CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **108100**-108225

108100. This chapter shall be known as the California Hazardous Substances Act.

108105. Unless the provisions or the context otherwise requires, these definitions, rules of construction, and general provisions shall govern the construction of this chapter.

108110. The term "art or craft material" means any raw or processed material or manufactured product marketed or being represented by the manufacturer, repackager or retailer as being suitable for use in any phase of the creation of any work of visual or graphic art of any medium. These mediums may include, but shall not be limited to, paintings, drawings, prints, sculpture, ceramics, enamels, jewelry, stained glass, plastic sculpture, photographs, and leather and textile goods. The term shall not include economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stats. 163) or Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural **Code**; or to drugs, devices, or cosmetics, that are subject to the Federal Food, Drug and Cosmetics Act (52 Stats. 1040) or Part 5 (commencing with Section 109875).

108115. "Department" means the State Department of Health Services.

108120. As used in this chapter, "federal act" means the Federal Hazardous Substances Act (74 Stats. 372; 15 U.S.C., Sec. 1261, et seq.).

108125. The term "hazardous substance" means:
(a) Any substance or mixture of substances that (1) is toxic, (2) is corrosive, (3) is an irritant, (4) is a strong sensitizer, (5) is flammable or combustible, or (6) generates pressure through decomposition, heat, or other means; if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.
(b) Any substances that the department by regulation finds pursuant to the provisions of Section 108320 meet the requirements of subdivision (a) of this section.
(c) Any radioactive substance, if, with respect to the substance as used in a particular class of article or as packaged, the department determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this chapter in order to protect the public health.
(d) Any toy or other article intended for use by children that the department determines, by regulation, pursuant to the provisions of Section 108320, presents an electrical, mechanical, or thermal hazard.

108130. The term "hazardous substance" shall not apply to any of

the following:
(a) Foods, drugs, or cosmetics subject to the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040) or Part 5 (commencing with Section 109875).
(b) Substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house.
(c) Source material, special nuclear material, or byproduct material, as defined in the Atomic Energy Act of 1954 (68 Stat. 919), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.
(d) Fertilizing materials regulated by Chapter 5 (commencing with Section 14501) of Division 7 of the Food and Agricultural **Code**.
(e) Livestock remedies regulated by Chapter 4 (commencing with Section 14200) of Division 7 of the Food and Agricultural **Code**.
(f) Economic poisons regulated by Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural **Code**, except as provided in Section 108135.
(g) Economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163), except as provided in Section 108135.
(h) Injurious substances as defined and regulated by Article 112 (commencing with Section 5225) of Group 16 of Subchapter 7 of Chapter 4 of Title 8 of the California **Code** of Regulations.

108135. The term "hazardous substance" shall apply to any article that is not itself an economic poison within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act or Chapter 2 (commencing with Section 12751) of Division 7, of the Food and Agricultural **Code**, but that is a hazardous substance within the meaning of Section 108125 by reason of bearing or containing an economic poison.

108140. The term "human carcinogen" means any substance listed as a human carcinogen by the International Agency for Research on Cancer.

The term "potential human carcinogen" means one of the following:

(1) Any substance that does not meet the definition of human carcinogen, but for which there exists sufficient evidence of carcinogenicity in animals, as determined by the International Agency for Research on Cancer.
(2) Any chemical shown to be changed by the human body into a human carcinogen.

108145. The term "toxic" shall apply to any substance, other than a radioactive substance, that has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

108150. The term "toxic substance causing chronic illness" means any of the following:
(1) Human carcinogens.
(2) Potential human carcinogens.
(3) Any substance included in the list of hazardous substances prepared by the Director of Industrial Relations, pursuant to Section 6382 of the Labor **Code**, notwithstanding exemptions made for substances on the list that are used in particular forms, circumstances, or concentrations, if the health hazard presented by the substance is not the subject of label statements required by

federal law.

108155. "Highly toxic" means any substance that falls within any of the following categories:
(a) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered.
(b) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner.
(c) Produces death within 14 days in half or more than half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

108160. If the department finds that available data on human experience with any substance indicate results different from those obtained on animals with the dosages or concentrations stated in Section 108155, the human data shall take precedence.

