

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

FILED
STATE RECORDS

of

JAN 22 2016

DEPARTMENT OF STATE

Local Law No. 7 of the year 2015

A local law amending Local Law No. 3 of 2015, known as the "Toxic Toys" law, to protect infants and

(Insert Title)

children from the harmful health effects of unnecessary exposure to toxic chemicals in

children's apparel and children's products

Be it enacted by the Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Rockland

as follows:

Section 1. Name of local law.

This law shall be known as "The Toxic Free Toys Act."

Section 2. Legislative intent.

Recent studies performed with the assistance of a hand-held X-ray fluorescence analyzer have uncovered toxic and carcinogenic chemicals in dolls, toy cars, toy trains, children's jewelry, and puzzles sold in popular mall stores. These studies have precipitated demands for recalls and raised great concern for parents and public officials alike.

Rockland County is committed to protecting the public health and welfare of our infants and children whose growing bodies are vulnerable to health hazards. Common sense regulations that ensure the health, safety and well-being of our children are of paramount importance to the people of the County of Rockland.

Therefore, the purpose of this law is to protect the County's infants and children from the harmful health effects of toxic and carcinogenic chemicals, and to provide the County of Rockland with powers to enforce existing Federal laws and to assure the public that children's products sold in the County are compliant with the law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 3. Definitions.

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

- A. COUNTY – The County of Rockland, New York.
- B. CHILDREN'S APPAREL – means any item of clothing that consists of fabric or related material intended or promoted for use in children's clothing.
- C. CHILDREN'S PRODUCT – means a product primarily intended for, made for, or marketed for use by children, including but not limited to: baby products; toys; children's play cosmetics; school supplies; a product designed or intended by the manufacturer to help a child with sucking or teething, to induce sleep, relaxation, for the feeding of a child; children's novelty products; children's jewelry; children's bedding, furniture, and furnishings. This term shall not include: i) batteries; ii) consumer electronic products, including but not limited to personal computers, audio and video equipment, calculators, wireless telephones, game consoles, and handheld devices incorporating a video screen used to access interactive software, and their associated peripherals; iii) a drug, supplement, product, soap, food or beverage or an additive to a food or beverage regulated by the United States Food and Drug Administration; iv) a drug, biologic, or medical device regulated by the United States Food and Drug Administration; or v) a pesticide product or other substance regulated by the United States Environmental Protection Agency or registered by the Department of Environmental Conservation.
- D. CHILDREN – means a person or persons aged twelve (12) and under.
- E. PERSON – shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of business of any kind.

Section 4. Prohibitions.

No person shall sell or offer for sale within the County of Rockland any children's products or children's apparel that fails to comply with Section 396-k of the New York General Business Law, the Federal Hazardous Substances Act or Consumer Product Safety Act and applicable New York State or Federal regulations, as may be amended from time to time.

Section 5. Exceptions

A. The prohibitions in this Local Law shall not apply to used children's products or used children's apparel sold or distributed for free at secondhand stores, yard sales, on the Internet or donated to charities.

B. The prohibitions in this Local Law shall also not apply to protective sporting equipment designed to prevent injury, including but not limited to helmets, athletic supporters, knee pads or elbow pads.

C. If by clear and convincing evidence any person charged with violating this Local Law can demonstrate that the lack of availability of an allegedly violative children's product or apparel could pose an unreasonable risk to public health, safety or welfare, then the enforcement officer may exempt that particular children's product or apparel that precipitated a notice of violation.

Section 6. Enforcement and Penalties.

Any person who violates the provisions of this chapter shall be subject to the imposition by the Rockland County Office of Consumer Protection of a civil penalty of \$500 for an initial violation, and \$1,000 for each subsequent violation. No civil penalty shall be imposed by the Rockland County Office of Consumer Protection as provided for herein unless the alleged violator has received notice of the charge against him or her and has had an opportunity to be heard pursuant to the normal procedures of the Rockland County Office of Consumer Protection. Prior to the imposition of the first civil penalty on an alleged violator, the Rockland County Office of Consumer Protection shall make a good-faith effort to issue a warning to the alleged violator and shall make a good-faith effort to educate the alleged violator about the provisions of this chapter. Pending adjudication, the Rockland County Office of Consumer Protection may impound children's products or children's apparel that is determined to violate this Local Law, if the enforcement officer reasonably suspects that such action would carry out the intent of this Local Law.

Section 7. Authority to Promulgate Rules and Regulations.

The Coordinator of the Rockland County Office of Consumer Protection ("Coordinator") is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law. The Coordinator may exempt a children's product or children's apparel from this prohibition if, in the Coordinator's judgment, the lack of availability of the children's product or children's apparel could pose an unreasonable risk to public health, safety or welfare.

Section 8. Applicability

This law shall apply to any and 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 local 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, effect 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. Preemption.

Whenever the State of New York or the United States (under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Food Drug and Cosmetics Act or any other applicable Federal law) has a final rule in effect with respect to a children's product safety standard that relates to a specific hazard that preempts County or Local action, the New York State or United States standard shall preempt this Local Law.

Section 11. Effective date.

This local law shall take effect 30 days after it is filed with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2015 of the (County)(City)(Town)(Village) of Rockland Legislature was duly passed by the _____ on December 15, 2015, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the County Executive _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on January 6, 2016, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

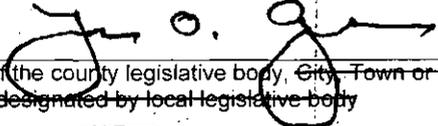
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: January 19, 2016

(Seal)

