

Referral No. 8894  
December 15, 2015

**LOCAL LAW NO. 7 OF 2015  
COUNTY OF ROCKLAND  
STATE OF NEW YORK**

(Introduced by: Hon. Alden H. Wolfe)

Chairman Wolfe offered the following Local Law, which was seconded by Mr. Hood, Jr. and unanimously adopted

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

### 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 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.

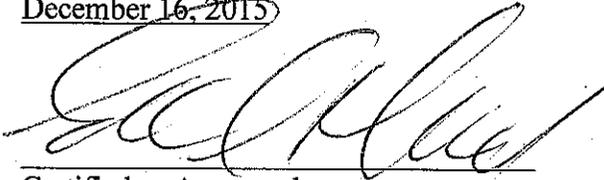
STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ROCKLAND )

I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original Local Law of such Legislature, duly adopted on the 15th day of December 2015 by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.

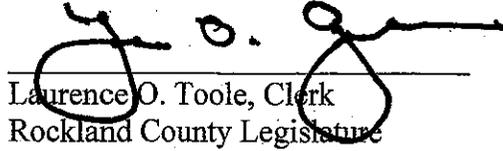
I FURTHER CERTIFY that at the time said Local Law was adopted said Legislature was comprised of seventeen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 16th day of December 2015.

Date sent to the County Executive:  
December 16, 2015



Certified or Approved  
Edwin J. Day  
County Executive, County of Rockland

  
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Laurence O. Toole, Clerk  
Rockland County Legislature

1/6/15  
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(date)

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