

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1319**

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**Introduced by Assembly Member Butler**

(Principal coauthor: Senator Pavley)

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

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

February 18, 2011

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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, 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 July 1, 2013, the

manufacture, sale, or distribution in commerce of any infant formula, liquid, baby food, or beverage that contains bisphenol A at a level above 0.1 parts per billion (ppb). The bill would also require manufacturers to use the least toxic alternative when replacing bisphenol A in containers in accordance with this bill.

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) The United States Geological Service has measured BPA in  
20 wastewater dominated at levels up to 12 ppb. The agency's  
21 detection limit for BPA was 0.09 ppb.
- 22 (g) BPA is a known hormone disruptor. The National Institutes  
23 of Health is concerned that BPA exposure in children may lead to  
24 problems with brain development, behavior, early puberty, breast  
25 cancer, and prostate cancer. New research has also suggested that  
26 BPA may interfere with metabolism and lead to obesity, heart  
27 disease, and diabetes in humans.
- 28 (h) Out of concern for children's safety, Canada has banned the  
29 use of BPA in baby bottles and is restricting its use in infant  
30 formula cans.

1 (i) Many companies have phased out BPA from their products  
2 or removed BPA-containing products from their store shelves or  
3 both.

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

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

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

14  
15 CHAPTER 12. BISPHENOL A

16  
17 108940. (a) On and after July 1, 2013, no person shall  
18 manufacture, sell, or distribute in commerce any bottle or cup that  
19 contains bisphenol A, at a level above 0.1 parts per billion (ppb),  
20 if the bottle or cup is designed or intended to be filled with any  
21 liquid, food, or beverage intended primarily for consumption from  
22 that bottle or cup by infants or children three years of age or  
23 younger.

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

30 (2) For the purposes of this section, "baby food" means a  
31 prepared solid food consisting of a soft paste that is intended  
32 primarily for consumption by children three years of age or younger  
33 and that is commercially available.

34 (c) The maximum amount of bisphenol A allowed pursuant to  
35 subdivision (b) shall be based on the ~~likely concentration of the~~  
36 infant formula, liquid, baby food, or beverage ~~that will~~ *as it is*  
37 *intended or directed to* be consumed.

38 (d) Subdivisions (a) and (b) shall not apply to medical devices,  
39 as defined in Section 109920, or to food and beverage containers

1 designed or intended primarily to contain liquid, food, or beverages  
2 for consumption by the general population.

3 (e) Notwithstanding subdivisions (a) and (b), if the Department  
4 of Toxic Substances Control adopts a regulatory response described  
5 in Section 25253 regarding the use of bisphenol A in an item that  
6 is prohibited by this section, this section shall cease to be  
7 implemented with respect to that item upon the date that the  
8 department posts a notice on its Internet Web site that it has  
9 adopted the response.

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

15 108941. (a) Manufacturers shall use the least toxic alternative  
16 when replacing bisphenol A in containers in accordance with this  
17 chapter.

18 (b) Manufacturers shall not replace bisphenol A, pursuant to  
19 this chapter, with carcinogens rated by the United States  
20 Environmental Protection Agency as carcinogenic to humans,  
21 likely to be carcinogenic to humans, or suggestive evidence of  
22 carcinogenic potential, or known to the state to cause cancer as  
23 listed in the Safe Drinking Water and Toxic Enforcement Act of  
24 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division  
25 20) list of chemicals known to cause cancer or reproductive  
26 toxicity.

27 (c) Manufacturers shall not replace bisphenol A, pursuant to  
28 this chapter, with reproductive toxicants that cause birth defects,  
29 reproductive harm, or developmental harm as identified by the  
30 United States Environmental Protection Agency or listed in the  
31 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter  
32 6.6 (commencing with Section 25249.5) of Division 20) list of  
33 chemicals known to cause cancer or reproductive toxicity.