

West's Annotated Code of Maryland [Currentness](#)

Health--General

▢ [Title 22](#). Poisons, Dangerous Household Substances, Flammable Products, and Hazardous Materials

→ [Subtitle 1](#). Controlled Poisons ([Refs & Annos](#))

→ [§§ 22-101 to 22-119](#). Repealed by Acts 1984, c. 208, eff. July 1, 1984

[§§ 22-101 to 22-119](#). Repealed by Acts 1984, c. 208, eff. July 1, 1984

[§ 22-201](#). Sale of bichloride of mercury

Sale of bichloride of mercury prohibited

(a) A person may not sell or otherwise provide bichloride of mercury in a tablet that contains more than one-tenth of a grain of bichloride of mercury unless the tablet:

- (1) Has the word "Poison" impressed or embossed on it;
- (2) Is triangular, diamond, square, oblong, or irregular in shape;
- (3) Is blue, green, or purple in color; and
- (4) Is contained in a bottle that has the word "Poison" blown in one side of the bottle and a label on the opposite side that bears the word "Poison" in conspicuous letters.

Fines, imprisonment

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment in jail not exceeding 3 months, or both.

[§ 22-202](#). Sale of caustic substances

Caustic or corrosive substance defined

(a)(1) In this section, "caustic or corrosive substance" means:

(i) Hypochlorous acid, either free or combined, and any compound or mixture that contains hypochlorous acid in a concentration so as to yield 10 percent or more by weight of available chlorine;

(ii) Potassium hydroxide and any compound or mixture that contains, in a concentration of 10 percent or more, free or chemically unneutralized potassium hydroxide, including caustic potash and vienna paste;

(iii) Sodium hydroxide and any compound or mixture that contains, in a concentration of 10 percent or more, free or chemically unneutralized sodium hydroxide, including caustic soda and lye; or

(iv) Ammonia water and any compound or mixture that yields, in a concentration of 5 percent or more, free or chemically uncombined ammonia, including ammonium hydroxide and hartshorn.

(2) In this section, “caustic or corrosive substance” does not include:

(i) Calx chlorinata;

(ii) Bleaching powder; or

(iii) Chloride of lime.

Prohibited actions

(b) A person may not sell, exchange, receive, hold, pack, or display or offer for sale or exchange any caustic or corrosive substance for household use unless the container of the caustic or corrosive substance meets the labeling requirements of subsection (c) of this section.

Labeling requirements

(c) In addition to any other requirement of law, the container of any caustic or corrosive substance shall bear a plainly written, conspicuous label that includes:

(1) The common name of the caustic or corrosive substance;

(2) The name and business address of the manufacturer, packer, seller, or distributor;

(3) Directions for treatment in case of accidental personal injury from the caustic or corrosive substance, ex-

cept on shipping containers used for shipment by manufacturers or wholesalers for other than household use; and

(4) The word "Poison":

- (i) Parallel with the main body of print on the label;
- (ii) On a plain, clear background of a distinctly contrasting color; and
- (iii) Printed in uncondensed gothic capital letters of a size that is:

- 1. Not less than 24 point; or
- 2. If there is no other print that is 24 point or larger, not smaller than the largest type on the label.

Fines and penalties

(d) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

§ 22-301. Definitions

In general

(a) In this subtitle the following words have the meanings indicated.

Child resistant packaging

(b) "Child resistant packaging" means packaging that is designed so that the average child under the age of 5 years finds it significantly difficult to open the package or to obtain a harmful amount of the contents of the package within a reasonable time, and so that it is not difficult for a normal adult to open or use.

Household substance

(c) "Household substance" means any substance that is customarily used or stored by individuals in or about

the household and that is:

- (1) A hazardous substance as defined in the Federal Hazardous Substances Act; [\[FN1\]](#)
- (2) A pesticide as defined in the Federal Insecticide, Fungicide, and Rodenticide Act; [\[FN2\]](#)
- (3) A food, drug, or cosmetic as defined in the Federal Food, Drug, and Cosmetic Act; [\[FN3\]](#) or
- (4) A fuel that is:
 - (i) Intended for use in the heating, cooking, or refrigeration system of a house; and
 - (ii) Stored in a portable container.

Labeling

(d) “Labeling” means any label or other written or graphic matter that is on or accompanies a household substance or its package.

Package

(e)(1) “Package” means the immediate container or wrapping of a household substance or the outer container or wrapping used in displaying a household substance to retail consumers.