108165. "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

108170. "Irritant" means any substance not corrosive within the meaning of Section 108165 that on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

108175. "Strong sensitizer" means a substance that will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity that becomes evident on reapplication of the same substance and that is designated by the department. Before designating any substance as a strong sensitizer, the department, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

108180. The term "extremely flammable" shall apply to any substance that has a flashpoint at or below 20 degrees Fahrenheit, as determined by the Tagliabue open-cup tester, the term "flammable" or "combustible" shall apply to any substance that has a flashpoint of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue open-cup tester, and the term "combustible" shall apply to any substance that has a flashpoint above 80 degrees Fahrenheit to and including 150 degrees, as determined by the Tagliabue open-cup tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the department to be generally applicable to the materials or containers, respectively, and established by regulations issued by

it, which regulations shall also define the terms "flammable" and "combustible" and "extremely flammable" in accord with those methods.

108185. "Radioactive substance" means a substance that emits ionizing radiation.

108190. "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance or, in the case of an article that is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of the matter directly upon the article involved, or upon a tag or other suitable material affixed thereto, and a requirement made by, or pursuant to, this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless the word, statement, or other information also appears (a) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (b) on all accompanying literature where there are directions for use, written or otherwise.

108195. The term "immediate container" does not include package liners.

108200. The term "misbranded hazardous substance" means a hazardous substance (including a toy or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted) intended, or packaged in a form suitable for use in the household or by children if the packaging or labeling of the substance is in violation of an applicable regulation issued pursuant to Section 108685 or 108700, or if the substance, except as otherwise provided by, or pursuant to, Section 108320, 108355, or 108360, fails to bear a label that states conspicuously, as prescribed in Chapter 8 (commencing with Section 108800): (1) the name and place of business of the manufacturer, packer, distributor, or seller; (2) the common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component that contributes substantially to its hazard, unless the department by regulation permits or requires the use of a recognized generic name; (3) the signal word "DANGER" on substances that are extremely flammable, corrosive, or highly toxic; (4) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (5) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor harmful," "Causes burns," "Absorbed through skin," or similar wording descriptive of the hazard; (6) precautionary measures describing the action to be followed or avoided, except when modified by the department pursuant to Section 108320, 108325, 108330, 108355, or 108360; (7) instructions, when necessary or appropriate, for first aid treatment; (8) the word "Poison" for any hazardous substance that is defined as "highly toxic" by Section 108155; (9) instructions for handling and storage of packages that require special care in handling or storage; and (10) the statement "Keep out of the reach of children," or its practical equivalent, or if the article is intended for use by children and is not a banned hazardous substance, adequate direction for the protection of children from the hazard. The term "misbranded hazardous substance" also includes a household substance as defined in subdivision (b) of Section 108680 if it is a substance described in Section 108125 and its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 108685 or 108700.

108205. The term "banned hazardous substance" means either:
(a) Any toy, or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted.
(b) Any hazardous substance intended or packaged in a form suitable, for use in the household, that the department by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding the cautionary labeling as is or may be required under this chapter for that substance, the degree or nature of the hazard involved in the presence or use of that substance in households is that the objective of the protection of the public health and **safety** can be adequately served only by keeping that substance, when so intended or packaged, out of the channels of intrastate commerce.

108210. (a) An article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.
(b) An article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness from any of the following:
(1) Fracture, fragmentation, or disassembly of the article.
(2) Propulsion of the article or any part or accessory thereof.
(3) Points or other protrusions, surfaces, edges, openings, or closures.
(4) Moving parts.
(5) Lack or insufficiency of controls to reduce or stop motion.
(6) As a result of self-adhering characteristics of the article.
(7) Because the article, or any part or accessory thereof, may be aspirated or ingested.
(8) Because of instability.
(9) Because of any other aspect of the article's design or manufacture.
(c) An article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

108215. The department, by regulation, shall exempt from subdivision (a) of Section 108205 (1) articles such as chemical sets, that by reason of their functional purpose require the inclusion of the hazardous substance involved or necessarily present an electrical, mechanical, or thermal hazard and that bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed the directions and warnings and (2) fireworks subject to control under Part 2 (commencing with Section 12500) of Division 11.

108220. Proceedings for the issuance, amendment, or repeal of regulations pursuant to subdivision (b) of Section 108205 and Section 108215 shall be in the manner prescribed in Section 108335. If the department, however, finds that the distribution for household use of the hazardous substance involved presents an imminent hazard to the public health, it may by order publish a notice of the findings, and

thereupon the substance when intended or offered for household use or when so packaged as to be suitable for that use shall be deemed to be a "banned hazardous substance" pending the completion of proceedings relating to the issuance of the regulations.

