

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 28, 2011

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, Skinner, and Williams)**

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

February 18, 2011

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An act to add Chapter 12 (commencing with Section 108940) to 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 bottle or cup that contains bisphenol A, at a *detectable* level above 0.1 parts per billion (ppb), if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by infants or children three years of age or younger. This prohibition would cease to be implemented for an item, on the date that a prescribed notice is posted regarding the department’s adoption of related regulations. 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.

1 (g) BPA is a known hormone disruptor. The National Institutes  
2 of Health is concerned that BPA exposure in children may lead to  
3 problems with brain development, behavior, early puberty, breast  
4 cancer, and prostate cancer. New research has also suggested that  
5 BPA may interfere with metabolism and lead to obesity, heart  
6 disease, and diabetes in humans.

7 (h) Out of concern for children’s safety, Canada has banned the  
8 use of BPA in baby bottles and is restricting its use in infant  
9 formula cans.

10 (i) Many companies have phased out BPA from their products  
11 or removed BPA-containing products from their store shelves or  
12 both.

13 (j) It is in the best interest of California to significantly reduce  
14 infants’ and toddlers’ exposure to BPA as soon as possible, and  
15 to ultimately eliminate all exposure.

16 (k) California’s Green Chemistry Initiative will not come to  
17 fruition soon enough to protect the 550,000 babies born in  
18 California each year from the unnecessary health risk posed by  
19 BPA.

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

23  
24 CHAPTER 12. BISPHENOL A  
25

26 108940. (a) On and after July 1, 2013, no person shall  
27 manufacture, sell, or distribute in commerce any bottle or cup that  
28 contains bisphenol A, at a *detectable* level above 0.1 parts per  
29 billion (ppb), if the bottle or cup is designed or intended to be filled  
30 with any liquid, food, or beverage intended primarily for  
31 consumption from that bottle or cup by infants or children three  
32 years of age or younger.

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

37 (c) Notwithstanding subdivision (a), if the Department of Toxic  
38 Substances Control adopts a regulatory response described in  
39 Section 25253 regarding the use of bisphenol A in an item that is  
40 prohibited by this section, this section shall cease to be

1 implemented with respect to that item upon the date that the  
2 department posts a notice on its Internet Web site that it has  
3 adopted the response.

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

9 108941. (a) Manufacturers shall use the least toxic alternative  
10 when replacing bisphenol A in containers in accordance with this  
11 chapter.

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

21 (c) Manufacturers shall not replace bisphenol A, pursuant to  
22 this chapter, with reproductive toxicants that cause birth defects,  
23 reproductive harm, or developmental harm as identified by the  
24 United States Environmental Protection Agency or listed in the  
25 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter  
26 6.6 (commencing with Section 25249.5) of Division 20) list of  
27 chemicals known to cause cancer or reproductive toxicity.