

SENATE
S. B. No. 1235

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution provides that:

Article 2, Section 14. The State shall protect and promote the right to health of the people and instill health consciousness among them.

Article 2, Section 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

The management of solid waste can pose a wide range of hazards to public health and safety and to the environment. Packaging comprises a significant percentage of the overall solid waste stream. The presence of heavy metals in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled.

Lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern. It is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging.

The purpose of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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AN ACT
TO PROVIDE FOR THE REDUCTION OF METALS IN PACKAGING.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

SECTION 1. *Short Title.* - This Act shall be known as the "Reduction of Metals in Packaging Act"

SECTION 2. *Definitions.* - As used in this Act, the term:

(1) "package" means a container providing a means of marketing, protecting, or handling a product and includes a unit package, an intermediate package, and a shipping container as defined in ASTM D996, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs;

(2) "distributor" means any person, firm, or corporation who takes title to goods purchased for resale;

(3) "packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels;

(4) "Department" means the Department of Trade and Industry; and

(5) "Secretary" means the Secretary of the Department of Trade and Industry.

SECTION 3. *Prohibition/Schedule For Removal Of Incidental Amounts.* - (a) The Secretary of the Department of Trade and Industry shall issue such regulations as may be

necessary to require, not later than 2 years after the date of the enactment of this Act, that no package or packaging component shall be offered for sale or for promotional purposes by its manufacturer or distributor anywhere in the Philippines, which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(b) Such regulations shall further provide that not later than 2 years after the date of the enactment of this Act, no product shall be offered for sale or for promotional purposes by its manufacturer or distributor anywhere in the Philippines, in a package which includes, in the package itself or in any of its packaging components inks, dyes, pigments, adhesives, stabilizers, or any other additives any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(c) For purposes of such regulations, the sum of the concentration levels of lead, cadmium, mercury, hexavalent chromium present in any package or packaging component shall not exceed the following:

- (1) 600 parts per million by weight (0.06%) effective two (2) years after the date of the enactment of this Act;
- (2) 250 parts per million by weight (0.025%) effective three (3) years after the date of the enactment of this Act; and
- (3) 100 parts per million by weight (0.01%) effective four (4) years after the date of the enactment of this Act.

SECTION 4. *Exemptions.* - (a) Such regulations shall be applicable to all packages and packaging components except the following:

(1) those packages or package components with a code indicating date of manufacture that were manufactured prior to the effective date of this statute;

(2) those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of Philippine law or for which there is no feasible alternative, except that the manufacturer of a package or packaging component must petition the Department for any exemption from the provisions of this subsection for a particular package or packaging component based upon either criterion. The Secretary may grant a 2-year exemption if warranted by the circumstances. Such an exemption may, upon meeting either criterion of this subsection, be renewed for 2 years.

For purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; or

(3) packages and packaging components that would not exceed the maximum contaminant levels set forth in subsection (c) of Section 3 of this Act but for the addition of post-consumer materials.

(b) The provisions of subsection (a) shall be of no effect on and after the expiration of the 72-month period following the date of the enactment of this Act.

SECTION 5. *Certificate Of Compliance.* - (a) Such regulation shall require, not later than 2 years after the date of the enactment of this Act, a Certificate of Compliance (stating that a package or packaging component is in compliance with the requirements of this Act) be furnished by the manufacturer or supplier of such package or component to its purchaser. Where compliance is achieved under the exemptions provided in subsection (b) or (c) of Section 4, the Certificate shall state the specific basis upon which the exemption is claimed. The Certificate of Compliance shall be signed by an authorized official of the manufacturing or supplying company. The purchaser shall retain the

Certificate of Compliance for as long as the package or packaging component is in use. A copy of the Certificate of Compliance shall be kept on file by the manufacturer or supplier of the package or packaging component. Certificates of Compliance, or copies thereof, shall be furnished to the Department upon its request and to members of the public in accordance with Section 8.

(b) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new Certificate of Compliance for the reformulated or new package or packaging component.

SECTION 6. *Penalty.* - Whenever on the basis of any information the Secretary determines that any person has violated or is in violation of this Act, the Secretary may issue an order assessing a civil penalty in an amount not to exceed P250,000.

SECTION 7. *Review By Department.* - The Secretary shall review the effectiveness of this Act no later than 42 months after the date of its enactment and shall report to the Congress the results of such review. The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in this Act in order to further reduce the toxicity of packaging waste, and shall contain a recommendation whether to continue the recycling exemption as it is provided for in subsection (c) of Section 4 of this Act, and a description of the nature of the substitutes used in lieu of lead, mercury, cadmium and hexavalent chromium.

SECTION 8. *Public Access.* - Any request from a member of the public for a copy of any Certificate of Compliance from the manufacturer or supplier of a package or packaging component shall be:

(1) made in writing with a copy provided to the Secretary of the Department of Trade and Industry;

- (2) made specific as to package or packaging component information requested; and
- (3) responded to by the manufacturer or supplier within 60 days.

SECTION 9. *Non-Preemption.* - Nothing in this Act shall be construed so as to prohibit the Department from enacting and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.

SECTION 10. *Separability Clause.* - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision shall remain valid and subsisting.

SECTION 11. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.

MJS
8/28/98