(2) “Package” does not include any container or wrapping that is used only for:

- (i) Transportation of a household substance in bulk or quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or
- (ii) Shipment or delivery of a household substance to a retail consumer, unless the container or wrapping is the only package or wrapping of the household substance.

State adopted federal regulation

(f) “State adopted federal regulation” means any rule or regulation adopted by the federal government under

the federal Poison Prevention Packaging Act [FN4] that becomes a rule or regulation of this State by automatic adoption under § 22-303 of this subtitle.

[FN1] Pub.L. 86-613, July 12, 1960, 74 Stat. 372, codified at 15 U.S.C.A. § 1261 et seq.

[FN2] June 25, 1947, ch. 125, 61 Stat. 163, codified at 7 U.S.C.A. § 136 et seq.

[FN3] June 25, 1938, ch. 675, 52 Stat. 1040, codified at 21 U.S.C.A. § 301 et seq.

[FN4] Pub.L. 91-601, Dec. 30, 1970, 84 Stat. 1670, codified at 15 U.S.C.A. § 1471 et seq.

§ 22-302. Compliance with federal standards

Compliance with the federal standards set by rule or regulation under the federal Poison Prevention Packaging Act [FN1] is sufficient compliance with this subtitle.

[FN1] Pub.L. 91-601, Dec. 30, 1970, 84 Stat. 1670, codified at 15 U.S.C.A. § 1471 et seq.

§ 22-303. Application of federal rules and regulations

In general

(a)(1) Any rule or regulation adopted by the federal government under the federal Poison Prevention Packaging Act [FN1] automatically is adopted as a rule or regulation of this State.

(2) The Secretary may adopt rules and regulations to set standards for labeling and child resistant packaging of any household substance, if the Secretary finds that:

(i) The potential hazard to children from access to the household substance requires child resistant packaging to protect children from serious personal injury or serious illness as the result of handling, using, or ingesting the household substance; and

(ii) Child resistant packaging of the household substance is technically feasible, practicable, and appropriate.

State rule or regulation to conform

(b) So far as practicable, the Secretary may conform any rule or regulation adopted under this section to the rules and regulations adopted under the federal Poison Prevention Packaging Act.

Dangerous household substances

(c) If, under rules and regulations adopted under this subtitle, a dangerous household substance is required to meet child resistant packaging standards, the Secretary, by rule or regulation, also may prohibit its being packaged in a manner that the Secretary finds is unnecessarily attractive to children.

Child resistant packaging

(d) The standards set under this subtitle for child resistant packaging of a dangerous household substance may not require specific:

- (1) Packaging designs;
- (2) Product content;
- (3) Package quantity; or
- (4) Except as provided in [§ 22-310](#) of this subtitle, labeling.

[FN1] Pub.L. 91-601, Dec. 30, 1970, 84 Stat. 1670, codified at [15 U.S.C.A. § 1471 et seq.](#)

§ 22-304. Standards for labeling and child resistant packaging

In setting any standard for labeling and child resistant packaging of any dangerous household substance, the Secretary shall consider:

- (1) The nature and use of the dangerous household substance;
- (2) The reasonableness of the standard;
- (3) Available scientific and engineering information about child resistant packaging;
- (4) Available medical information about personal injury to and illness of children from accidental access to dangerous household substances; and
- (5) Manufacturing practices of industries affected by this subtitle.

§ 22-305. Application of Administrative Procedure Act

In general

(a) Except for a State adopted federal regulation, the Secretary may not adopt any rule or regulation under this subtitle unless the requirements of this subtitle and the Administrative Procedure Act [FN1] are met.

Child resistant packaging

(b) If the Secretary proposes to set a standard for child resistant packaging of a dangerous household substance, the Secretary shall publish:

- (1) The findings made by the Secretary under § 22-303 of this subtitle;
- (2) The reasons for the proposed standard; and
- (3) The citation of each statutory provision that authorizes the action.

[FN1] State Government § 10-101 et seq.

§ 22-306. Effective date of Federal regulations

In general

(a) Unless a written protest is filed with the Secretary, a State adopted federal regulation takes effect in this State on the date that it becomes effective as a federal rule or regulation.

Protests

(b) Any person who may be affected adversely by a State adopted federal regulation may:

- (1) File a protest against the State adopted federal regulation not more than 30 days after its effective date; and
- (2) Request a hearing.

Stay

(c) A protest under this section stays the effect of the State adopted federal regulation as a rule or regulation of this State.