108225. Notwithstanding any other provision of this chapter, no substance or article shall be deemed to violate any provision of this chapter except Article 6 (commencing with Section 108500), if the substance or article complies with federal law.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **108230**-108235

108230. A determination by the department that a toy or other article intended for use by children presents an electrical, mechanical, or thermal hazard shall be made by regulation.

108235. If, before or during the making of a determination pursuant to Section **108230**, the department finds that, because of an electrical, mechanical, or thermal hazard, distribution of the toy or other article involved presents an imminent hazard to the public health and the department by regulation gives notice of the finding, the toy or other article shall be deemed to be a banned hazardous substance for purposes of this chapter until the proceeding has been completed. If not yet initiated when the regulation is adopted, a proceeding shall be initiated as promptly as possible.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **108240**-108305

108240. The manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, or the introduction into this state from any other state, territory, or the District of Columbia, or from any foreign country, of any package of a misbranded hazardous substance or banned hazardous substance is prohibited.

108245. Any person who imports or receives from any other state or territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any other person, any misbranded hazardous substance or banned hazardous substance or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale in the State of California any misbranded hazardous substance or banned hazardous substance, shall be guilty of a misdemeanor punishable as provided in Section 108295.

108250. The packing, selling, offering for sale, or keeping for sale of a hazardous substance in a reused food, drug, or cosmetic container or in a container that, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification, is unlawful. Such an act shall result in the hazardous substance being in a misbranded package. As used in this section, the terms "cosmetic," "drug" and "food" shall have the same meaning as in Chapter 1 (commencing with Section 109875) of Part 5.

108255. The department may by regulation prohibit the use of any other container for hazardous substances if it determines that the container may be mistaken for a food, drug, or cosmetic container and has a closure that presents a health hazard due to ease of opening.

108260. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a hazardous substance is unlawful if the act results in the article being a misbranded hazardous substance or banned hazardous substance.

108265. It shall be unlawful to refuse to permit entry or inspection authorized by Section 108370 or to permit access to and copying of any record as authorized by Section 108300.

108270. No person shall be prosecuted under this chapter if, after receipt of a hazardous substance, he or she can establish a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded hazardous substance or a banned hazardous substance within the meaning of these terms, as defined by this chapter.

108275. If the guarantee is to the effect that the article is not misbranded or banned within the meaning of the Federal Hazardous Substances Act (Public Law 86-813, 74 Stat. 372), it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere.

108280. The giving of a guarantee referred to in Section 108270 that is false, is prohibited, except by a person who relied upon a guarantee to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous substance.

108285. No person shall be prosecuted under this chapter if the hazardous substance is shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but if the hazardous substance is sold or offered for sale in domestic commerce, this section shall not apply.

108290. The use by any person to his or her own advantage, or revealing other than to the department or any agent of the department or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under authority of this chapter concerning any method of process that as a trade secret is entitled to protection is prohibited.

108295. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) or more than one thousand dollars ($1,000), or by imprisonment in the county jail for a term not exceeding six months, or by both fine and imprisonment.

If the violation is committed with intent to defraud or mislead, or after a conviction of the person under this section has become final, the person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than two thousand dollars ($2,000), or both the imprisonment and fine.

108300. For the purpose of enforcing this chapter, carriers engaged in commerce, and persons receiving or holding hazardous substances shall upon the request of an agent of the department, permit the agent, at reasonable times, to have access to and to copy all records showing the movement of any hazardous substance, or the holding thereof during or after the movement, and the quantity, shipper, and consignee thereof, provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained, provided, further, that carriers shall not be subject to this chapter by reason of their receipt, carriage, holding, or delivery of hazardous substances in the usual course of business as carriers.

As used in this section, "carrier" means a person engaged in transporting property from one place to another and who has no other interest in the ownership of the property.

108305. Before any violation of this chapter is reported to the district attorney of the county, or the prosecuting officer of the city, for institution of a criminal proceeding the person against whom the proceeding is contemplated may be given appropriate notice and an opportunity to present his or her view, either orally or in writing, with regard to each contemplated proceeding.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **108310**-108315

108310. For the purposes of this article, the following terms have the following meanings:

(a) "Manufacturer" includes an importer for resale.

