmental entities, in an interstate clearinghouse to

promote safer chemicals in consumer products. The Agency may cooperate with the interstate clearinghouse to (i) organize and manage available data on chemicals, including information on uses, hazards, environmental concerns, safer alternatives, and model policies and programs, (ii) provide technical assistance regarding chemical safety to businesses, consumers, and policy makers, and (iii) undertake other activities in support of State programs to promote chemical safety.

Section 25. Implementation and exemption.

(a) A manufacturer of children's jewelry restricted under this Act must notify persons that sell the manufacturer's products in this State about the provisions of this Act no less than 90 days before the effective date of the restrictions. A manufacturer that sells or distributes children's jewelry prohibited from sale or distribution under this Act shall recall the product and reimburse the retailer or any other purchaser for the product.

(b) A retailer who unknowingly sells a product that is restricted from sale under this Act is not liable under this Act.

Section 30. Enforcement and penalties.

(a) The Attorney General is responsible for administering and ensuring compliance with this Act, including the development and adoption of any rules, if necessary, for the

implementation and enforcement of this Act.

(b) The Attorney General shall develop and implement a process for receiving and handling complaints from individuals regarding possible violations of this Act.

(c) The Attorney General may conduct any investigation deemed necessary regarding possible violations of this Act including, without limitation, the issuance of subpoenas to: (i) require the filing of a statement or report or answer interrogatories in writing as to all information relevant to the alleged violations; (ii) examine under oath any person who possesses knowledge or information directly related to the alleged violations; and (iii) examine any record, book, document, account, or paper necessary to investigate the alleged violation.

(d) Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made:

(1) personally by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided in the Code of Civil Procedure when a complaint is filed; or

(2) by mailing by certified mail a duly executed copy thereof to the person to be served at his or her last known abode or principal place of business within this State.

(e) If the Attorney General determines that there is a reason to believe that a violation of the Act has occurred,

then the Attorney General may bring an action in the name of the People of the State to obtain temporary, preliminary, or permanent injunctive relief for any act, policy, or practice that violates this Act.

(f) If any person fails or refuses to file any statement or report, or obey any subpoena, issued pursuant to subsection (c) of this Section, then the Attorney General may proceed to initiate a civil action pursuant to subsection (e) of this Section, or file a complaint in the circuit court for the granting of injunctive relief, including restraining the conduct that is alleged to violate this Act until the person files the statement or report, or obeys the subpoena.

(g) Relief that may be granted.

(1) In any civil action brought pursuant to subsection (e) of this Section, the Attorney General may obtain as a remedy, equitable relief (including any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in a violation or ordering any action as may be appropriate). In addition, the Attorney General may request and the Court may impose a civil penalty in an amount not to exceed \$50,000 for each violation. For purposes of this subsection, each item and each standard constitutes a separate violation.

(2) A civil penalty imposed or a settlement or other payment made pursuant to this Act shall be made payable to

the Attorney General's State Projects and Court Ordered Distribution Fund, which is created as a special fund in the State Treasury. Money in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties of the Attorney General including but not limited to enforcement of any law of this State, product testing, and conducting public education programs.

(3) Any funds collected under this Section in an action in which the State's Attorney has prevailed shall be retained by the county in which he or she serves.

(h) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act shall bar a cause of action by the State for any other penalty, injunction, or relief provided by any other law.

Section 90. The State Finance Act is amended by adding Section 5.756 as follows:

(30 ILCS 105/5.756 new)

Sec. 5.756. The Attorney General's State Projects and Court Ordered Distribution Fund.

Section 99. Effective date. This Act takes effect upon becoming law.