

SUBTITLE 19. TOXICS IN PACKAGING

§ 9-1901. Definitions.

- (a) In general.- In this subtitle the following words have the meanings indicated.
- (b) Distributor.- "Distributor" means any person that:
 - (1) Sells a packaged product to a retailer; or
 - (2) Receives a shipment or consignment of, or in any other manner acquires, packaged products for distribution to a retailer for:
 - (i) Sale to a consumer; or
 - (ii) Promotional purposes.
- (c) Manufacturer.-
 - (1) "Manufacturer" means any person that manufactures a package or packaging component.
 - (2) "Manufacturer" includes any person that sells a package or packaging component to a distributor.
- (d) Package.-
 - (1) "Package" means a container used to market, protect, or handle a product.
 - (2) "Package" includes:
 - (i) A unit package, an intermediate package, and a shipping container as defined by the American Society for Testing and Materials; and
 - (ii) An unsealed receptacle such as a carrying case, crate, cup, pail, rigid foil or other tray, wrap, wrapping film, bag, and tub.
- (e) Packaging component.-
 - (1) "Packaging component" means any individual assembled part of a package.
 - (2) "Packaging component" includes any interior or exterior blocking, bracing, cushioning, weatherproofing, coating, closure, label, ink, dye, pigment, adhesive, or any other additive.
 - (3) "Packaging component" does not include any package or packaging component that contains cadmium and is intended for reuse more than 5 times.

[1992, ch. 491.]

§ 9-1902. Prohibited acts.

- (a) In general.- Except as provided in §§ 9-1903 and 9-1904 of this subtitle, on or after July 1, 1993, a manufacturer or distributor may not sell or offer for sale or for promotional purposes any package or packaging component or any product in a package or packaging component to which any of the following was intentionally added during manufacture or distribution:
 - (1) Lead;
 - (2) Cadmium;
 - (3) Mercury; or
 - (4) Hexavalent chromium.

(b) Concentration levels.- The sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium incidentally present in a package or packaging component may not exceed:

- (1) By July 1, 1993, 600 parts per million by weight or 0.06%;
- (2) By July 1, 1994, 250 parts per million by weight or 0.025%; and
- (3) By July 1, 1995, 100 parts per million by weight or 0.01%.

(c) Tin plated steel.- Tin plated steel that meets the American Society for Testing and Materials Specification A-623 shall be considered a single packaging component.

[1992, ch. 491.]

§9-1903. Applicability.

The provisions of this subtitle do not apply to:

- (1) If it contains a code indicating the date of manufacture, a package or packaging component that was manufactured prior to July 1, 1993;
- (2) Until July 1, 1997, a package and packaging component that would not exceed the concentration levels set forth in §9-1902 of this subtitle but for the addition of recycled materials;
- (3) A package or packaging component conditionally exempt under §9-1904 of this subtitle; and
- (4) Any alcoholic beverage bottled before October 1, 1992.

[1992, ch. 491.]

§9-1904. Conditional exemption.

(a) Application.- A manufacturer or distributor of a package or packaging component may submit to the Department an application for a conditional exemption from the provisions of this subtitle.

(b) Conditions for grant.- On the written application of a manufacturer or distributor, the Department may grant a conditional exemption if the Department finds that:

- (1) In order to comply with a health or safety requirement of federal law, lead, cadmium, mercury, or hexavalent chromium have been added to the package or packaging component in the manufacturing, forming, printing, or distribution process; or
- (2) The regulated substance is essential to the protection, safe handling, or function of the package contents.

(c) Expiration; renewal.- A conditional exemption granted under this section:

- (1) Expires 2 years after the date the Department grants the exemption; and
- (2) If the manufacturer or distributor meets the criteria under subsection (b) of this section, may be renewed for additional periods of 2 years.

[1992, ch. 491.]

§ 9-1905. Enforcement.

(a) Powers of Department.- To enforce the provisions of this subtitle, the Department may:

(1) Notify a manufacturer that there are grounds for suspecting that a package or packaging component produced by the manufacturer may not be in compliance with the provisions of this subtitle; and

(2) Request the manufacturer to certify that the package or packaging component is in compliance.

(b) Certification of exemption.- If the manufacturer certifies that the package or packaging component is exempt under § 9-1903 of this subtitle, the manufacturer shall identify the specific basis on which the exemption is claimed.

(c) Injunction.- If the manufacturer fails to certify that the package or packaging component is in compliance or is exempt, the Department may seek an injunction under § 9-1906 of this subtitle to require the manufacturer to withdraw the package or packaging component in question from sale or promotional use within the State.

[1992, ch. 491.]

§ 9-1906. Penalties.

(a) In general.-

(1) Any person who violates any provision of this subtitle or any regulation adopted under this subtitle, including making a false statement in a certificate of compliance, shall be liable to the State for a civil penalty of up to \$1,000 for each violation, but not exceeding a total of \$10,000 for any action.

(2) Each package or packaging component in violation constitutes a separate violation.

(3) The State shall recover the civil penalties under this subsection in a civil action in any county.

(b) Criminal penalties.- Any person who previously has been assessed a civil penalty under this section and who willfully violates any provision of this subtitle or any regulation adopted under this subtitle, including making a false statement in a certificate of compliance, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$20,000.

(c) Injunction.- The Department may seek an injunction to require the removal of a package or packaging component from sale or promotional use within the State against:

(1) Any person who violates or threatens to violate any provision of this subtitle or any regulation adopted under this subtitle; and

(2) A manufacturer who fails to certify on request of the Department that a package or packaging component produced by the manufacturer is in compliance with or is exempt under the provisions of this subtitle.

[1992, ch. 491; 1993, ch. 281.]

§ 9-1907. Regulations.

The Department may adopt regulations to administer the provisions of this subtitle.

[1992, ch. 491.]