

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 835

Introduced by Preister, 5; Aguilar, 35; Howard, 9; Hudkins, 21;
Kopplin, 3; Wallman, 30.

Read first time January 10, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children; to define terms; to prohibit
2 transfer of certain items containing a toxic substance;
3 to provide penalties; and to provide severability.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 3 of this act:

2 (1) Child care article means a product designed or
3 intended by the manufacturer to facilitate the sleep, relaxation,
4 or feeding of children or to help children with sucking or
5 teething;

6 (2) Child means an individual seven years of age or
7 younger;

8 (3) Consumer means an individual who purchases or uses a
9 child care article for the intended purpose;

10 (4) Person means an individual, partnership, corporation,
11 association, governmental entity, or other legal entity;

12 (5) Toxic substance means a substance with a lead content
13 of more than six-one-hundredths of one percent of the total weight
14 of the substance. Toxic substance does not include glass or crystal
15 decorative components; and

16 (6) Toy means an article designed and made for the
17 amusement of children or for children's use in play.

18 Sec. 2. (1) No person shall use or apply a toxic
19 substance in or on any toy or child care article in this state.

20 (2) No person shall sell, offer for sale, or transfer
21 any toy or child care article in this state which contains a toxic
22 substance.

23 Sec. 3. (1) A person, other than an individual consumer,
24 who violates section 2 of this act is subject to the following:

25 (a) For a first offense, a civil fine of not more than

1 one hundred dollars per item, not to exceed a total of five
2 thousand dollars;

3 (b) For a second offense, a civil fine of not more than
4 five hundred dollars per item, not to exceed a total of twenty-five
5 thousand dollars; and

6 (c) For a third or subsequent offense, a civil fine of
7 not more than one thousand dollars per item, not to exceed a total
8 of fifty thousand dollars.

9 (2) If a person who is not a consumer knowingly violates
10 such section, a civil fine equal to three times the amounts in
11 subsection (1) of this section shall be imposed on such person.

12 Sec. 4. If any section in this act or any part of any
13 section is declared invalid or unconstitutional, the declaration
14 shall not affect the validity or constitutionality of the remaining
15 portions.