(b) A dealer who sells at wholesale an article or substance shall, with respect to that sale, be considered the distributor of that article or substance.

108315. In the case of any article or substance sold on or after the effective date of this section by its manufacturer, distributor, or dealer that is a banned hazardous substance, whether or not it was at the time of its sale, the article or substance shall, in accordance with regulations of the department, be repurchased as follows:

(a) The manufacturer of any such article or substance shall repurchase it from the person to whom he or she sold it, and shall do the following:

(1) Refund that person the purchase price paid for the article or substance.

(2) If that person has repurchased the article or substance pursuant to subdivision (b) or (c) reimburse him or her for any amounts paid in accordance with subdivision (b) or (c) for the return of the article or substance in connection with its repurchase.

(3) If the manufacturer requires the return of the article or substance in connection with his or her repurchase of it in accordance with this subdivision, reimburse that person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

(b) The distributor of any article or substance shall repurchase it from the person to whom he or she sold it, and shall do the following:

(1) Refund that person the purchase price paid for the article or substance.

(2) If that person has repurchased the article or substance pursuant to subdivision (c), reimburse him or her for any amounts paid in accordance with that subdivision for the return of the article or substance in connection with its repurchase.

(3) If the distributor requires the return of the article or substance in connection with his or her repurchase of it in accordance with this subdivision, reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

(c) In the case of any article or substance sold at retail by a dealer, if the person who purchased it from the dealer returns it to him or her, the dealer shall refund the purchaser the purchase price paid for it and reimburse him or her for any reasonable and necessary transportation charges incurred in its return.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION **108320**-108420

108320. The department may adopt regulations regarding hazardous substances as it determines are necessary to adequately enforce and administer this chapter. Any violation of the regulations shall be deemed to be a violation of this chapter.

108325. Whenever in the judgment of the department the action will promote the objectives of this chapter by avoiding or resolving uncertainty as to its application, the department may by regulation declare to be a hazardous substance, for the purpose of this chapter, any substance or mixture of substances that it finds meet the requirements of Section 108125.

108330. If the department finds that the requirements of Section 108200 are not adequate for the protection of the public health and **safety** in view of the special hazard presented by any particular hazardous substance, it may by regulation establish reasonable variations or additional label requirements as it finds necessary for the protection of the public health and **safety**; and any hazardous substance intended, or packaged in a form suitable, for use in the household or by children, that fails to bear a label in accordance with regulations shall be deemed to be a misbranded hazardous substance.

108335. The regulations shall be adopted by the department in the manner prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**. The regulations shall conform as nearly as practicable with regulations promulgated by the United States Department of Health, Education, and Welfare, Food and Drug Administration.

108340. To the extent that the requirements of this chapter are identical with the federal act, all regulations and any amendments to regulations adopted pursuant to the federal act that are in effect on the effective date of this section or that are adopted on or after the date are the hazardous substances regulations of this state.

108345. A federal regulation adopted pursuant to this chapter takes effect in this state 30 days after it becomes effective as a federal regulation. Any person who will be adversely affected by adoption of a federal regulation in this state may, within the 30 days prior to its becoming effective in this state, file with the state department, in writing, objections and a request for a hearing. The timely filing of substantial objections to a regulation that has become effective under the federal act, stays the adoption of the regulation in this state.

108350. If substantial objections are made to a federal regulation within 30 days prior to its becoming effective in this state or to a proposed regulation within 30 days after it is published, the state

department, after notice, shall conduct a public hearing to receive evidence on issues raised by the objections. Any interested person or his or her representatives shall be heard. The state department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable. The order shall be based on evidence contained in the record of the hearing. If the order concerns a federal regulation, the state department may adopt, rescind, or modify it. If the order concerns a proposed regulation, the state department may withdraw it or set an effective date for the regulation as published or as modified by the order. The effective date shall be at least 60 days after publication of the order.

108355. If the department finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this chapter is impracticable or is not necessary for the adequate protection of the public health and **safety**, the department may exempt the substance from these requirements to the extent it determines to be consistent with adequate protection of the public health and **safety**.

108360. The department may exempt from the requirements established by, or pursuant to, this chapter any container of a hazardous substance with respect to which it finds that adequate requirements satisfying the purposes of this chapter have been established by, or pursuant to, any other law enacted by the Legislature.

