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 MATCH.COM, LLC,
 7 erroneously sued as Match.com

8
 9 UNITED STATES DISTRICT COURT
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11
 12 JANE DOE, individually, and on
 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 MATCH.COM,

16 Defendant.

Case No. CV11-3795 SVW (JEMx)

Hon. Stephen V. Wilson

Filed as Class Action

**REQUEST FOR JUDICIAL NOTICE
 IN SUPPORT OF OPPOSITION TO
 PLAINTIFF'S MOTION FOR
 PRELIMINARY INJUNCTION**

Filed concurrently with:

- 1. Opposition to Motion for Preliminary Injunction;
- 2. Declaration of Sharmistha Dubey; and
- 3. Declaration of Robert H. Platt.

Hearing Date: May 23, 2011

Hearing Time: 1:30 p.m.

Courtroom: 6

Action filed: April 13, 2011

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REQUEST FOR JUDICIAL NOTICE

Defendant Match.com, LLC (“Match”) respectfully submits this Request for Judicial Notice in support of its Opposition to the Motion for Preliminary Injunction filed by Plaintiff Jane Doe.

Match requests that the Court take judicial notice of Exhibits A and B, which are versions of California State Assembly Bill 1681 introduced during the 2005-06 legislative session. **Exhibit A** is the original version of the bill introduced on February 22, 2005. **Exhibit B** is the final version of the bill chaptered on September 22, 2006. These documents were obtained from the California Legislative Counsel’s website at www.leginfo.ca.gov.

Courts regularly take judicial notice of the histories of bills introduced in the California Legislature. *See, e.g., Daghlian v. DeVry Univ., Inc.*, 574 F.3d 1212, 1213 (9th Cir. 2009) (“We grant DeVry's motion to take judicial notice of the Complete Bill History of S.B. 823 . . .”).

Dated: May 16, 2011

MANATT, PHELPS & PHILLIPS, LLP
ROBERT H. PLATT
JOSEPH E. LASKA

By: /s/ Robert H. Platt
Robert H. Platt
Attorneys for Defendant
MATCH.COM, LLC,
erroneously sued as Match.com

EXHIBIT A

ASSEMBLY BILL

No. 1681

**Introduced by Assembly Members Pavley, Bermudez, and
Negrete McLeod**

February 22, 2005

An act to add Chapter 33 (commencing with Section 22948) to Division 8 of the Business and Professions Code, relating to online services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1681, as introduced, Pavley. Online relationship services.

Existing law provides for the regulation of various businesses.

This bill would require online relationship service providers, as defined, to either conduct criminal background checks for each member using the service before allowing that person to communicate with another person through the service or disclose to all Web site visitors residing in the state that the provider has not conducted criminal background checks. The bill would authorize the Attorney General to bring an action for a violation of these provisions, and would make a provider that violates these provisions guilty of a misdemeanor, punishable by a fine of \$250 for each day the violation continues. The bill would exempt a provider that conducts criminal background checks in compliance with these provisions from civil liability for the actions of its members.

Because this bill would make the failure to meet specified requirements a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 33 (commencing with Section 22948) is
2 added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 33. ONLINE RELATIONSHIP SERVICES

6
7 22948. (a) For purposes of this section, the following
8 definitions apply:

9 (1) "Communicate" means to directly contact a person, through
10 an online relationship service provider, in writing using the
11 electronic transmission of free form text or using real-time voice
12 communication.

13 (2) "Criminal background check" means a search of a person's
14 felony and sexual offense convictions through a regularly
15 updated system or other collection of public records operated and
16 maintained in the United States with substantial national
17 coverage and more than 170 million criminal and sexual offender
18 records.

19 (3) "Member" means any person who is either a member or
20 who submits a profile or other information for the purpose of
21 dating, matrimonial, or social referral services to a particular
22 online relationship service provider.

23 (4) "Online relationship service provider" or "provider" means
24 a person or entity engaged, directly or indirectly, in the business,
25 for profit, of offering, promoting, or providing access to dating,
26 relationship, compatibility, matrimonial, or social referral
27 services principally on or through their Web site or otherwise
28 through the Internet.

