



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON HEALTH

HB585, RELATING TO CADMIUM

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

**January 30, 2013
8:30 A.M.**

- 1 **Department's Position:** The Department supports the intent, but opposes this measure.
- 2 **Fiscal Implications:** Unknown but significant. Requires product testing and enforcement.
- 3 **Purpose and Justification:** HB585 seeks to prohibit the manufacture, sale or distribution of children's
- 4 products that contain cadmium in an amount more than 40 parts per million. The Department of Health
- 5 recognizes the potential health risk to young children who may mouth or swallow certain jewelry pieces
- 6 containing cadmium. Several states have enacted bans on consumer products containing excessive
- 7 cadmium. However, the Department of Health currently does not have the resources to effectively test
- 8 products and enforce a limit on cadmium in children's products. Both the Environmental Protection
- 9 Agency and the Consumer Product Safety Commission (CPSC) are working together to reduce exposure
- 10 to cadmium in consumer products generally, and especially those consumer products used by or around
- 11 children. Additionally the American Society for Testing and Materials (ASTM) International has
- 12 approved a national Children's Jewelry Safety Standard that includes strict cadmium limits in children's
- 13 metal and plastic jewelry. The Department believes it is more appropriate and efficient for the Federal

1 government to regulate cadmium in consumer products and administer a program to test products and
2 enforce cadmium limits.

3 Thank you for the opportunity to testify on this important measure.



TESTIMONY OF
TOY INDUSTRY ASSOCIATION (TIA)
SUBMITTED TO
HOUSE COMMITTEE ON HEALTH
HOUSE BILL 585
AN ACT RELATING TO CADMIUM
JANUARY 30, 2013

www.toyassociation.org

Chairwoman Della Au Belatti and Members of the House Committee on Health, the Toy Industry Association (TIA) appreciates this opportunity to provide testimony on House Bill 585. TIA is a not-for-profit trade association composed of more than five hundred (600) members, both large and small in size, located throughout North America.

The Toy Industry Association and its members have long been leaders in toy safety. In this role, we develop safety standards for toys, working with industry, government, consumer organizations, and medical experts. TIA commends the bill sponsors for their keen interest in the safety of children. We share that interest, and our industry is founded on the mission of bringing fun and joy to children's lives – and in that pursuit protecting the safety of our young consumers is our top priority.

However, we have concerns regarding House Bill 585; as it would conflict with existing *preemptive* federal regulation and international standards regarding heavy metals and the safety of toys sold in this country.

Toys are Preemptively Regulated for Cadmium

House Bill 585 proposes to completely ban cadmium above 40 ppm in children's products.

However, the federal Consumer Product Safety Improvement Act already provides preemptive mandatory consumer product safety rules – including limits with regard to cadmium exposure – for all toys sold in the U.S.

Via its incorporation of the ASTM F-963 toy safety standard (which applies to ALL toys intended for children under the age of fourteen), the CPSIA specifically limits the amount of soluble cadmium in the surface coatings of toys to 75 parts per million (.0075%); with the potential for more stringent requirements in the future. No toys have been found to violate the existing federal requirements.

Federal Preemption – House Bill 585 attempts to regulate the amount of cadmium in toys in a manner that is duplicative and preempted by federal law. Specifically, 15 U.S.C. 2075 provides as follows: “*Whenever a consumer product safety standard under this chapter is in effect and*

*applies to a risk of injury associated with a consumer product, **no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.***” [Emphasis Added].

Toys are Already Highly Reviewed for Safety

Product safety is the number one-priority for toy manufacturers when developing a product. TIA’s members perform rigorous safety assessments prior to the marketing of any product and take into consideration potential impacts on a consumer or child. In addition to meeting stringent internal product safety requirements, toys must also comply with numerous federal environmental and safety regulations under a variety of laws and regulations including: including the Consumer Product Safety Act (CPSA), the Child Safety Protection Act (CSPA), the Federal Hazardous Substances Act (FHSA), the American Society for Testing and Materials (ASTM) Safety Specification on Toys (and which was adopted as a mandatory federal standard on February 10, 2009), the Toxic Substances Control Act; as well as, the many provisions added under the comprehensive Consumer Product Safety Improvement Act (CPSIA) signed into law in 2008. Under this network of requirements, it is illegal to sell toys or children’s products containing various substances known to be harmful to children and to which children might be exposed.

We urge Hawaii to consider aligning itself with the federal approach. We support strong regulations for toys but they must be safety-based and national in scope to allow for consistently safe products across the nation.

Conclusion

The Toy Industry Association and its members have always recognized the special relationship we have with children, who are our principal consumers; their safety and well-being is always our top priority. As parents ourselves and an industry devoted to bringing joy (and safety) to childhood, we share your interest in the safety of toys and we urge you to carefully consider the unintended consequences of the provisions proposed in this legislation and how this bill will hurt

those doing business in Hawaii and force Hawaii consumers to source products through other means, at no measurable increase to product safety. **Therefore, we respectfully request that you oppose the passage of House Bill 585; unless amended to reflect national toy safety requirements.**

On behalf of the over 600 members of Toy Industry Association we thank you for consideration of these concerns. TIA would be happy to address any questions that you and the members of the Committee might have with regard to our concerns on this legislation please do not hesitate to contact Jennifer Gibbons, Director of State Government Affairs for TIA, at 646-512-1320 or jgibbons@toyassociation.org.