

1969 Senate Bill 395

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CHAPTER 266, LAWS OF 1969

AN ACT to amend 97.71 (title), (1) (a) 1 and 4, (i) and (k) (intro.) and (2) (b); and to create 97.71 (2) (d) and (3) (d) of the statutes, relating to hazardous substances.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 97.71 (title) of the statutes is amended to read:
97.71 (title) HAZARDOUS SUBSTANCES ACT.

SECTION 2. 97.71 (1) (a) 1 and 4, (i) and (k) (intro.) of the statutes are amended to read:

97.71 (1) (a) 1. Any substance or mixture of substances, *including a toy or other article intended for use by children*, which is toxic, is corrosive, is an irritant, is a strong sensitizer, is flammable or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

4. "Hazardous substance" shall not apply to ~~economic poisons~~ *pesticides* subject to ss. 94.67 to 94.71, to foods, drugs and cosmetics, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house, nor shall it include any source material, special nuclear material or by-product material as defined in the atomic energy act of 1954, as amended, and regulations issued pursuant thereto by the atomic energy commission.

(i) "Label" means a display of written, printed or graphic matter upon the immediate container of any substance *or upon an article or tag attached thereto in the case of unpackaged articles*; and a requirement made by or under authority of this section that any word, statement or other information ~~appears~~ *appear* on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if there is any, unless it is easily legible through the outside container or wrapper, and on all accompanying literature where there are directions for use, written or otherwise.

(k) (intro.) "Misbranded package" or "misbranded package of a

hazardous substance" means a hazardous substance in a container intended or suitable for household use, *and includes a toy or other article intended for use by children whether or not in package form*, which, except as otherwise provided under sub. (2), fails to bear a label:

SECTION 3. 97.71 (2) (b) of the statutes is amended to read:

97.71 (2) (b) If the department finds that the requirements of sub. (1) (k) 1 are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance, it may by rule establish such reasonable variations or additional label requirements as it finds necessary for the protection of the public health and safety; and any ~~container of such~~ hazardous substance, intended or suitable for household use, *or toy or other article intended for use by children*, which fails to bear a label in accordance with such rules is deemed to be a misbranded package of a hazardous substance.

SECTION 4. 97.71 (2) (d) and (3) (d) of the statutes are created to read:

97.71 (2) (d) The department may by rule prohibit the sale of a hazardous substance if it finds that notwithstanding cautionary labeling that is or may be required the degree or nature of the hazard involved in the presence or use of such substance is such that the public health and safety can only be protected by keeping such substance out of the channels of commerce in this state.

(3) (d) The sale of any substance which the department has prohibited under sub. (2) (d).

Approved November 25, 1969.