29 (b) An online relationship service provider that provides
30 services to residents of the state shall do one of the following:

1 (1) Conduct a criminal background check for each member
2 using the online relationship service before allowing that person
3 to communicate with another person through the online
4 relationship service.

5 (2) Disclose prominently to all Web site visitors residing in the
6 state that the online relationship service provider has not
7 conducted criminal background checks on its members or other
8 persons using its service.

9 (c) If the provider conducts criminal background checks
10 pursuant to paragraph (1) of subdivision (b), the provider shall
11 provide the following additional disclosure information through
12 a readily accessible link on the provider's home page:

13 (1) A description of the criminal background check database
14 used by the provider and, if the provider uses a private vendor to
15 conduct the criminal background check, a readily accessible link
16 to the page on the vendor's Web site that describes the contents
17 of its database.

18 (2) An acknowledgment that criminal background checks are
19 supplemental information for the member and should not be
20 considered a substitute for reasonable precaution whenever
21 meeting another person.

22 (3) An acknowledgment that only felony convictions and not
23 arrests are covered by the criminal background check.

24 (4) An acknowledgment that a person can commit crimes
25 without ever having a prior criminal conviction.

26 (5) A description of additional safety measures reasonably
27 designed to increase awareness of safer dating practices.

28 (6) A statement clearly declaring whether or not the provider
29 excludes from its Web site all persons identified as having a
30 conviction for a felony or sexual offense.

31 (d) If the provider chooses to disclose that it does not conduct
32 a criminal background check pursuant to paragraph (2) of
33 subdivision (b), the disclosure shall meet all of the following
34 requirements:

35 (1) The prominent disclosure shall appear to all Web site
36 visitors residing in the state in the following locations:

37 (A) On the provider's home page and on all other pages where
38 visitors or members are likely to first enter the provider's Web
39 site.

1 (B) On the profile page for each member whose profile is
2 shown to residents of this state and for whom the provider has
3 not conducted a criminal background check.

4 (C) At the beginning of all electronic mail messages sent or
5 received by communicating members residing in the state.

6 (2) For the provider's home page for each visitor from the
7 state, the disclosure shall take the following form: "WARNING:
8 [NAME OF PROVIDER] HAS NOT CONDUCTED FELONY
9 OR SEXUAL OFFENSE BACKGROUND CHECKS ON ITS
10 MEMBERS."

11 (3) For the profile page of each member shown to each visitor
12 from the state, and on all electronic mail sent by communicating
13 members to members of the state that go through the provider's
14 service, the disclosure shall take the following form:
15 "WARNING: [NAME OF PROVIDER] HAS NOT
16 CONDUCTED FELONY OR SEXUAL OFFENSE
17 BACKGROUND CHECKS ON THIS INDIVIDUAL."

18 (4) The disclosure shall be in bold, capital letters in at least
19 12-point type and in clear contrast to the surrounding
20 background, and shall be located within three inches of the top of
21 each relevant Web page or electronic mail message.

22 (e) If the provider chooses not to exclude a person with a
23 felony or sexual offense conviction, the provider shall
24 prominently display on the profile page of that person and on all
25 electronic mail from that person that go through the provider's
26 service, when shown or sent to a member of this state, the
27 following notice, consistent with the requirements of paragraph
28 (4) of subdivision (d): "WARNING: THIS PERSON HAS BEEN
29 IDENTIFIED THROUGH OUR CRIMINAL BACKGROUND
30 CHECK TO HAVE A PRIOR FELONY OR SEXUAL
31 OFFENSE CONVICTION."

32 (f) A provider shall update the criminal background check for
33 each member at least once every 90 days.

