

**LOCAL LAW NO. "P" FOR 2015**

**A LOCAL LAW TO PROTECT INFANTS AND CHILDREN FROM HARMFUL HEALTH EFFECTS OF UNNECESSARY EXPOSURE TO TOXIC CHEMICALS**

Introduced: 10/13/15

By Messrs. Clenahan, Beston, Bullock, Clay, Commisso, Corcoran, Cotrofeld, Domalewicz, Feeney, Higgins, Jacobson, Ms. Kinsch., Mr. Mayo, Mss. McKnight, McLean Lane, Messrs. Rahm, Reilly, Simpson, Ward, and Mss. Maffia-Tobler, Connolly and Mr. Joyce:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, as follows:

Local Law 1 for 2015 be amended to read as follows:

Section 1. Legislative Intent.

The Legislature hereby finds and determines that there are chemicals of high concern for the environment and human health, as have been determined by many authoritative government bodies, including the state of Maine Article 38 MRSA Chapter 16-D, *Toxic Chemicals in Children's Products*, as of September 1, 2011.

The Legislature finds that within this list of chemicals of high concern, several are known to be toxic and carcinogenic, including benzene, lead, mercury, antimony, arsenic, cadmium, and cobalt.

This Legislature finds and determines that many common children's products contain these toxic chemicals and known carcinogens.

The Legislature finds that exposure to benzene can cause harmful effects to the blood and a decrease in red blood cells, and can cause cancer in humans.

The Legislature finds that lead can contaminate drinking water supplies and cause brain damage, hyperactivity, anemia, liver and kidney damage, developmental delays, lowered IQ, poor impulse control, and even death.

The Legislature finds that mercury can contaminate fish and other wildlife and cause damage to brain development, impacts on cognitive thinking, a decrease in fine motor and visual special skills, and muscle weakness.

The Legislature finds that antimony can cause respiratory and cardiovascular damage, skin disorders, and gastrointestinal disorders.

The Legislature finds that arsenic can cause skin lesions, cancer, developmental delays, neurotoxicity, diabetes, cardiovascular disease, and lung cancer.

The Legislature finds that cobalt, while an essential element as a constituent of vitamin B12, can cause cardiomyopathy and gastrointestinal effects from chronic oral exposure.

The Legislature finds that cadmium can result in kidney disease, bronchiolitis, emphysema, and damage to the liver, lungs, bone, immune system, blood, and nervous system.

This Legislature further finds and determines that several states, localities and the federal government are considering a ban on these seven chemicals in children's products.

This Legislature finds that, in the absence of such Federal and New York State enacted laws, Albany County is committed to protecting the environment and the public health and welfare of our County's infants and children whose growing bodies are vulnerable to the health hazards caused by these seven chemicals.

Therefore, the purpose of this local law is to protect infants and young children from their harmful health effects.

#### Section 2. Title.

This Local Law shall be known as "The Toxic Free Toys Act."

#### Section 3. Definitions.

As used in this law, the following terms shall have the meanings indicated:

- A) "Children's Apparel" means any item of clothing that consists of fabric or related material intended or promoted for use in children's clothing.
- B) "Children's Product" means any product primarily intended for, made for, or marketed for use by children. Children's product does not mean batteries, consumer electronics or electronic components, paper products, or a drug, biologic, medical device, food, or food additive regulated by the US Food and Drug Administration.
- C) "Children" means a person or persons aged twelve and under.
- D) "Person" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of business of any kind.
- E) "PPM" means parts per million total content.

#### Section 4. Prohibitions.

No person shall sell or offer for sale children's products or children's apparel within the County of Albany that contain:

- A) Benzene above 100 PPM;
- B) Lead above 100 PPM of total lead content in accessible parts or above 90 PPM in paint or any similar surface coating;
- C) Mercury above 60 PPM of total content per chemical;
- D) Antimony above 60 PPM of total content per chemical;
- E) Cadmium above 75 PPM of total cadmium content;
- F) Arsenic above 25 PPM of total content per chemical; or
- G) Cobalt above 40 PPM of total content per chemical.

This shall not apply to used children's products that are sold or distributed for free at secondhand stores, yard sales, on the internet or donated to charities. This shall also not apply to protective sporting equipment designed to prevent injury, including but not limited to helmets, athletic supporters, knee pads or elbow pads.

Whenever the Federal Government under the Consumer Product Safety Improvement Act, the Federal Hazardous Substances Act, or the Consumer Product Safety Act has issued a final rule setting a children's product safety standard prescribing any requirements as to the performance, composition, contents, design finish, construction, packaging, or labeling that is in effect and enforceable and that applies to a risk of injury associated with such children's product, including the presence of a specific chemical in a children's product or the test methods required to be used to determine conformance with the standard, the applicable Federal standard shall be used in lieu of the standards set forth in this Section for the specific chemical or product, unless the State of New York or the County of Albany, as a political subdivision of the State, obtains a ruling from the Consumer Product Safety Commission that the standards established by the State or by the County in this section are exempt pursuant to the Consumer Product Safety Act, Title 15, Chapter 47, Section 2075 from the requirement of identity with the Federal standards.

#### Section 5. Enforcement.

This law shall be enforced by the Albany County Department of Health

in accordance with the provisions of the Albany County Charter and Code.

#### Section 6. Authority to Promulgate Rules and Regulations.

The Commissioner of the Albany County Department of Health (the “Commissioner”) is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law. The Commissioner may exempt a children’s product from this prohibition if, in the Commissioner’s judgment, the lack of availability of the children’s product could pose an unreasonable risk to public health, safety or welfare.

#### Section 7. Penalties.

Any person who knowingly violates the provisions of this law [or reasonably should know that he/she is in violation of the provisions of this law] shall be subject to an initial civil penalty of five hundred dollars (\$500) per violation of the law and a penalty of one thousand dollars (\$1,000) per each subsequent violation.

#### Section 8. Applicability.

This law shall apply to any and all actions occurring on or after the effective date of Local Law 1 for 2015.

#### Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### Section 10. State Environmental Quality Review Act compliance.

This County Legislature determines that the foregoing action constitutes a “Type II action” as said term is defined in the State Environmental Quality Review Act (“SEQRA”), and that no further action with respect to same is required under SEQRA.

#### Section 11. Effective Date.

This law shall take effect July 1, 2016.

*On roll call vote the following voted in favor: Messrs. Beston, Bullock, Ms.*

*Chapman, Messrs. Clay, Clenahan, Commisso, Corcoran, Cotrofeld, Crouse, Dawson, Domalewicz, Ethier, Feeney, Higgins, Hogan, Jacobson, Joyce, Ms. Lockart, Messrs. Mackey, Mayo, Ms. McKnight, Messrs. Nichols, O'Brien, Rahm, Reilly, Simpson and Ward – 27.*

*Those opposed: - 0.*

*Local Law was adopted. 12/28/15*