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**HOUSE BILL NO. 1202**

Offered January 25, 1994

A *BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.4, consisting of sections numbered 10.1-1425.19 through 10.1-1425.24, relating to reduction of heavy metals in packaging.*

Patrons—Scott and Plum

Referred to Committee on Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 3.4, consisting of sections numbered 10.1-1425.19 through 10.1-1425.24, as follows:**

*Article 3.4.**Reduction of Heavy Metals in Packaging Act.**§ 10.1-1425.19. Findings and intent.**A. The General Assembly finds that:*

*1. The management of solid waste can pose a wide range of hazards to public health and safety and to the environment;*

*2. Packaging comprises a significant percentage of the overall waste stream;*

*3. The presence of heavy metals in packaging is a concern because of the potential presence of heavy metals in residue from manufacturers' recycling processes, in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled; and*

*4. Lead, mercury, cadmium, and hexavalent chromium, on the basis of scientific and medical evidence, are of particular concern.*

*B. It is the intent of the General Assembly to:*

*1. Reduce the toxicity of packaging;*

*2. Eliminate the addition of heavy metals to packaging, and*

*3. Achieve reductions in toxicity without impeding or discouraging the expanded use of recovered material in the production of products, packaging, and its components.*

*§ 10.1-1425.20. Definitions.*

*As used in this article, unless the context requires a different meaning:*

*"Distributor" means any person who takes title to products or packaging purchased for resale.*

*"Manufacturer" means any person that produces products, packages, packaging, or components of products or packaging.*

*"Package" means any container which provides a means of marketing, protecting, or handling a product, including a unit package, intermediate package, or a shipping container. The term includes, but is not limited to, unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrapping and wrapping film, bags, and tubs.*

*"Packaging component" means any individual assembled part of a package, including but not limited to interior and exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, labels, and tinplated steel, which meets the American Society for Testing and Materials (ASTM) Specification A-623. The term does not include an industrial packaging component intended to protect, secure, close, utilize, and provide pilferage protection for any product destined for commercial use.*

*§ 10.1-1425.21. Schedule for removal of incidental amounts of heavy metals.*

*A. On and after July 1, 1995, no manufacturer or distributor shall offer for sale, sell, or offer for promotional purposes in the Commonwealth a package or packaging component which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives containing lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution, and which exceeds a concentration level established by this article. This prohibition shall not apply to the incidental presence of any of these elements in a package or packaging component.*

*B. On and after July 1, 1995, no manufacturer or distributor shall offer for sale, sell, or offer for promotional purposes in the Commonwealth a product in a package which includes, in the package itself or in any of the packaging components, inks, dyes, pigments, adhesives, stabilizers, or any other additives containing lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution, and which exceeds a concentration level established by this article. This prohibition shall not apply to the incidental presence of any of these*

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60 *elements in a package or packaging component.*

61 *C. The sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present*  
62 *in a package or packaging component shall not exceed the following:*

63 *1. Six hundred parts per million by weight on and after July 1, 1995;*

64 *2. Two hundred fifty parts per million by weight on and after July 1, 1996; and*

65 *3. One hundred parts per million by weight on and after July 1, 1997.*

66 *D. Concentration levels of lead, cadmium, mercury, and hexavalent chromium shall be determined*  
67 *using ASTM test methods, as revised, or U.S. Environmental Protection Agency Test Methods for*  
68 *Evaluating Solid Waste, S-W 846, as revised.*

69 *§ 10.1-1425.22. Exemptions.*

70 *The following packaging and packaging components shall be exempt from the requirements of this*  
71 *Act:*

72 *1. Packaging or packaging components with a code indicating a date of manufacture prior to July 1,*  
73 *1995;*

74 *2. Packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium*  
75 *have been added in the manufacturing, forming, printing, or distribution process (i) in order to comply*  
76 *with health or safety requirements of federal law or (ii) for which there is no feasible alternative, if the*  
77 *manufacturer of the package or packaging material is granted an exemption from the provisions of this*  
78 *article by the Board. Exemptions may be granted upon the petition of a manufacturer if warranted by*  
79 *the circumstances for a period of two years. An exemption may be renewed for two years upon meeting*  
80 *either of the criteria of this subdivision. For purposes of this subdivision, a use for which there is no*  
81 *feasible alternative is one for which the regulated substance is essential to the protection, safe handling,*  
82 *or function of the package's contents; and*

83 *3. Packages and packaging components that would not exceed the maximum contaminant levels*  
84 *established but for the addition of recovered materials.*

85 *§ 10.1-1425.23. Certificate of compliance.*

86 *A. On and after July 1, 1995, each manufacturer or distributor of packaging or packaging*  
87 *components shall make available to purchasers, the Department, and the public, upon request,*  
88 *certificates of compliance which state that the manufacturer's or distributor's packaging or packaging*  
89 *components comply with, or are exempt from, the requirements of this article.*

90 *B. If the manufacturer or distributor of the package or packaging component reformulates or creates*  
91 *a new package or packaging component, the manufacturer or distributor shall provide an amended or*  
92 *new certificate of compliance for the reformulated package or packaging component.*

93 *§ 10.1-1425.24. Promulgation of regulations.*

94 *The Board shall promulgate regulations necessary to implement and manage the provisions of this*  
95 *article. The Director is authorized to name qualified persons to an advisory panel of affected interests*  
96 *and the public to assist the Department in implementing the provisions of this article.*