34 (g) A provider that violates this section is guilty of a
35 misdemeanor punishable by a fine of two hundred and fifty
36 dollars (\$250) for each day that the requirements of this section
37 are not met. If the provider fails to meet the requirements of this
38 section for any of its members or visitors, each failure shall
39 constitute a separate violation for each member or visitor for
40 whom the required disclosure is not provided. The Attorney

1 General may bring an action against a provider that has violated
2 this section.

3 (h) A provider that conducts criminal background checks in
4 compliance with the provisions of this section shall not be
5 subject to civil liability on the basis of the actions of one or more
6 of its members.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

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EXHIBIT B

Assembly Bill No. 1681

CHAPTER 415

An act to add Article 10.1.1 (commencing with Section 25214.1) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to toxic substances.

[Approved by Governor September 22, 2006. Filed with
Secretary of State September 22, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1681, Pavley. Lead-containing jewelry.

Existing hazardous waste control laws regulate the disposal of discarded appliances, lead acid batteries, small household batteries, recyclable latex paint, and household hazardous waste, except as provided in the hazardous waste control laws and regulations. The Department of Toxic Substances Control (department) is required to enforce those hazardous waste control laws. Existing law provides for the Hazardous Waste Control Account in the General Fund and authorizes the funds deposited in that account to be expended, upon appropriation by the Legislature, for specified purposes, including the administration and implementation of the hazardous waste control laws by the department.

This bill would prohibit a person, on and after March 1, 2008, from manufacturing, shipping, selling, or offering for sale jewelry for retail sale in the state, unless the jewelry is made entirely from specified materials. The bill would also prohibit any person, on and after September 1, 2007, from taking those actions with regard to children's jewelry, as defined, unless the children's jewelry is made entirely from certain specified materials.

The bill would also prohibit a person, on and after March 1, 2008, from manufacturing, shipping, selling, or offering for sale body piercing jewelry, as defined, for retail sale in the state unless it is made from specified materials.

The bill would provide that a party to a specified amended consent judgment or to a consent judgment entered in a specified consolidated action is deemed to be in compliance with the bill's provisions, and would require any action brought against that party to be subject to the amended consent judgment.

The bill would exclude a person who violates these prohibitions from the criminal penalties imposed pursuant to the hazardous waste control laws and would instead provide that a person who violates those prohibitions would be liable for a civil penalty not to exceed \$2,500 per day for each violation. The bill would require all civil penalties collected be deposited in the Hazardous Waste Control Account, for expenditure by

the department, upon appropriation by the Legislature, to implement and enforce those prohibitions.

The bill would specify the testing methods and protocols for determining compliance with these prohibitions and would authorize the department to adopt regulations that modify these testing protocols as it deems necessary to further the purposes of the bill.

The people of the State of California do enact as follows:

SECTION 1. Article 10.1.1 (commencing with Section 25214.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.1.1. Lead-Containing Jewelry

25214.1. For purposes of this article, the following definitions shall apply:

(a) "Amended consent judgment" means the amended consent judgment in the consolidated action entitled *People vs. Burlington Coat Factory Warehouse Corporation, et al.* (Alameda Superior Court Lead Case No. RG 04-162075) that was entered by the court on June 15, 2006.

(b) "Body piercing jewelry" means any part of jewelry that is manufactured or sold for placement in a new piercing or a mucous membrane, but does not include any part of that jewelry that is not placed within a new piercing or a mucous membrane.

(c) "Children" means children aged six and younger.

(d) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to, children. For purposes of this article, children's jewelry includes, but is not limited to, jewelry that meets any of the following conditions:

(1) Represented in its packaging, display, or advertising, as appropriate for use by children.

(2) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children.

(3) Sized for children and not intended for use by adults.

(4) Sold in any of the following:

(A) A vending machine.

(B) Retail store, catalogue, or online Web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(C) A discrete portion of a retail store, catalogue, or online Web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(e) (1) "Class 1 material" means any of the following materials:

(A) Stainless or surgical steel.

