HOUSE . . . . . No. 1447

By Mr. Minahan of Wakefield, petition of Alfred A. Minahan, Jr., and other members of the General Court for legislation to require the labeling of toxic or hazardous art and school supplies. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT TO REQUIRE THE LABELING OF TOXIC OR HAZARDOUS ART AND SCHOOL SUPPLIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. It is hereby found and declared that there exists a significant danger to the public health and safety from exposure to art and school supplies which contain toxic chemicals. This health risk threatens not only professional artists and craftspersons, but art teachers, students at every educational level, hobbyists and children. Toxic substances may be employed during the course and scope of creating art or craft objects of all varieties. Solvents, thinners, paint removers, clays and modeling materials are particularly hazardous.

It is also found that present labeling of ingredients and hazards of art supplies is insufficient to adequately protect the consumers of this state. Because many persons do not know what toxic chemical substances they work with, proper precautionary actions cannot be taken. Disclosure of toxic ingredients, their possible adverse effects on health, and instructions for safe handling, will substantially minimize unnecessary exposure to excessive risk.

Chapter III of the General Laws is hereby amended by inserting after section 5K the following new section: —

19 *Section 5L.* Art and school supplies; Labeling; Penalties
20 For purposes of this section the following words shall have the
21 following meanings: —
22 (a) "Art or school supply" shall mean any raw or processed
23 material or manufactured product designed for use or commonly
24 used in any phase of the creation of any work of visual or graphic
25 art of any medium. Such mediums may include, but shall not be
26 limited to: painting, printing, drawing, sculpture, photography,
27 stage structure, or any jewelry, lapidary, leather, enameled, textile,
28 wood, paper, glass, metal, ceramic or plastic article. Such term
29 does not include economic poisons as defined by the Federal
30 insecticide, fungicide and rodenticide act; or drugs, devices or
31 cosmetics, as such terms are defined in sub-divisions (g), (n) and (c)
32 of section two hundred one of the Federal Food, Drug and Cos-
33 metics Act.
34 (b) "Human carcinogen" shall mean a chemical substance or
35 substances recognized in the federal Environmental Protection
36 Agency's carcinogen assessment group's list of carcinogenic (as
37 such list is updated from time to time) as having carcinogenic or
38 co-carcinogenic potential in humans.
39 (c) "Suspected human carcinogen" shall mean (a) any chemical
40 substance or substances recognized by the Federal Occupational
41 Safety and Health Administration, the National Institute of Envi-
42 ronmental Health Sciences, the International Agency for Research
43 on Cancer, or the American Conference of Governmental Indus-
44 trial Hygienists as inducing cancer, based on: (i) limited epidemio-
45 logical evidence, exclusive of clinical reports of single cases, or (ii)
46 demonstration of carcinogenesis in one or more animal species by
47 appropriate methods; or (b) any chemical shown to be changed by
48 the human body into a known human carcinogen.
49 (d) "Acutely toxic substance" shall mean any substance which
50 falls within any of the following categories: (a) produces death
51 within fourteen days in half or more than half of a group of ten or
52 more laboratory white rats each weighing between two hundred
53 and three hundred grams, at a single dose of fifty milligrams or less
54 per kilogram of body weight, when orally administered; or (b)
55 produces death within fourteen days in half or more than half of a
56 group of ten or more laboratory white rats each weighing between

57 two hundred and three hundred grams, when inhaled continuously
58 for a period of one hour or less at an atmospheric concentration of
59 two hundred parts per million by volume or less of gas or vapor or
60 two milligrams per liter by volume or less of mist or dust, provided
61 such concentration is likely to be encountered by man when the
62 substance is used in any reasonably foreseeable manner; or (c)
63 produces death within fourteen days in half or more than half of a
64 group of ten or more rabbits tested in a dosage of two hundred
65 milligrams or less per kilogram of body weight, when administered
66 by continuous contact with the bare skin for twenty-four hours or
67 less.
68 (e) "Chronically toxic substance" shall mean any substance
69 known to induce a permanent transmissible change in the charac-
70 teristics of an offspring from those of its human or experimental
71 animal parents; to cause the production of physical defects in the
72 developing human or experimental animal embryo; to produce
73 irritation, sensitization or degeneration of the skin or eyes, of the
74 respiratory or gastrointestinal tracts, or of the central nervous
75 system or of any other human or experimental animal organs; to
76 diminish mental alertness, reduce motivation or alter behavoir of
77 humans; to adversely affect the health of a normal or disabled
78 person of any age or of either sex by producing reversible or
79 irreversible bodily injury or by endangering life or causing death
80 from ingestion, inhalation or absorption into the human body
81 through any customary or reasonably foreseeable handling, use or
82 misuse, including any reasonably foreseeable handling, use or
83 misuse by children.
84 (f) "Radioactive" shall apply to any material emitting ionizing
85 radiation.
86 (g) "Person" shall mean any individual, firm, partnership, asso-
87 ciation or corporation.
88 (h) "Commissioner" shall mean the commissioner of the Massa-
89 chusetts department of public health.
90 (i) "Label" shall mean a display of written, printed or graphic
91 matter upon the immediate container of any substance, or, in the
92 case of an article which is unpackaged or is not packaged in an
93 immediate container intended or suitable for delivery to the ulti-

mate consumer, a display of such matter directly upon the article involved or upon a tag or suitable material affixed thereto.