§ 22-307. Effective date of Secretary's regulations

In general

(a) Unless a written protest is filed with the Secretary, a rule or regulation proposed by the Secretary under this subtitle takes effect on the date the Secretary designates but not earlier than 90 days after publication.

Protests

(b) Any person who may be affected adversely by a rule or regulation that is proposed by the Secretary under this subtitle may:

(1) File a protest within 30 days after publication of the proposed rule or regulation; and

(2) Request a hearing.

§ 22-308. Hearings

In general

(a) The Secretary shall give notice of and hold any hearing authorized or required by this subtitle in accordance with the Administrative Procedure Act. [\[FN1\]](#)

Protests

(b) If a written protest against a rule or regulation is filed in accordance with [§ 22-306](#) or [§ 22-307](#) of this subtitle, the Secretary shall provide an opportunity for a public hearing:

(1) To receive evidence on the issues raised by the protest; and

(2) To hear any interested person.

[FN1] State Government § 10-101 et seq.

§ 22-309. Orders issued after protest hearings

In general

(a)(1) As soon as practicable after a hearing on a protest against a rule or regulation under § 22-308 of this subtitle, the Secretary shall:

(i) Act on the protest by issuing an order; and

(ii) Send a copy of the order to each protester by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

(2) Each order issued under this section shall be based on substantial evidence in the record of the hearing.

Effect of order

(b) An order issued by the Secretary under this section may:

(1) Reinstate, rescind, or modify a State adopted federal regulation as a rule or regulation of this State; or

(2) As to any other rule or regulation proposed under this subtitle:

(i) Withdraw the proposal;

(ii) Modify the proposal and set an effective date for the modified proposal that is at least 60 days after publication of the order; or

(iii) Set a new effective date for the original proposal that is at least 60 days after publication of the order.

§ 22-310. Packaging for elderly or individuals with disabilities

In general

(a) Except as otherwise provided in this section, a dangerous household substance that is subject to a child res-

istant packaging standard may be provided in single size conventional packages designed for easy opening by elderly individuals or individuals with disabilities if:

- (1) Elderly individuals or individuals with disabilities would be unable to use the dangerous household substance if packaged in accordance with the child resistant packaging standard;
- (2) The dangerous household substance is at the same time provided in packages that meet the child resistant packaging standards adopted under this subtitle; and
- (3) The single size conventional package of the dangerous household substance bears a conspicuous label on which is printed:
 - (i) "This Package for Households Without Young Children"; or
 - (ii) If the package is too small for that statement, a substitute statement as required by rule or regulation.

Violations

- (b)(1) If the Secretary finds that a dangerous household substance offered in a single size conventional package under subsection (a) of this section is not offered at the same time in a popular size package that conforms to the child resistant packaging standards, the Secretary may notify the manufacturer or packer of the dangerous household substance of the violation and of a time period within which the violation is to be corrected.
- (2) If the violation remains uncorrected at the end of the specified time period, the Secretary, after giving the manufacturer or packer an opportunity for a hearing, may order the manufacturer or packer to package the dangerous household substance only in packages that conform to the child resistant packaging standards.

§ 22-311. Packaging of substance dispensed by prescription

A dangerous household substance dispensed under the prescription of an authorized prescriber may be provided in a package that does not meet the child resistant packaging standards adopted under this subtitle if the noncomplying package is:

- (1) Required by the prescription; or
- (2) Requested by the purchaser.

§ 22-312. Inspection of establishment

In general

(a) At any reasonable time, a representative of the Secretary may enter and inspect any establishment in which the Secretary reasonably believes a dangerous household substance is being manufactured, repacked, or re-labeled.

Credentials

(b) On entering any establishment to make an inspection under this section, the representative of the Secretary shall present appropriate credentials to the owner, operator, or agent in charge.

Samples

(c) During any inspection under this section, the representative of the Secretary may obtain a sample of any product, package, or labeling in any reasonable manner.

§ 22-401. Definitions

In general

(a) In this subtitle the following words have the meanings indicated.

Guaranty

(b) “Guaranty” means a guaranty that the product, fabric, or related material covered by the guaranty has been tested for flammability under the rules and regulations adopted by the Department under this subtitle.

Product

(c) “Product” means any mattress, mattress pad, sleepwear, or other clothing.

§ 22-402. Federal rules and regulations

The Department shall adopt the federal rules and regulations that:

- (1) Are adopted under the federal Flammable Fabrics Act of 1967; [FN1] and
- (2) Relate to products, fabrics, or related materials.