- (B) Karat gold.
- (C) Sterling silver.
- (D) Platinum, palladium, iridium, ruthenium, rhodium, or osmium.
- (E) Natural or cultured pearls.
- (F) Glass, ceramic, or crystal decorative components, including cat's eye, cubic zirconia, including cubic zirconium or CZ, rhinestones, and cloisonne.
- (G) A gemstone that is cut and polished for ornamental purposes, except as provided in paragraph (2).
- (H) Elastic, fabric, ribbon, rope, or string, unless it contains intentionally added lead and is listed as a class 2 material.
- (I) All natural decorative material, including amber, bone, coral, feathers, fur, horn, leather, shell, wood, that is in its natural state and is not treated in a way that adds lead.
- (J) Adhesive.
- (2) The following gemstones are not class 1 materials: aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadinite, and wulfenite.
 - (f) "Class 2 material" means any of the following materials:
 - (1) Electroplated metal that meets the following standards:
 - (A) On and before August 30, 2009, a metal alloy with less than 10 percent lead by weight that is electroplated with suitable under and finish coats.
 - (B) On and after August 31, 2009, a metal alloy with less than 6 percent lead by weight that is electroplated with suitable under and finish coats.
 - (2) Unplated metal with less than 1.5 percent lead that is not otherwise listed as a class 1 material.
 - (3) Plastic or rubber, including acrylic, polystyrene, plastic beads and stones, and polyvinyl chloride (PVC) that meets the following standards:
 - (A) On and before August 30, 2009, less than 0.06 percent (600 parts per million) lead by weight.
 - (B) On and after August 31, 2009, less than 0.02 percent (200 parts per million) lead by weight.
 - (4) A dye or surface coating containing less than 0.06 percent (600 parts per million) lead by weight.
 - (g) "Class 3 material" means any portion of jewelry that meets both of the following criteria:
 - (1) Is not a class 1 or class 2 material.
 - (2) Contains less than 0.06 percent (600 parts per million) lead by weight.
 - (h) "Component" means any part of jewelry.
 - (i) "EPA reference methods 3050B (Acid Digestion of Sediments, Sludges and Soils) or 3051 (Microwave Assisted Digestion/ Sludge, Soils)" means those test methods incorporated by reference in paragraph (11) of subdivision (a) of Section 260.11 of Title 40 of the Code of Federal Regulations.
 - (j) "Jewelry" means any of the following:

(1) Any of the following ornaments worn by a person:

- (A) An anklet.
- (B) Arm cuff.
- (C) Bracelet.
- (D) Brooch.
- (E) Chain.
- (F) Crown.
- (G) Cuff link.
- (H) Decorated hair accessories.
- (I) Earring.
- (J) Necklace.
- (K) Pin.
- (L) Ring.
- (M) Body piercing jewelry.

(2) Any bead, chain, link, pendant, or other component of an ornament specified in paragraph (1).

(k) (1) “Surface coating” means a fluid, semifluid, or other material, with or without a suspension of finely divided coloring matter, that changes to a solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.

(2) “Surface coating” does not include a printing ink or a material that actually becomes a part of the substrate, including, but not limited to, pigment in a plastic article, or a material that is actually bonded to the substrate, such as by electroplating or ceramic glazing.

25214.2. (a) On and after March 1, 2008, a person shall not manufacture, ship, sell, or offer for sale jewelry for retail sale in the state unless the jewelry is made entirely from a class 1, class 2, or class 3 material, or any combination thereof.

(b) Notwithstanding subdivision (a), on and after September 1, 2007, a person shall not manufacture, ship, sell, or offer for sale children’s jewelry for retail sale in the state unless the children’s jewelry is made entirely from one or more of the following materials:

- (1) A nonmetallic material that is a class 1 material.
- (2) A nonmetallic material that is a class 2 material.
- (3) A metallic material that is either a class 1 material or contains less than 0.06 percent (600 parts per million) lead by weight.
- (4) Glass or crystal decorative components that weigh in total no more than one gram, excluding any glass or crystal decorative component that contains less than 0.02 percent (200 parts per million) lead by weight and has no intentionally added lead.
- (5) Printing ink or ceramic glaze that contains less than 0.06 percent (600 parts per million) lead by weight.
- (6) Class 3 material that contains less than 0.02 percent (200 parts per million) lead by weight.