108365. The department may appoint agents as it may deem necessary.

108370. The department or its duly authorized agent shall have free access to all reasonable hours to any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold hazardous substances, in commerce, for either of the following purposes:

(a) Inspecting the factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter are being violated.

(b) To secure samples or specimens of any hazardous substances. If the agent obtains any sample, prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge a receipt describing the samples obtained. If an analysis is made of the sample, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

108375. Whenever a duly authorized agent of the department finds, or has probable cause to believe, that any hazardous substance is so misbranded as to be dangerous or fraudulent or is a banned hazardous substance, he or she shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the department or the court.

108380. Whenever the findings of the department show, after investigation and examination, that any hazardous substance found in the possession of any person is misbranded, or banned, the hazardous substance may be seized and quarantined.

108385. A hazardous substance found to be misbranded, or to be a banned hazardous substance may, by order of a court or judge, or in the absence of the order, with the written consent of the owner thereof, be seized or destroyed.

108390. When a misbranded hazardous substance or a banned hazardous substance is detained or quarantined under this article, the department shall commence proceedings in the name of the people of the State of California against the article in the superior court of the county or city and county in which the article is detained or quarantined by petitioning the court for a judgment to forfeit, condemn, and destroy the article. Upon the filing of the petition, the clerk of the court shall fix a time and place for the hearing thereof, and cause notices thereof to be prepared notifying all persons who may claim an interest in the article of the time and place of the hearing. A copy of the petition and notice shall be posted for 14 days in at least three public places in the city or city and county where the court is held, and in a conspicuous place where the article is detained or quarantined. A copy of the petition and notice shall also be served upon each person in possession of the article and on each owner or claimant whose name and address is known. The service may be made by personal service or by registered mail by mailing a copy of the notice and petition by registered mail to the last known address of the person. At any time prior to the date of the hearing any person in possession of the article, or owner thereof or claimant thereto, may file an answer that may include a prayer for a judgment of release of the article or relief in accordance with Sections 108400 and 108405. At the time set for the hearing, the court shall commence to hear and determine the proceeding, but may, for good cause shown, continue the hearing to a day certain; provided, the court shall finally determine all the issues presented by the petition.

108395. If the court finds that a detained or quarantined article is misbranded, after entry of the decree the article shall be destroyed at the expense of the claimant thereof, under the supervision of the agent of the department. All court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his or her agent.

108400. If the misbranding can be corrected by proper labeling or processing of the article, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, the court may by order direct that the article be delivered to the claimant thereof for the labeling or processing under the supervision of an agent of the department. The expense of the supervision shall be paid by the claimant.

108405. The bond shall be returned to the claimant of the article on representation to the court by the department that the article is no longer in violation of this chapter, and that the expenses of the

supervision have been paid.

108410. The department shall cause to be published from time to time reports summarizing any judgments, decrees, or court orders that have been rendered under this chapter, including the nature of the charge and the disposition thereof.

The department shall also cause to be disseminated information regarding hazardous substances in situations involving, in the opinion of the department, imminent danger to health. Nothing in this section shall be construed to prohibit the department from collecting, reporting, and illustrating the results of the investigations of the department.

108415. In addition to the remedies heretofore provided, the department is hereby authorized to bring an action in superior court and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the **Code** of Civil Procedure, except that the department shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

108420. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

CALIFORNIA CODES
HEALTH AND **SAFETY CODE**
SECTION 108500-**108515**

108500. For the purposes of this article, an art or craft material shall be presumed to contain an ingredient that is a toxic substance causing chronic illness if the ingredient, whether an intentional ingredient or an impurity, is 1 percent or more by weight of the mixture or product, or if the department determines that the toxic or carcinogenic properties of the art or craft material are such that labeling is necessary for the adequate protection of the public health and **safety**.

108505. The Legislature finds and declares that there exists a significant danger to the public health and **safety** from exposure to art or craft material that contains 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.

The Legislature additionally finds and declares that present labeling of ingredients and hazards of art or craft material is insufficient to adequately protect the consumers of this state from chronic adverse health effects. 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.

Additionally, the Legislature finds and declares that it is consistent to impose upon those who manufacture, repackage, distribute, and sell art or craft material a duty to convey to consumers information about the potential health hazards of the products they manufacture.

