

Sec. 22a-255f. Public education program on waste reduction. The Commissioner of Environmental Protection shall develop a public education program on waste reduction. The program shall include (1) promotion of packages and products which are reusable, recyclable or made with postconsumer recycled material and (2) discouragement of packages which are not recyclable, difficult to recycle, are made of virgin materials or have excessive amounts of material or may have adverse environmental impacts when disposed of by incineration or in a landfill.

(P.A. 89-385, S. 7.)

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Sec. 22a-255g. Legislative finding. The General Assembly finds that the management of solid waste can pose a wide range of hazards to public health and safety and to the environment; that packaging comprises a significant percentage of the overall solid waste stream; that the use of heavy metals in packaging is an aspect of the solid waste management problem because heavy metals are likely to be present in emissions or ash when packaging waste is incinerated or in leachate when packaging is landfilled; that lead, mercury, cadmium and hexavalent chromium are, on the basis of available scientific and medical evidence, of particular concern; that it is desirable as a first step in reducing the toxicity of packaging waste to eliminate or reduce heavy metals in packaging and that it is the intent of sections 22a-255g to 22a-255m, inclusive, to eliminate or reduce toxicity in packaging without impeding or discouraging the expanded use of recycled materials in the production of packaging.

(P.A. 90-215, S. 1.)

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Sec. 22a-255h. Definitions. As used in sections 22a-255g to 22a-255m, inclusive:

(1) "Package" means any container, produced either domestically or in a foreign country, used for the marketing, protecting or handling of a product and includes a unit package, an intermediate package and a shipping container, as defined in the American Society of Testing and Materials specification D966. "Package" also means any unsealed receptacle such as a carrying case, crate, cup, pail, rigid foil or other tray, wrapper or wrapping film, bag or tub.

(2) "Distributor" means any person who takes title or delivery from the manufacturer of a package, packaging component or product, produced either domestically or in a foreign country, to use for promotional purposes or to sell.

(3) "Packaging component" means any part of a package, produced either domestically or in a foreign country, including, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coating, closure, ink, label, dye, pigment, adhesive, stabilizer or other additive. Tin-plated steel that meets specification A623 of the American Society of Testing and Materials shall be considered as a single packaging component. Electro-galvanized coated steel and hot dipped coated galvanized steel that

meets the American Society of Testing and Materials specifications A653, A924, A879 and A591 shall be treated in the same manner as tin-plated steel.

(4) "Commissioner" means the Commissioner of Environmental Protection or an authorized agent or designee of the commissioner.

(5) "Department" means the Department of Environmental Protection.

(6) "Intermediate package" means a wrap, box, or bundle which contains two or more unit packages of identical items.

(7) "Unit package" means the first tie, wrap, or container applied to a single item, a quantity of the same item, a set, or an item with all its component parts, which constitutes a complete and identifiable package containing the unit of issue of a product for ultimate use.

(8) "Shipping container" means a container which is sufficiently strong to be used in commerce for packing, storing and shipping commodities.

(9) "Container" means a receptacle capable of closure.

(10) "Intentionally introduced" means deliberately utilized regulated metal in the formulation of a package or packaging component where the continued presence of such metal is desired in the final package or packaging component to provide a specific characteristic, appearance or quality. The use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing where the incidental retention of a residue of said metal in the final package or packaging component is neither desired nor deliberate shall not be considered intentional introduction for the purposes of this section where such package or component is in compliance with subsection (c) of section 22a-255i. The use of recycled materials as feedstock for the manufacture of new packaging materials where some portion of the recycled materials may contain amounts of the regulated metals shall not be considered intentional introduction for the purposes of this section provided the new package or packaging component is in compliance with subsection (c) of section 22a-255i.

(11) "Distribution" means the process for transferring a package or packaging component for promotional purposes or resale. Persons involved solely in delivering a package or packaging component on behalf of third parties shall not be considered distributors.

(12) "Manufacturer" means any person producing a package or packaging component as defined in subdivision (3) of this section.

(13) "Manufacturing" means the physical or chemical modification of a material to produce packaging or packaging components.

(14) "Supplier" means any person, firm, association, partnership or corporation which sells, offers for sale or offers for promotional purposes packages or packaging components which will be used by any other person to package a product.

(P.A. 90-215, S. 2; P.A. 95-57, S. 1; P.A. 06-76, S. 17, 18.)

History: P.A. 95-57 redefined "packaging component" to add provisions re tin-plated and electrolytic

galvanized steel and added new Subdivs. (10) to (14), inclusive, defining "intentionally introduced", "distribution", "manufacturer", "manufacturing" and "supplier"; P.A. 06-76 redefined "package", "distributor", "packaging component", "commissioner", "manufacturer" and "supplier" in Subdivs. (1) to (4), (12) and (14), respectively.