(c) Notwithstanding subdivision (a), on and after March 1, 2008, a person shall not manufacture, ship, sell, or offer for sale body piercing

jewelry for retail sale in the state unless the body piercing jewelry is made of one or more of the following materials:

- (1) Surgical implant stainless steel.
- (2) Surgical implant grade of titanium.
- (3) Niobium (Nb).
- (4) Solid 14 karat or higher white or yellow nickel-free gold.
- (5) Solid platinum.
- (6) A dense low-porosity plastic, including, but not limited to, Tygon or Polytetrafluoroethylene (PTFE), if the plastic contains no intentionally added lead.

25214.3. (a) Notwithstanding this chapter, a person who violates this article shall not be subject to any criminal penalties imposed pursuant to this chapter and shall only be subject to the civil penalty specified in subdivision (b).

(b) (1) A person who violates this article shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of a civil penalty for a violation of this article, the court shall consider all of the following:

- (A) The nature and extent of the violation.
- (B) The number of, and severity of, the violations.
- (C) The economic effect of the penalty on the violator.
- (D) Whether the violator took good faith measures to comply with this article and the time these measures were taken.
- (E) The willfulness of the violator's misconduct.
- (F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.
- (G) Any other factor that justice may require.

(c) All civil penalties collected pursuant to this article shall be deposited in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature, to implement and enforce this article.

(d) Notwithstanding subdivision (b), a party to the amended consent judgment, or a party to a consent judgment entered in the consolidated action entitled *People vs. Burlington Coat Factory Warehouse Corporation, et al.* (Alameda Superior Court Lead Case No. RG 04-162075) that contains identical or substantially identical terms as provided in Sections 2, 3, and 4 of the amended consent judgment, shall be deemed to be in compliance with this article, and any action brought to enforce this article against the party shall be subject to Section 4 of the amended consent judgment.

25214.4. The testing methods for determining compliance with this article shall be conducted using the EPA reference methods 3050B or 3051 for the material being tested, except as otherwise provided in Sections 24214.4.1 and 25214.4.2, and in accordance with all of the following procedures:

(a) When preparing a sample, the laboratory shall make every effort to assure that the sample removed from a jewelry piece is representative of the component to be tested, and is free of contamination from extraneous dirt and material not related to the jewelry component to be tested.

(b) All jewelry component samples shall be washed prior to testing using standard laboratory detergent, rinsed with laboratory reagent grade deionized water, and dried in a clean ambient environment.

(c) If a component is required to be cut or scraped to obtain a sample, the metal snips, scissors, or other cutting tools used for the cutting or scraping shall be made of stainless steel and washed and rinsed before each use and between samples.

(d) A sample shall be digested in a container that is known to be free of lead and with the use of an acid that is not contaminated by lead, including analytical reagent grade digestion acids and reagent grade deionized water.

(e) Method blanks, consisting of all reagents used in sample preparation handled, digested, and made to volume in the same exact manner and in the same container type as samples, shall be tested with each group of 20 or fewer samples tested.

(f) The results for the method blanks shall be reported with each group of sample results, and shall be below the stated reporting limit for sample results to be considered valid.

25214.4.1. In addition to the requirements of Section 25214.4, the following procedures shall be used for testing the following materials:

(a) For testing a metal plated with suitable undercoats and finish coats, the following protocols shall be observed:

(1) Digestion shall be conducted using hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide.

(2) The sample size shall be 0.050 gram to one gram.

(3) The digested sample may require dilution prior to analysis.

(4) The digestion and analysis shall achieve a reported detection limit no greater than 0.1 percent for samples.

(5) All necessary dilutions shall be made to ensure that measurements are made within the calibrated range of the analytical instrument.

(b) For testing unplated metal and metal substrates that are not a class 1 material the following protocols shall be observed:

(1) Digestion shall be conducted using hot concentrated nitric acid with the option of using hydrochloric acid and hydrogen peroxide.

(2) The sample size shall be 0.050 gram to one gram.

