

WITHDRAWN AS OF 4/27/2015

Intro. Res. No. 2176-2014
Introduced by Legislators Hahn and Anker

Laid on Table 12/15/2014

**RESOLUTION NO. -2015, ADOPTING LOCAL LAW
NO. -2015, A LOCAL LAW TO PROTECT CHILDREN
FROM EXPOSURE TO TOXIC CHEMICALS ("THE TOXIN FREE
TOYS ACT")**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on December 15, 2014, a proposed local law entitled, "**A LOCAL LAW TO PROTECT CHILDREN FROM EXPOSURE TO TOXIC CHEMICALS ("THE TOXIN FREE TOYS ACT")**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2015, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO PROTECT CHILDREN FROM EXPOSURE
TO TOXIC CHEMICALS ("THE TOXIN FREE TOYS ACT")**

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk is a leader in protecting the health and safety of its residents, particularly children, who are the most vulnerable in our communities.

This Legislature also finds and determines that there are chemicals of high concern for the environment and human health that can be found in every day products, as has been determined by many authoritative government bodies, including the state of Maine, Article 38 MRSA Chapter 16-D, *Toxic Chemicals in Children's Products*.

This Legislature further finds and determines that several of the chemicals of high concern listed in Maine's law are known to be toxic and carcinogenic, including benzene, lead, mercury, antimony, arsenic, cadmium, and cobalt.

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

This Legislature determines that exposure to benzene can cause harmful effects to the blood, decrease the number of red blood cells an individual has, and can cause cancer.

This Legislature also finds that lead can contaminate drinking water supplies and may cause conditions such as brain damage, hyperactivity, anemia, liver and kidney damage, developmental delays, lowered IQ, poor impulse control, and, in some cases, even death.

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

This Legislature also determines that antimony can cause respiratory and cardiovascular damage, skin disorders, and gastrointestinal disorders.

This Legislature further determines that arsenic is known to cause skin lesions, developmental delays, neurotoxicity, diabetes, and cardiovascular disease, as well as lung and other cancers.

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

This Legislature also finds and determines that cadmium exposure 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 Suffolk 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, particularly given the absence of state or federal regulation on this subject.

Therefore, the purpose of this law is to ban the sale of children's apparel or products which contain benzene, lead, mercury, antimony, arsenic, cadmium, or cobalt in the County of Suffolk.

Section 2. Definitions.

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

CHILDREN - any person or persons aged twelve and under.

CHILDREN'S APPAREL - any item of clothing that consists of fabric or related material intended or promoted for use in children's clothing.

CHILDREN'S PRODUCT - 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.

PERSON - any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of business of any kind.

Section 3. Prohibition.

No person shall sell, offer for sale or give away any children's apparel or children's product which contains any of the following materials: benzene, lead, mercury, antimony, arsenic, cadmium or cobalt.

Section 4. Exemption.

- A. This law shall not apply to used children's products or apparel that are sold or distributed for free at secondhand stores, yard sales, or donated to charities, nor shall it apply to children's products or apparel obtained on the internet.
- B. This law shall not apply to protective sporting equipment designed to prevent injury, including, but not limited to, helmets, athletic supporters, knee pads or elbow pads.

Section 5. Enforcement.

This law shall be enforced by the Department of Health Services.

Section 6. Rules and Regulations.

- A. The Commissioner of the Department of Health Services is hereby authorized, empowered and directed to promulgate such rules and regulations as he or she deems necessary to implement this law.
- B. The Commissioner of the Department of Health Services may, in his or her discretion, exempt a children's product from this law if, in the Commissioner's judgment, the lack of availability of such 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 shall be subject to an initial civil penalty of five hundred dollars (\$500.00) per violation, with all subsequent violations subject to a civil penalty of one thousand dollars (\$1,000.00) per violation.

Section 8. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

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. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 11. Effective Date.

This law shall take effect one hundred eighty (180) days immediately subsequent to filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: