

**RESOLUTION NO. 1026 -2010, ADOPTING LOCAL LAW  
NO. 56 -2010, A LOCAL LAW TO PROTECT CHILDREN  
FROM CADMIUM POISONING**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on September 16, 2010, a proposed local law entitled, "**A LOCAL LAW TO PROTECT CHILDREN FROM CADMIUM POISONING**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 56 -2010, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO PROTECT CHILDREN FROM CADMIUM  
POISONING**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that in March 2006, a tragic incident occurred in which a 4-year-old boy from Minneapolis, Minnesota died after he swallowed a metal charm that was nearly pure lead. In 2008, a federal law was passed that banned high levels of lead in children's jewelry.

This Legislature also finds and determines that an Associated Press investigation found that 12 of 103 (12%) pieces of inexpensive metal jewelry purchased and tested by the Associated Press in late 2009 contained at least 10% by weight of the metal cadmium.

This Legislature further finds that during the first half of 2010, at least five recalls or safety warnings were issued in conjunction with the Consumer Product Safety Commission for cheap imported children's jewelry that contained high levels of cadmium. The recalls included jewelry sold in a variety of discount stores, box stores, young people's boutique stores and online.

This Legislature additionally finds that movie themed promotional glasses being sold by McDonalds were also recently recalled due to the presence of cadmium.

This Legislature finds that it appears that manufacturers have substituted cadmium in their manufacturing process after lead was prohibited by law in the United States in 2008. The toxic effects that may result from children ingesting lead are well established, but the effects of cadmium on young children have been less studied.

This Legislature further finds that Cadmium is a heavy metal that occurs naturally in some soils and rocks, is used in manufacturing processes and is known to cause cancer in humans. Cadmium levels build up in the body over time and remain in the body, and there is no known treatment for Cadmium exposure.

This Legislature finds that exposure to high amounts or even long term exposure to low doses of cadmium have been linked to cancer, kidney damage, and perhaps may hinder normal brain development in young children. A day after the Associated Press report, the top U.S. consumer safety regulator warned Asian manufacturers not to substitute other toxins for lead in children's charm bracelets and pendants.

According to the New York State Department of Health and the Consumer Product Safety Commission, children can be exposed to cadmium by accidentally swallowing a piece of jewelry or by putting it in their mouth and could potentially ingest significant amounts of cadmium by sucking or biting their jewelry. Some of these items may easily shed cadmium. As is true with so many toxic substances, exposure in young children may have significantly greater consequences, since their brain is still developing and their body's ability to handle such toxic exposures is less mature.

This Legislature finds that the Federal Government restricts the amount of cadmium in drinking water and regulates workplace exposure, but thus far, there are no regulations regarding cadmium in jewelry. However, the Consumer Product Safety Commission and the New York State Department of Health have warned parents, grandparents and caregivers to not allow young children to be given or to play with cheap metal jewelry, especially when they are unsupervised.

This Legislature finds that, according to the New York State Department of Health, there is no way to tell by how it looks if a piece of metal jewelry has a high level of cadmium in it. The Legislature finds that several states and the federal government have started considering a ban on cadmium in children's products.

This Legislature finds that Suffolk County is committed to the protection of the public health and welfare of our County's children.

The purpose of this law is to reduce the exposure of children to cadmium through toys, jewelry and other products, by implementing a ban on the sale of children's products containing certain levels of cadmium in Suffolk County.

## **Section 2. Definitions.**

As used in this law, the following terms shall have the meaning indicated:

- A. "CHILDREN'S PRODUCT" means a toy, jewelry, collectibles, food or beverage containers or other article primarily intended for use by or marketed to children under twelve years of age. The following shall be considered in determining if the toy or article is intended for a child under twelve years of age:
- A statement by the manufacturer, distributor or retailer about the intended use of such article
  - The context and manner of advertising, promotion, and marketing of the article, including but not limited to a label, packaging, placement or advertisement.
  - Whether the article is sold in a store, website, or catalog that primarily sells items geared toward or suitable for children or in a section of a store, website or catalog that primarily sells items geared toward or suitable for children.

