

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 10.1-1425.21 and 10.1-1425.23 of the Code of Virginia, relating to heavy metals in packaging.

[H 1864]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1425.21 and 10.1-1425.23 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1425.21. 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.

"Intentional introduction" means the act of deliberately using a regulated heavy metal in the formulation of a package or packaging component where its continued presence in the final package or packaging component is to provide a specific characteristic or quality. The use of a regulated heavy metal as a processing agent or intermediate to ~~impact~~ impart certain chemical or physical changes during manufacturing, whereupon the incidental retention of a residue of the metal in the final package or packaging component is neither desired nor deliberate is not considered to be "intentional introduction" where the final package or packaging component is in compliance with subsection C of § 10.1-1425.22.

"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, as defined in the American Society for Testing and Materials (ASTM) specification D996. 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, and labels. Tin-plated steel that meets ASTM specification A-623 shall be considered as a single package component. Electro-galvanized coated steel that meets ASTM specification A-525, and hot-dipped coated galvanized steel that meets ASTM specification A-879 shall be treated in the same manner as tin-plated steel.

§ 10.1-1425.23. Exemptions.

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

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

2. Packages or packaging components to which lead, cadmium, mercury or hexavalent chromium has been added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of federal law, provided that (i) the manufacturer of a package or packaging component must petition the Board for any exemption for a particular package or packaging component; (ii) the Board may grant an exemption for up to two years if warranted by the circumstances; and (iii) such an exemption may, upon reapplication for exemption and meeting the criterion of this subdivision, be renewed at two-year intervals;

3. Packages and packaging components 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, provided that (i) the manufacturer of a package or packaging component must petition the Board for any exemption for a particular package or packaging component; (ii) the Board may grant an exemption for up to two years if warranted by the circumstances; and (iii) such an exemption may, upon reapplication for exemption and meeting the criterion of this subdivision, be renewed at two-year intervals. For purposes of this subdivision, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; ~~and~~

4. Packages and packaging components that would not exceed the maximum contaminant levels established but for the addition of recovered or recycled materials; *and*

5. Packages and packaging components used to contain alcoholic beverages, as defined in § 4.1-100, bottled prior to July 1, 1992.

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