(3) The digested sample may require dilution prior to analysis.

(4) The digestion and analysis shall achieve a reported detection limit no greater than 0.01 percent for samples.

(5) All necessary dilutions shall be made to ensure that measurements are made within the calibrated range of the analytical instrument.

(c) For testing polyvinyl chloride (PVC), the following protocols shall be observed:

(1) The digestion shall be conducted using hot concentrated nitric acid with the option of using hydrochloric acid and hydrogen peroxide.

(2) The sample size shall be a minimum of 0.05 gram if using microwave digestion or 0.5 gram if using hotplate digestion, and shall be chopped or comminuted prior to digestion.

(3) Digested samples may require dilution prior to analysis.

(4) Digestion and analysis shall achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples.

(5) All necessary dilutions shall be made to ensure that measurements are made within the calibrated range of the analytical instrument.

(d) For testing plastic or rubber that is not polyvinyl chloride (PVC), including acrylic, polystyrene, plastic beads, or plastic stones, the following protocols shall be observed:

(1) The digestion shall be conducted using hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide.

(2) The sample size shall be a minimum of 0.05 gram if using microwave digestion or 0.5 gram if using hotplate digestion, and shall be chopped or comminuted prior to digestion.

(3) Plastic beads or stones shall be crushed prior to digestion.

(4) Digested samples may require dilution prior to analysis.

(5) Digestion and analysis shall achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples.

(6) All necessary dilutions shall be made to ensure that measurements are made within the calibrated range of the analytical instrument.

(e) For testing coatings on glass and plastic pearls, the following protocols shall be observed:

(1) The coating of glass or plastic beads shall be scraped onto a surface free of dust, including a clean weighing paper or pan, using a clean stainless steel razor blade or other clean sharp instrument that will not contaminate the sample with lead. The substrate pearl material shall not be included in the scrapings.

(2) The razor blade or sharp instrument shall be rinsed with deionized water, wiped to remove particulate matter, rinsed again, and dried between samples.

(3) The scrapings shall be weighed and not less than 50 micrograms of scraped coating shall be used for analysis. If less than 50 micrograms of scraped coating is obtained from an individual pearl, multiple pearls from that sample shall be scraped and composited to obtain a sufficient sample amount.

(4) The number of pearls used to make the composite shall be noted.

(5) The scrapings shall be digested according to EPA reference method 3050B or 3051 or an equivalent procedure for hot acid digestion in preparation for trace lead analysis.

(6) The digestate shall be diluted in the minimum volume practical for analysis.

(7) The digested sample shall be analyzed according to specification of an approved and validated methodology for inductively coupled plasma mass spectrometry.

(8) A reporting limit of 0.001 percent (10 parts per million) in the coating shall be obtained for the analysis.

(9) The sample result shall be reported within the calibrated range of the instrument. If the initial test of the sample is above the highest calibration standard, the sample shall be diluted and reanalyzed within the calibrated range of the instrument.

(f) For testing dyes, paints, coatings, varnish, printing inks, ceramic glazes, glass, or crystal, the following testing protocols shall be observed:

(1) The digestion shall use hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide.

(2) The sample size shall be not less than 0.050 gram, and shall be chopped or comminuted prior to digestion.

(3) The digested sample may require dilution prior to analysis.

(4) The digestion and analysis shall achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples.

(5) All necessary dilutions shall be made to ensure that measurements are made within the calibrated range of the analytical instrument.

(g) For testing glass and crystal used in children's jewelry, the following testing protocols for determining weight shall be used:

(1) A component shall be free of any extraneous material, including adhesive, before it is weighed.

(2) The scale used to weigh a component shall be calibrated immediately before the components are weighed using S-class weights of one and two grams, as certified by the National Institute of Standards and Technology (NIST) of the Department of Commerce.

(3) The calibration of the scale shall be accurate to within 0.01 gram.

25214.4.2. The department may adopt regulations that modify the testing protocols specified in Sections 25214.4 and 25214.4.1, as it deems necessary to further the purposes of this article.