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FISCAL IMPACT STATEMENT

LS 6815
BILL NUMBER: SB 540

NOTE PREPARED: Jan 16, 2009
BILL AMENDED:

SUBJECT: Consumer commodities.

FIRST AUTHOR: Sen. Simpson
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ___ GENERAL
 DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *Regulation of Certain Toys.* This bill requires the Department of Environmental Management (IDEM) to regulate toys containing toxic materials. It requires that a consumer commodity must display a label that indicates (1) the country where the commodity was manufactured, grown, or processed; and (2) the presence of any toxic material in the commodity.

Indiana Economic Development Corporation. The bill authorizes the Indiana Economic Development Corporation to adopt administrative rules to implement the statute.

Violations. It provides that knowing or intentional violations of the statute or rules adopted under the statute are deceptive acts that may be remedied by the Attorney General as deceptive acts under Indiana law.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Regulation of Certain Toys.* This bill requires IDEM to regulate toys containing toxic materials. The bill allows IDEM to use money in the Lead Trust Fund to pay expenses of regulating toxic material in toys. If IDEM were to hire staff or incur other administrative expenses, IDEM would be limited by the amount of revenue in the Lead Trust Fund. As of 1/14/09 the Lead Trust Fund for IDEM had a balance of \$111,000.

Background. By January 1, 2010, IDEM, in consultation with the ISDH, must identify certain high priority chemicals that are of high concern for children after considering a child's or developing fetus's potential for exposure to each chemical. IDEM must identify children's products or product categories that

may contain specified chemicals and must report on the chemicals of high concern to the appropriate standing committees of the Legislature.

The IDEM Commissioner must establish and maintain a product safety education campaign. IDEM may operate the campaign or may contract with a vendor.

IDEM must coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

IDEM must distribute information to in-state and out-of-state manufacturers to assist manufacturers in identifying products prohibited for manufacture, sale, or distribution. IDEM must assist Indiana retailers in identifying restricted products. IDEM must develop and publish a web site that provides consumer information. IDEM may adopt rules.

IDEM Rules. If determined feasible for manufacturers to achieve and necessary to protect children's health, IDEM, in consultation with the Department of Health (ISDH), may by rule, require that a manufacturer, wholesaler, or retailer may not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in Indiana a children's product or product component containing lead at certain specified levels. IDEM has the resources in place to adopt rules.

Indiana Economic Development Corporation (IEDC). The IEDC may adopt rules to administer the provisions of the bill, including rules to specify the means by which various consumer commodities may be labeled. Rules may not unduly restrict a person from conducting business. Although the IEDC, is not a state agency, it does receive state appropriations and will incur administrative expenses associated with adopting rules. However, it is presumed that the IEDC has the resources in place to adopt rules.

Deceptive Acts. Violators commit a deceptive act that is actionable by the Attorney General. The impact of this provision on administrative expenses of the Attorney General will depend on the number and nature of future cases.

Explanation of State Revenues: *Civil Penalty.* Manufacturers who violate requirements are subject to a civil penalty not to exceed \$5,000 for each violation in the case of a first offense. Subsequent violations are subject to civil penalties not to exceed \$10,000 for each violation. Penalties collected must be deposited in the Lead Trust Fund. The amount of revenue that will be generated by the penalties is indeterminable.

Regulation of Certain Toys. IDEM may receive funding for the infant and children product safety education effort from federal, state, and local governmental entities, child serving foundations, or other private sources. The amount of revenue that will be received for the education effort is indeterminable.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General, ISDH, IDEM.

Local Agencies Affected:

Information Sources: Auditor's Office; State Budget Agency.

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