
HOUSE BILL No. 1166

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-27.

Synopsis: Resale or donation of items with lead paint. Prohibits a retailer or distributor from selling, reselling, distributing, or donating toys or child care articles that have been recalled because of federal lead paint limits. Requires a retailer or distributor to remove a recalled product from availability for purchase or distribution from the retailer or distributor not later than 24 hours after being notified of the recall because of lead paint. Subjects a violator to the same penalties and actions as a person who commits a deceptive act. Provides an affirmative defense for consignment shops and resale stores.

Effective: July 1, 2011.

Kersey

January 10, 2011, read first time and referred to Committee on Public Health.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1166



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-27 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]:

4 **Chapter 27. Removal of Recalled Products**

5 **Sec. 1. As used in this chapter, "child care article" means a**
6 **product designed or intended by the manufacturer to:**

- 7 (1) **facilitate the sleep, relaxation, or feeding of a child; or**
- 8 (2) **help a child with sucking or teething.**

9 **Sec. 2. As used in this chapter, "recalled product" means a toy**
10 **or child care article that has been recalled from sale:**

- 11 (1) **by the order of a court or a regulatory body; or**
 - 12 (2) **voluntarily by the manufacturer, distributor, or retailer;**
- 13 **because of lead paint limits set forth in 15 U.S.C. 1278a(a)(2).**

14 **Sec. 3. As used in this chapter, "toy" means an article designed**
15 **and made for the amusement of a child or for the child's use in**
16 **play.**

17 **Sec. 4. (a) A retailer or distributor may not sell, resell,**



1 distribute, or donate a recalled product.
 2 (b) A retailer or distributor shall remove a recalled product
 3 from availability for purchase or distribution from the retailer or
 4 distributor not later than twenty-four (24) hours after receiving
 5 notification from a:
 6 (1) court;
 7 (2) regulatory body; or
 8 (3) manufacturer, distributor, or retailer, if the recall was
 9 voluntary;
 10 that the product is a recalled product.
 11 Sec. 5. (a) A retailer or distributor that:
 12 (1) sells, resells, distributes, or donates a recalled product; or
 13 (2) fails to remove a recalled product from availability for
 14 purchase or distribution from the retailer or distributor;
 15 not later than twenty-four (24) hours after receiving notification
 16 that the product is a recalled product, as required by section 4 of
 17 this chapter, is subject to the same penalties and actions that a
 18 person who commits a deceptive act is subject to under IC 24-5-0.5.
 19 (b) A consignment or resale store shall make a reasonable effort
 20 to determine if any product the consignment or resale store has for
 21 sale is a recalled product.
 22 (c) It is a defense to an action brought under subsection (a) for
 23 a consignment or resale store if there is no identifying information
 24 or packaging on a recalled product.

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