(j) "Package insert" shall mean a display of written, printed or graphic matter upon a leaflet or suitable material accompanying the art supply. The language on this insert shall be nontechnical and nonpromotional in tone and content.

SECTION 2. No person shall distribute, sell or offer for sale or expose for sale in the Commonwealth any art or school supply containing chronically or acutely toxic, carcinogenic or radioactive substances on which the person: (a) has failed to affix:

(i) a conspicuous label warning of the health related dangers of the art supply. Such warning shall contain, but not be limited to, the following statement or statements where applicable:

(1) **WARNING: CONTAINS A HUMAN CARCINOGEN. (name of substance) IS KNOWN TO CAUSE CANCER IN HUMANS.**

(2) **WARNING: CONTAINS A SUSPECTED HUMAN CARCINOGEN. (name of substance) IS KNOWN TO CAUSE CANCER IN LABORATORY ANIMALS.**

(3) **WARNING: CONTAINS TOXIC SUBSTANCE. (name of substance) MAY CAUSE LONG TERM (CHRONIC) OR SHORT TERM (ACUTE) ILLNESSES.**

(4) **WARNING: CONTAINS RADIOACTIVE SUBSTANCES.**

(ii) a statement on such label of the common chemical name of each ingredient, listed in order of percent of content; and

(iii) a statement to refer to the package insert, as follows: **"SEE PACKAGE INSERT BEFORE USE."**

(b) Has failed to include a package insert containing the following information:

(i) a restatement of subparagraphs (i) and (ii) of paragraph (a) of this subdivision;

(ii) the relative toxicity of the substance as defined by the commissioner;

(iii) a statement of adverse reactions and potentially chronic and acute hazards that may result from any reasonably foreseeable handling, use or misuse by children;

(iv) a statement of adverse reactions and potentially chronic and

acture hazards associated with exposure to the toxic or carcinogenic substances which are clinically significant and frequently occurring and which the user can reasonably be expected to detect, or which might help the user evaluate the benefits and risks of the product;

(v) instructions for proper use and precautions against misuse;

(vi) a detailed description of the proper ventilation systems to be used, if such a need exists;

(vii) instructions for the safe storage and disposal of the art or school supply;

(viii) a statement of the risks to the mother and unborn child from use of the art or school supply during pregnancy where applicable;

(ix) a statement of the available data and information about excretion of the hazardous substances in human milk and the associated risks to the nursing infant where applicable; and

(x) the manufacturer's name and address.

SECTION 3. (a) The requirements set forth in paragraph (a) of section two of this act shall not be considered to be complied with unless such words, statements or other information also appear on the outside container or wrapper, if there be any, unless it is easily legible through the outside container or wrapper, and is printed in a color in contrast with the product or the package containing the product.

(b) The requirements set forth in section two of this act shall not be considered to be complied with unless all such words, statements or other information accompany art or school supplies from manufacturer to consumer. Any distributor, packager, repackager or retailer of the subject art or school supplies shall be jointly and severally responsible for ensuring that the required words, statements or other information accompany the art or school supplies to the consumer.

SECTION 4. Subject to the provisions of section two of this act, the commissioner shall, within ninety days of the effective date of this article, adopt such rules and regulations as are necessary for the proper application, administration and enforcement of the provisions of this act, provided that such rules and regulations:

(a) shall prescribe the size of the letters and figures making up the label and package insert required by section two of this act, which size shall vary according to and be commensurate with, the sizes or class of sizes of the various products;

(b) shall prescribe the location of the label and package insert required by section two of this act according to the sizes and types of the various products;

(c) shall promulgate standards of relative toxicity.

SECTION 5. The following acts shall be punishable by a civil fine not to exceed one thousand dollars on the first violation and ten thousand dollars on the second and all subsequent violations:

(a) The sale of any art or school supply that is not labeled in accordance with the requirements of this act.

(b) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling or package insert required by this act; and

(c) The failure to permit entry or inspection as authorized by this act or access to and copying of any records as authorized by this act.

SECTION 6. Any art or school supply offered for sale in the Commonwealth that is not labeled in accordance with the requirements of this act may be seized by the commissioner and banned from sale, until it has been properly labeled.

SECTION 7. The commissioner is authorized to conduct examinations, inspections and investigations for the purposes of this act and upon presenting appropriate credentials and written notice to the owner, operator or agent in charge, may enter any factory, warehouse or establishment in which art or school supplies are manufactured, processed, packed or sold, inspect such premises and obtain samples of such materials or packages as may be appropriate. If any sample is obtained, the owner, operator or agent in charge shall be given a receipt describing the samples obtained.

SECTION 8. The commissioner is authorized after first providing written notice to the appropriate person, to inspect and copy all records showing the movement or storage of any art or school supplies.

SECTION 9. This act shall become effective one hundred and eighty days after enacted.