- Whether the article is commonly recognized by consumers as being intended for use by a child under twelve years of age.
- Whether the article is offered or sold in conjunction with another article intended for use by a child under twelve years of age.
- Whether the article is sized for children under twelve years of age.

B. "CADMIUM" means a heavy metal that occurs naturally in some soils and rocks and is also known as cadmium oxide, cadmium carbonate, cadmium chloride, cadmium nitrate, cadmium sulfide, cadmium sulfate, cadmium selenium sulfide and cadmium telluride.

### **Section 3. Prohibitions.**

No person shall sell or offer for sale within the County of Suffolk any children's product or component of a children's product that contains such levels of cadmium in excess of 75 parts per million.

### **Section 4. Enforcement.**

This law shall be enforced by the Suffolk County Department of Health Services in accordance with the provisions of Article 11, §§ 760-202 through 760-220, of the Suffolk County Sanitary Code.

### **Section 5. Authority to Promulgate Rules and Regulations.**

The Commissioner of the Suffolk County Department of Health Services is hereby authorized and empowered to promulgate such rules, regulations and determinations as he or she deems necessary to implement this law.

### **Section 6. Penalties for offenses.**

Any person who knowingly violates the provisions of this law shall be subject to a civil penalty of five hundred dollars (\$500) for an initial violation of the law and a penalty of one thousand dollars (\$1000) for each subsequent violation.

### **Section 7. Applicability.**

This law shall apply to any and all actions occurring ninety (90) days after the effective date of this law.

### **Section 8. Reverse Preemption.**

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this article, or in the event that a pertinent State or Federal Administrative Agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

**Section 9. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this 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 effect, impair, 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 judgment or order shall be rendered.

**Section 10. SEQRA Determination.**

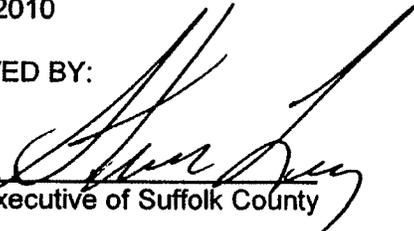
This Legislature, being the State Environment Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 11. Effective Date.**

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: November 16, 2010

APPROVED BY:

  
\_\_\_\_\_  
County Executive of Suffolk County

Date:

**DEC 09 2010**

After a public hearing duly held on November 30, 2010  
Filed with the Secretary of State on December 21, 2010

**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that the Suffolk County Legislature has passed Introductory Resolution No. 1949 -2010 and presented to me for approval Local Law No. -2010, "A Local Law to Protect Children From Cadmium Poisoning", which law prohibits the sale or offer for sale in Suffolk County of any children's product or component of a children's product that contains levels of cadmium in excess of 75 parts per million. Violators are subject to a civil penalty of \$500 for an initial violation and \$1,000 for each subsequent violation.

NOTICE IS FURTHER GIVEN that the County Executive will hold a public hearing on the aforesaid Local Law at 9:30 a.m., prevailing time, on November 30, 2010 in the H. Lee Dennison Building , Media Room, 100 Veterans Memorial Highway, Hauppauge, New York, at which time all interested persons will be heard.

STEVE LEVY  
Suffolk County Executive

DATED: Hauppauge, New York

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, NY



*This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on November 16, 2010 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.*

*Tim Laube*

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Clerk of the Legislature

Intro. Res.

1949

Res. No.

1026

November 16, 2010

**Motion:**

Romaine, Schneiderman, Browning, Muratore, Losquadro  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Co-Sponsors:**

Romaine, Schneiderman, Browning, Muratore, Losquadro  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Second:**

Romaine, Schneiderman, Browning, Muratore, Losquadro  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Thomas MURATORE					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Thomas CILMI					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER				/	
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
Totals		17	—	1	—	

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule _____
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

*Tim Laube*

Tim Laube, Clerk of the Legislature

Roll Call \_\_\_\_\_ Voice Vote \_\_\_\_\_