[FN1] June 30, 1953, ch. 164, 67 Stat. 111, codified at 15 U.S.C.A. § 1191 et seq.

§ 22-403. Inspections

In general

- (a) At any reasonable time, a representative of the Department may enter any factory, warehouse, or establishment in which a product is manufactured, processed, packaged, or stored and inspect any pertinent equipment, labeling, or finished or unfinished products.

Credentials

- (b) On entering any factory, warehouse, or establishment to make an inspection under this section, the representative of the Department shall present appropriate credentials to the owner, operator, or agent in charge.

Samples

- (c)(1) During any inspection under this section, the representative of the Department may obtain a sample of any product, package, or labeling.
- (2) When obtaining a sample under this section, the representative of the Department shall:
 - (i) Pay or offer to pay for the sample; and
 - (ii) Give the owner, operator, or agent in charge a receipt that describes the sample obtained.

§ 22-404. Investigation of fire retardants

In general

- (a) The Department shall determine whether any chemical used as a fire retardant in a product is a known carcinogen.

Carcinogens found

(b) If the Department determines that a chemical is a known carcinogen, the Department shall:

- (1) Inform the public of this determination; and
- (2) Give the public any directions that could reduce the danger from the chemical.

§ 22-405. Injunctions

If a product is manufactured, processed, packaged, held, or sold in violation of this subtitle or any rule or regulation adopted under this subtitle, on petition of the Secretary, the circuit court for the county in which the product is located may grant an injunction forbidding all or any one of the following:

- (1) Manufacturing the product;
- (2) Processing the product;
- (3) Packaging the product;
- (4) Selling the product;
- (5) Transferring the product; or
- (6) Moving the product.

§ 22-406. Guaranty of product, fabric

In general

(a) A guaranty under this section may be:

- (1) A separate guaranty that specifically designates the product, fabric, or related material; or
- (2) A continuing guaranty that:

- (i) Is given by a seller to a buyer;
- (ii) Applies to any product, fabric, or related material sold to the buyer; and
- (iii) Is in the form the Department approves.

Flammability requirements

(b) A person may not manufacture, sell, or hold with intent to sell any new or unused product that does not comply with the flammability requirements of this subtitle.

False guaranty

(c) A person may not give a false guaranty.

Application of section

(d) This section does not apply to a person who:

- (1) Receives in good faith a product, fabric, or related material that is covered by a guaranty that is signed by and contains the name and address of the person who manufactured the product, fabric, or related material or from whom it was received;
- (2) Has not altered the flammability of the product, fabric, or related material covered by the guaranty; and
- (3) Reasonably and in good faith relies on the guaranty.

§ 22-407. Fines and penalties

A person who willfully violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both.

§ 22-501. Hazardous material defined

In general

(a) In this subtitle, “hazardous material” means:

(1) Any substance that may cause substantial personal injury or substantial illness from customary or reasonably foreseeable handling or use, or ingestion by children, and is:

(i) Toxic;

(ii) Corrosive;

(iii) Flammable or combustible;

(iv) An irritant;

(v) A strong sensitizer; or

(vi) A substance that generates pressure by decomposition, heat, or other means; or

(2) Any other substance that the Secretary declares to be hazardous material under [§ 22-502](#) of this subtitle.

Exceptions

(b) In this subtitle, “hazardous material” does not include:

(1) Any food, drug, or cosmetic that is subject to the Federal Food, Drug, and Cosmetic Act [\[FN1\]](#) or Title 21, Subtitle 2 of this article;

(2) A fuel that is a household substance as defined in [§ 22-301](#) of this title; or

(3) A pesticide that is subject to the Federal Insecticide, Fungicide, and Rodenticide Act [\[FN2\]](#) unless the pesticide is contained in an article that, because it contains the pesticide, is as hazardous as any substance described in subsection (a) of this section.

[\[FN1\]](#) June 25, 1938, ch. 675, 52 Stat. 1040, codified at [21 U.S.C.A. § 301 et seq.](#)

[\[FN2\]](#) June 25, 1947, ch. 125, 61 Stat. 163, codified at [7 U.S.C.A. § 136 et seq.](#)

§ 22-502. Rules and regulations

Scope

(a) In accordance with the Administrative Procedure Act, [FN1] for the protection of the public health and safety, the Secretary may adopt rules and regulations that:

(1) Declare to be a hazardous material any substance that the Secretary finds:

(i) Meets the standards for being a hazardous material;

(ii) Is a toy or other substance intended for use by children that presents an electrical, mechanical, or thermal hazard; or

(iii) Needs to be declared a hazardous material to remove any uncertainty as to whether it is hazardous material;

(2) Set requirements for labeling hazardous material; and

(3) Declare any hazardous material to be a banned hazardous material and require its removal from commerce if the Secretary finds that:

(i) The hazardous material is a danger to the public health and safety; and

(ii) Proper labeling cannot protect the public health and safety adequately.

