

ASSEMBLY BILL

No. 1319

Introduced by Assembly Member Butler
(Coauthors: Assembly Members Ammiano, Bradford, Gatto,
Huffman, Lara, Ma, and Skinner)
(Coauthors: Senators Corbett, De León, Liu, and Pavley)

February 18, 2011

An act to add and repeal Chapter 12 (commencing with Section 108940) of Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, as introduced, Butler. Product safety: bisphenol A.

Existing law prohibits the manufacture, sale, or distribution in commerce of certain toys and child care articles, as defined, if those products contain specified types of phthalates in concentrations exceeding $\frac{1}{10}$ of 1%.

Existing law also requires manufacturers to use the least toxic alternative when replacing phthalates in their products and would prohibit manufacturers from replacing phthalates with certain carcinogens and reproductive toxicants.

The bill would enact the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after January 1, 2013, the manufacture, sale, or distribution in commerce of any bottle, cup, or liquid, food, or beverage in a can, jar, or plastic bottle that contains bisphenol A, or that is lined with a material that contains bisphenol A, at a level above 0.1 parts per billion (ppb). It would also, except as specified, prohibit, on and after July 1, 2013, the manufacture, sale, or distribution of liquid infant formula in a can or plastic bottle containing

bisphenol A or lined with a material containing it. The bill would also require manufacturers to use the least toxic alternative when replacing bisphenol A in containers in accordance with this bill.

This bill would repeal these provisions if the Department of Toxic Substances Control adopts a specified regulatory response.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Toxin-Free Infants and Toddlers Act.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) The purpose of this act is to ensure that children are not
5 exposed to harmful toxins.

6 (b) Bisphenol A (BPA) was created as a synthetic sex hormone.
7 Today it is widely used in certain kinds of plastics and epoxy
8 resins, including those commonly found in baby bottles and infant
9 formula cans.

10 (c) Research by the federal Centers for Disease Control and
11 Prevention has found that 93 percent of Americans have BPA in
12 their bodies, and children have higher levels than adults.

13 (d) According to the National Institutes of Health diet is the
14 main way people are exposed to BPA, due to leaching of the
15 chemical from containers into food and drink.

16 (e) The United States Food and Drug Administration has
17 measured BPA in canned infant formula at levels ranging from
18 0.1 parts per billion (ppb) to 13.2 ppb.

19 (f) BPA would not appear in bottles, cups, cans, or jars as a
20 trace contaminant. If BPA is found in any of these articles, it has
21 been placed there intentionally.

22 (g) The United States Geological Service has measured BPA
23 in wastewater dominated at levels up to 12 ppb. The agency's
24 detection limit for BPA was 0.09 ppb.

25 (h) BPA is a known hormone disruptor. The National Institutes
26 of Health is concerned that BPA exposure in children may lead to
27 problems with brain development, behavior, early puberty, breast
28 cancer, and prostate cancer. New research has also suggested that
29 BPA may interfere with metabolism and lead to obesity, heart
30 disease, and diabetes in humans.

1 (i) Out of concern for children’s safety, Canada has banned the
2 use of BPA in baby bottles and is restricting its use in infant
3 formula cans.

4 (j) Many companies have phased out BPA from their products
5 or removed BPA-containing products from their store shelves or
6 both.

7 (k) It is in the best interest of California to significantly reduce
8 infants’ and toddlers’ exposure to BPA as soon as possible, and
9 to ultimately eliminate all exposure.

10 (l) California’s Green Chemistry Initiative will not come to
11 fruition soon enough to protect the 550,000 babies born in
12 California each year from the unnecessary health risk posed by
13 BPA.

14 SEC. 3. Chapter 12 (commencing with Section 108940) is
15 added to Part 3 of Division 104 of the Health and Safety Code, to
16 read:

17
18 CHAPTER 12. BISPHEENOL A
19

20 108940. (a) On and after January 1, 2013, and notwithstanding
21 subdivision (c), no person shall manufacture, sell, or distribute in
22 commerce any bottle or cup that contains bisphenol A, at a level
23 above 0.1 parts per billion (ppb), if the bottle or cup is designed
24 or intended to be filled with any liquid, food, or beverage intended
25 primarily for consumption from that bottle or cup by infants or
26 children three years of age or younger.

27 (b) On and after January 1, 2013, and notwithstanding
28 subdivision (c), no person or entity shall manufacture, sell, or
29 distribute in commerce any liquid, food, or beverage in a can, jar,
30 or plastic bottle containing bisphenol A, or lined with a material
31 containing bisphenol A, at a level above 0.1 ppb if the liquid, food,
32 or beverage is intended primarily for consumption by infants or
33 children three years of age or younger, unless the can or bottle
34 contains infant formula.

35 (c) Subdivisions (a) and (b) shall not apply to medical devices,
36 as defined in Section 109920, or to food and beverage containers
37 designed or intended primarily to contain liquid, food, or beverages
38 for consumption by the general population.

39 (d) Notwithstanding subdivisions (a) and (b), if the Department
40 of Toxic Substances Control adopts a regulatory response described

1 in Section 25253 regarding the use of bisphenol A in any item that
2 may be prohibited by this section, this section shall become
3 inoperative upon the date that the department posts a notice on its
4 Internet Web site that it has adopted the response, and shall be
5 repealed on the following January 1.

6 (e) Notwithstanding subdivisions (b) and (c) of Section 25257.1,
7 this section shall not be construed to prohibit or restrict the
8 authority of the Department of Toxic Substances Control to adopt
9 regulations to limit exposure to or reduce the level of hazard posed
10 by bisphenol A.

11 108940.1. (a) On and after July 1, 2013, no person or entity
12 shall manufacture, sell, or distribute in commerce any infant
13 formula in a can or plastic bottle containing bisphenol A or lined
14 with a material containing bisphenol A.

15 (b) Notwithstanding subdivision (a), if the Department of Toxic
16 Substances Control adopts a regulatory response described in
17 Section 25253 regarding the use of bisphenol A in any item that
18 may be prohibited by this section, this section shall become
19 inoperative upon the date that the department posts on its Internet
20 Web site a notice that it has adopted the response, and shall be
21 repealed on the following January 1.

22 (c) Notwithstanding subdivisions (b) and (c) of Section 25257.1,
23 this section shall not be construed to prohibit or restrict the
24 authority of the Department of Toxic Substances Control to adopt
25 regulations to limit exposure to or reduce the level of hazard posed
26 by bisphenol A.

27 108941. (a) Manufacturers shall use the least toxic alternative
28 when replacing bisphenol A in containers in accordance with this
29 chapter.

30 (b) Manufacturers shall not replace bisphenol A, pursuant to
31 this chapter, with carcinogens rated by the United States
32 Environmental Protection Agency as carcinogenic to humans,
33 likely to be carcinogenic to humans, or suggestive evidence of
34 carcinogenic potential, or known to the state to cause cancer as
35 listed in the Safe Drinking Water and Toxic Enforcement Act of
36 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division
37 20) list of chemicals known to cause cancer or reproductive
38 toxicity.

39 (c) Manufacturers shall not replace bisphenol A, pursuant to
40 this chapter, with reproductive toxicants that cause birth defects,

1 reproductive harm, or developmental harm as identified by the
2 United States Environmental Protection Agency or listed in the
3 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter
4 6.6 (commencing with Section 25249.5) of Division 20) list of
5 chemicals known to cause cancer or reproductive toxicity.
6 108941.5. If both Sections 108940 and 108940.1 become
7 inoperative and are repealed, then this chapter shall be repealed
8 on January 1 of the subsequent calendar year following the repeal
9 date of the last repealed section.

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