

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1319

Introduced by Assembly Member Butler

(Principal coauthor: Senator Pavley)

(Coauthors: Assembly Members Ammiano, Blumenfield, Bradford, Brownley, Campos, Davis, Dickinson, Gatto, Huffman, Lara, Bonnie Lowenthal, Ma, and Skinner)

(Coauthors: Senators Corbett, De León, Liu, and Pavley and Liu)

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 amended, 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 $\frac{1}{40}$ 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.~~

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process

by which chemicals of concern may be evaluated. The department is prohibited from duplicating or adopting conflicting regulations for regulated product categories. A violation of the hazardous waste control law is a crime.

The bill would enact the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after ~~January~~ July 1, 2013, the manufacture, sale, or distribution in commerce of any ~~bottle, cup, or infant formula~~, liquid, baby 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.

1 (e) The United States Food and Drug Administration has
2 measured BPA in canned infant formula at levels ranging from
3 0.1 parts per billion (ppb) to 13.2 ppb.

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

7 ~~(g)~~

8 (f) The United States Geological Service has measured BPA in
9 wastewater dominated at levels up to 12 ppb. The agency's
10 detection limit for BPA was 0.09 ppb.

11 ~~(h)~~

12 (g) BPA is a known hormone disruptor. The National Institutes
13 of Health is concerned that BPA exposure in children may lead to
14 problems with brain development, behavior, early puberty, breast
15 cancer, and prostate cancer. New research has also suggested that
16 BPA may interfere with metabolism and lead to obesity, heart
17 disease, and diabetes in humans.

18 ~~(i)~~

19 (h) Out of concern for children's safety, Canada has banned the
20 use of BPA in baby bottles and is restricting its use in infant
21 formula cans.

22 ~~(j)~~

23 (i) Many companies have phased out BPA from their products
24 or removed BPA-containing products from their store shelves or
25 both.

26 ~~(k)~~

27 (j) It is in the best interest of California to significantly reduce
28 infants' and toddlers' exposure to BPA as soon as possible, and
29 to ultimately eliminate all exposure.

30 ~~(l)~~

31 (k) California's Green Chemistry Initiative will not come to
32 fruition soon enough to protect the 550,000 babies born in
33 California each year from the unnecessary health risk posed by
34 BPA.

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

CHAPTER 12. BISPHENOL A

1
2
3 108940. (a) On and after ~~January~~ *July* 1, 2013, ~~and~~
4 ~~notwithstanding subdivision (e)~~, no person shall manufacture, sell,
5 or distribute in commerce any bottle or cup that contains bisphenol
6 A, at a level above 0.1 parts per billion (ppb), if the bottle or cup
7 is designed or intended to be filled with any liquid, food, or
8 beverage intended primarily for consumption from that bottle or
9 cup by infants or children three years of age or younger.

10 ~~(b) On and after January 1, 2013, and notwithstanding~~
11 ~~subdivision (e), no person or entity shall manufacture, sell, or~~
12 ~~distribute in commerce any liquid, food, or beverage in a can, jar,~~
13 ~~or plastic bottle containing bisphenol A, or lined with a material~~
14 ~~containing bisphenol A, at a level above 0.1 ppb if the liquid, food,~~
15 ~~or beverage is intended primarily for consumption by infants or~~
16 ~~children three years of age or younger, unless the can or bottle~~
17 ~~contains infant formula.~~

18 *(b) (1) On and after July 1, 2013, no person or entity shall*
19 *manufacture, sell, or distribute in commerce any infant formula,*
20 *liquid, baby food, or beverage containing bisphenol A, at a level*
21 *above 0.1 ppb if the infant formula, liquid, baby food, or beverage*
22 *is intended primarily for consumption by infants or children three*
23 *years of age or younger.*

24 *(2) For the purposes of this section, “baby food” means a*
25 *prepared solid food consisting of a soft paste that is intended*
26 *primarily for consumption by children three years of age or*
27 *younger and that is commercially available.*

28 *(c) The maximum amount of bisphenol A allowed pursuant to*
29 *subdivision (b) shall be based on the likely concentration of the*
30 *infant formula, liquid, baby food, or beverage that will be*
31 *consumed.*

32 ~~(e)~~

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

37 ~~(d)~~

38 *(e) Notwithstanding subdivisions (a) and (b), if the Department*
39 *of Toxic Substances Control adopts a regulatory response described*
40 *in Section 25253 regarding the use of bisphenol A in any item that*

1 ~~may be an item that is prohibited by this section, this section shall~~
2 ~~become inoperative~~ *cease to be implemented with respect to that*
3 *item* upon the date that the department posts a notice on its Internet
4 Web site that it has adopted the response, ~~and shall be repealed on~~
5 ~~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 ~~(e) 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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