Exceptions

(b) To the extent the Secretary finds to be consistent with protecting the public health and safety adequately, the Secretary shall adopt rules and regulations that exempt or partially exempt hazardous material from the labeling requirements if compliance with labeling requirements is impractical or unnecessary:

(1) Because of the size of the package that contains the hazardous material;

(2) Because the hazard is minor; or

- (3) For other good reason.

[FN1] State Government § 10-101 et seq.

§ 22-503. Misbranded hazardous material

Hazardous material is considered to be misbranded if the hazardous material:

- (1) Is intended or packaged in a form suitable for use in the home or by children; and
- (2) Fails to meet the labeling requirements established by the rules and regulations adopted under this subtitle.

§ 22-504. Imminent hazards to the public health

In general

(a) Notwithstanding the provisions of the Administrative Procedure Act, [FN1] if the Secretary believes that a toy or other article presents an imminent electrical, mechanical, or thermal hazard to the public health and that proper labeling cannot correct the hazard, the Secretary shall issue a temporary rule or regulation, effective immediately, that:

- (1) Declares the toy or other article to be a banned hazardous material; and
- (2) Requires its immediate removal from commerce.

Temporary rule or regulation

(b) Immediately after the Secretary issues a temporary rule or regulation under subsection (a) of this section, the Secretary shall:

- (1) Give notice of and hold a hearing on the temporary rule or regulation; and
- (2) As promptly as possible, complete proceedings under § 22-502 of this subtitle for adoption of the rule or regulation.

Hearings

(c) The Secretary shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

[FN1] State Government § 10-101 et seq.

§ 22-505. Appeals

In general

(a) Any person who may be affected adversely by a rule or regulation adopted by the Secretary under this subtitle may take an appeal in the manner provided for judicial review of final decisions in contested cases in the Administrative Procedure Act. [FN1]

Deadline for filing petition

(b) A person who seeks judicial review under this section shall file a petition with the court within 60 days after publication of the rule or regulation.

Record of proceedings

(c) If a petition for judicial review of a rule or regulation is filed under this section:

(1) The clerk of the court shall send to the Secretary a copy of the petition; and

(2) On receipt of the copy of the petition, the Secretary shall file with the court the record of the proceedings that relate to the rule or regulation that is the subject of the judicial review.

[FN1] State Government § 10-101 et seq.

§ 22-506. Inspections

In general

(a) To enforce this subtitle, the Secretary or a representative of the Secretary at any reasonable time may:

(1) Enter and inspect any factory, warehouse, or establishment in which the Secretary believes hazardous ma-

terial is manufactured, processed, packaged, or stored; and

(2) Enter and inspect any vehicle that is used to transport or hold hazardous materials in commerce.

Focus of inspection

(b) As part of any inspection under subsection (a) of this section, the Secretary may inspect any pertinent equipment, labeling, or finished or unfinished substance or toy.

Credentials

(c) Before entering to make an inspection under this section, the Secretary or representative of the Secretary shall present appropriate credentials to the owner, operator, or agent in charge.

Samples

(d)(1) During an entry and inspection under this section, the Secretary or representative of the Secretary may obtain a sample of any substance, toy, package, or labeling.

(2) When obtaining a sample under this subsection, the Secretary or representative of the Secretary shall:

(i) Pay or offer to pay for the sample; and

(ii) Give the owner, operator, or agent in charge a receipt that describes the sample obtained.

§ 22-507. Results of investigation

In general

(a) The Secretary may collect, report, and illustrate the results of any investigation by the Department that relates to hazardous material.

Content

(b) The Secretary may:

- (1) Publish summaries of judgments, decrees, or court orders issued under this subtitle; and
- (2) If there is an imminent danger to public health, publish information about any hazardous material.

§ 22-508. Investigation results as evidence

The results of any investigation made by the Department shall be available as evidence in any civil or criminal proceeding that is instituted against the manufacturer or retailer of hazardous material by any person who is injured in any manner by contact with the hazardous material.

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