Therefore, the Legislature intends by this article to ensure that consumers be provided information concerning the nature of the toxic substances with which they are working and the known and suspected health hazards of these substances, and to ensure the uniformity of labeling standards, so that materials with similar hazards also have essentially similar labels.

108510. No person shall distribute, sell, offer for sale, or expose for sale any art or craft material containing toxic substances causing chronic illness on which the person:

(a) Has failed to affix a conspicuous label containing the signal word "WARNING," to alert users of potential adverse health effects.

(b) Has failed to affix a conspicuous label warning of the health-related dangers of the art or craft material.

(1) If the product contains a human carcinogen, the warning shall contain the statement: "CANCER HAZARD! Overexposure may create cancer risk."

(2) If the product contains a potential human carcinogen, and does not contain a human carcinogen, the warning shall contain the statement: "POSSIBLE CANCER HAZARD! Overexposure might create cancer risk."

(3) If the product contains a toxic substance causing chronic illness, the warning shall contain, but not be limited to, the following statement or statements where applicable:

(A) May cause sterility or damage to reproductive organs.

(B) May cause birth defects or harm to developing fetus.

(C) May be excreted in human milk causing harm to nursing infant.

(D) May cause central nervous system depression or injury.
(E) May cause numbness or weakness in the extremities.
(F) Overexposure may cause damage to (specify organ).
(G) Heating above (specify degrees) may cause hazardous decomposition products.
(4) If a product contains more than one chronically toxic substance, or if a single substance can cause more than one chronic health effect, the required statements may be combined into one warning statement.
(c) Has failed to affix on the label a list of ingredients that are toxic substances causing chronic illness.
(d) Has failed to affix on the label a statement or statements of safe use and storage instructions, conforming to the following list. The label shall contain, but not be limited to, as many of the following risk statements as are applicable:
(1) Keep out of reach of children.
(2) When using, do not eat, drink, or smoke.
(3) Wash hands after use and before eating, drinking, or smoking.

(4) Keep container tightly closed.
(5) Store in well ventilated area.
(6) Avoid contact with skin.
(7) Wear protective clothing (specify type).
(8) Wear NIOSH certified masks for dusts, mists, or fumes.
(9) Wear NIOSH certified respirator with appropriate cartridge for (specify type).
(10) Wear NIOSH certified supplied-air respirator.
(11) Use window exhaust fan to remove vapors and assure adequate ventilation (specify explosion proof if necessary).
(12) Use local exhaust hood (specify type).
(13) Do not heat above (specify degrees) without adequate ventilation.
(14) Do not use or mix with (specify material).
(e) Has failed to affix on the label a statement on where to obtain more information, such as "call your local poison control center for more health information."
(f) Has failed to affix on the label the name and address of the manufacturer.
(g) If all of the above information cannot fit on the package label, a package insert shall be required to convey all the necessary information to the consumer. In this event, the label shall contain a statement to refer to the package insert, such as "CAUTION: see package insert before use." For purposes of this section, "package insert" means 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.
Art or craft material offered for sale in containers that contain less than one fluid ounce (30 milliliters) or one ounce net (29 grams) shall be deemed to comply with this section if there is affixed on the container a precautionary label that includes the words "USE WITH CAUTION: Contains Hazardous Substances."
The requirements set forth in subdivisions (a) to (g), inclusive, shall not be considered to be complied with unless the required words, statements, or other information appear on the outside container or wrapper, or on a package insert that is easily legible through the outside container or wrapper and is painted in a color in contrast with the product or the package containing the product.
(h) Pursuant to Section 108355, the department may exempt a material from full compliance with this article. In considering this exemption, the department shall take into consideration the potential for reasonably foreseeable misuse of a material by a child.

(i) If an art or craft material complies with labeling standards D-4236 of the American Society for Testing and Materials (ASTM), the material complies with the provisions of this article, unless the department determines that the label on an art or craft material does

not satisfy the purposes of this article.

108515. (a) The manufacturer of any art or craft material sold, distributed, offered for sale, or exposed for sale in this state shall supply to a national poison control network approved by the director the formulation information required by that network for dissemination to poison control centers. Failure to file formulation information with an approved poison control network is a violation of this chapter.

(b) The requirements set forth in Section 108510 shall not be considered to be complied with unless all required words, statements, or other information accompany art or craft materials from manufacturer to consumer, not excluding any distributor, packager, repackager, or retailer.