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Sec. 22a-255i. Sale of packaging components or packaging composed of lead, cadmium, mercury or hexavalent chromium. (a) As soon as feasible, but not later than October 1, 1992, no package or packaging component shall be offered for sale or promotional purposes in this state, by its manufacturer or distributor, if it is composed of any lead, cadmium, mercury or hexavalent chromium which has been intentionally introduced during manufacturing or distribution, as opposed to the incidental presence of any of these substances.

(b) As soon as feasible, but not later than October 1, 1992, no product shall be offered for sale or promotional purposes, in this state by its manufacturer or distributor, in a package which is composed of any lead, cadmium, mercury or hexavalent chromium which has been intentionally introduced during manufacturing or distribution, as opposed to the incidental presence of any of these substances.

(c) No package or packaging component shall be offered for sale or promotional purposes in this state by its manufacturer or distributor if the sum of the incidental concentration levels of lead, cadmium, mercury and hexavalent chromium present in such package or packaging component exceeds the following: Six hundred parts per million by weight, effective October 1, 1992; two hundred fifty parts per million, effective October 1, 1993; and one hundred parts per million by weight, effective October 1, 1994.

(d) Concentration levels of lead, cadmium, mercury, and hexavalent chromium shall be determined using the United States Environmental Protection Agency Tests Methods for Evaluating Solid Waste, SW-846, as revised.

(P.A. 90-215, S. 3; P.A. 06-76, S. 19.)

History: P.A. 06-76 amended Subsec. (a) to add "or packaging".

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Sec. 22a-255j. Exempt packages and packaging components. All packages and packaging components shall be subject to sections 22a-255g to 22a-255m, inclusive, except the following:

(1) A package or packaging component which was manufactured prior to October 1, 1990, and displays a code indicating the date it was manufactured;

(2) A package or packaging component that would not exceed any maximum concentration set forth in subsection (c) of section 22a-255i but for the addition or use of recycled materials; provided the provisions

of sections 22a-255g to 22a-255m, inclusive, shall apply to such packages on and after January 1, 2010;

(3) A package or packaging component to which lead, cadmium, mercury or hexavalent chromium has been added in the manufacturing or distribution process in order to comply with health or safety requirements of federal law, provided the manufacturer of such a package or packaging component has demonstrated to the commissioner that such package or packaging component is entitled to an exemption under this subdivision and the commissioner grants such exemption. The exemption shall be effective for up to two years and may be extended if circumstances warrant an extension. An extension may be granted for up to two years;

(4) Any alcoholic liquor bottled prior to October 1, 1992;

(5) A package or packaging component to which lead, cadmium, mercury or hexavalent chromium has been added in the manufacturing, forming, printing or distribution process for which there is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium provided the manufacturer of such a package or packaging component has demonstrated to the commissioner that such package or packaging component is entitled to an exemption under this subdivision and the commissioner grants such exemption. The exemption shall be effective for two years and may be extended if circumstances warrant an extension. An extension may be granted for up to two years. For purposes of this subdivision, a use for which there is no feasible alternative is one which is essential to the protection, safe handling or function of the package's contents and for which technical constraints preclude the substitution of other materials. For purposes of this subdivision, a use for which there is no feasible alternative shall not include the use of any lead, cadmium, mercury or hexavalent chromium for the purpose of marketing;

(6) A package or packaging component that is reused but exceeds contaminant levels set forth in subsection (c) of section 22a-255i, provided (A) the product being conveyed by such package or packaging component is regulated under federal or state health or safety requirements; (B) the transportation of such package or packaging component is regulated under federal or state transportation requirements; (C) the disposal of the package or packaging component is performed according to federal or state radioactive or hazardous waste disposal requirements; and (D) the manufacturer of such package or packaging component has demonstrated to the commissioner that such package or packaging component is entitled to an exemption under this subdivision and the commissioner grants such exemption. Any exemption granted under this subdivision shall expire on January 1, 2010;

(7) A package or packaging component which is reusable and has a controlled distribution and reuse but which exceeds the contaminant levels set forth in subsection (c) of section 22a-255i, provided the manufacturer or distributor of such package or packaging component petitions the commissioner for an exemption and the commissioner grants such exemption. A manufacturer or distributor petitioning the commissioner for such an exemption shall (A) satisfactorily demonstrate that the environmental benefit of the reusable packaging or packaging component is significantly greater as compared to the same package or packaging component manufactured in compliance with the contaminant levels set forth in subsection (c) of section 22a-255i, and (B) submit a written plan including, at a minimum, the following elements: (i) A means of identifying in a permanent and visible manner those reusable packages or packaging components containing regulated metals for which the exemption is sought; (ii) a method of regulatory and financial accountability such that a specified percentage of such reusable packaging or packaging components manufactured and distributed to other persons are not discarded by those persons after use, but are returned to the manufacturer or his designee; (iii) a system of inventory and record maintenance to account for the reusable packaging or packaging components placed in and removed from service; (iv) a means of transforming returned packaging or packaging components that are no longer reusable into recycled materials for

manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations to ensure that these wastes do not enter the commercial or municipal waste stream; and (v) a system for annually reporting to the commissioner any changes to the system or changes regarding the manufacturer's designee. Any exemption granted under this subdivision shall expire on January 1, 2010;

(8) A glass or ceramic package or packaging component that has a vitrified label which, when prepared according to the American Society for Testing and Materials specification C1606-04 and when tested in accordance with the Toxicity Characteristic Leaching Procedures of the United States Environmental Protection Agency Test Method and Publication SW 846, third edition, "Test Methods for Evaluating Solid Waste", does not exceed one part per million for cadmium, five parts per million for hexavalent chromium and five parts per million for lead.

(P.A. 90-215, S. 4; P.A. 95-57, S. 2; P.A. 06-76, S. 20; P.A. 08-124, S. 22.)

History: P.A. 95-57 amended Subdiv. (2) to extend the exemption to January 1, 2000, amended Subdiv. (3) to delete reference to packaging without a feasible alternative and to modify provision re extension of exemption, added new Subdiv. (5) re packaging containing lead and other substances for which there is no feasible alternative, added new Subdiv. (6) re packaging which exceed certain contaminant levels and added new Subdiv. (7) re packaging which is reusable with a controlled distribution and reuse; P.A. 06-76 amended Subdivs. (2), (6) and (7) to replace "2000" with "2010", amended Subdiv. (5) to add "forming, printing", to replace "there is no substitute" with "technical constraints preclude the substitution of other materials" and to specify what "no feasible alternative" does not include, amended Subdiv. (6) to add "is reused but" and added Subdiv. (8) re glass or ceramic package or packaging components with vitrified labels; P.A. 08-124 made technical changes in Subdivs. (3) and (5), effective June 2, 2008.

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Sec. 22a-255k. Certificates of compliance. No manufacturer or distributor of a product shall be deemed to have violated any provision of sections 22a-255g to 22a-255m, inclusive, if such manufacturer or distributor can show that, in the purchase of a package or packaging component, he relied in good faith on the written assurance of the manufacturer of such packaging or packaging component that such packaging or packaging component met the requirements of section 22a-255i. Such written assurance shall take the form of a certificate of compliance stating that a package or packaging component is in compliance with the requirements of sections 22a-255g to 22a-255m, inclusive, provided if compliance is achieved pursuant to an exemption provided in section 22a-255j, 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 manufacturer or distributor. A manufacturer or distributor of a package or packaging component shall furnish a copy of the certificate of compliance to the commissioner upon his request.

(P.A. 90-215, S. 5.)

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Sec. 22a-255l. Penalties. Referral to Attorney General. (a) Any person who violates any provision of sections 22a-255g to 22a-255m, inclusive, including making a false statement in a certificate of compliance prepared pursuant to section 22a-255k, shall pay a civil penalty not to exceed ten thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute an action in superior court for the judicial district of Hartford to recover such penalty.

(b) Any person who knowingly violates any provision of sections 22a-255g to 22a-255m, inclusive, including by making any false statement in a certificate of compliance prepared pursuant to section 22a-255k, shall, upon conviction, be fined not more than fifty thousand dollars for each false statement in such certificate or imprisoned not more than one year or both.

(c) If any person violates any provision of sections 22a-255g to 22a-255m, inclusive, the commissioner may request the Attorney General to bring an action in superior court for the judicial district of Hartford to enjoin such person from continuing such violation.

(P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; 90-215, S. 6; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6.)

History: (Revisor's note: P.A. 88-230 and P.A. 90-98 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in public and special acts of the 1990 session, effective September 1, 1993); P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

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Sec. 22a-255m. Report. Recommendations by department. (a) The commissioner may, in consultation with the other member states of the Toxics in Packaging Clearing House, review the effectiveness of sections 22a-255g to 22a-255m, inclusive, and provide a report based on such review to the Governor and the General Assembly. The report may describe substitutes which manufacturers and distributors of packages and packaging components have used in place of lead, mercury, cadmium and hexavalent chromium, and may contain recommendations concerning (1) other toxic substances contained in packaging that should be added to those regulated under the provisions of sections 22a-255g to 22a-255m, inclusive, in order to further reduce the toxicity of packaging waste, and (2) the advisability of retaining the exemption provided in subdivision (2) of section 22a-255j.

(b) For the purpose of gathering information for the review and report described in subsection (a) of this section, the commissioner may inspect and copy the records of any person (1) engaged in the manufacture or distribution of packages or packaging components if such records pertain to the processes by which such packages or packaging components are manufactured, including the nature and amounts of substances utilized, and (2) who produces or supplies materials for the manufacture of packages or packaging components, if such records pertain to the nature and amount of substances in such materials or the identities or locations of purchasers or recipients of such materials. Upon request of the commissioner, any such person shall allow the commissioner to inspect and copy such records or shall provide copies of such records to the