

AMENDED IN ASSEMBLY JUNE 25, 2009

SENATE BILL

No. 797

Introduced by Senators Pavley and Liu
(Principal coauthor: Assembly Member Ma)
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Huffman)

February 27, 2009

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

SB 797, as amended, Pavley. Product safety: bisphenol A.

Existing law, ~~commencing January 1, 2009~~, 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 Toddlers and Babies~~ *Infants and Toddlers* Act, which would prohibit the manufacture, sale, or distribution in commerce of any bottle, cup, or liquid, food, or beverage in a can ~~or~~, 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), under specified conditions. 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-Toddlers-and-Babies~~ *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.
31 (i) Out of concern for children's safety, Canada has banned the
32 use of BPA in baby bottles and is restricting its use in infant
33 formula cans.

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

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

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

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

CHAPTER 12. BISPHENOL A

108940. (a) Notwithstanding subdivision (c), no person shall manufacture, sell, or distribute in commerce any bottle or cup that contains bisphenol A, at a 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 from that bottle or cup by infants or children three years of age or younger.

(b) Notwithstanding subdivision (c), no person or entity shall manufacture, sell, or distribute in commerce any liquid, food, or beverage in a can ~~or jar containing bisphenol A~~, *jar, or plastic bottle containing bisphenol A, or lined with a material containing bisphenol A*, at a level above 0.1 ppb if the liquid, food, or beverage is intended primarily for consumption by infants or children three years of age or younger.

(c) Subdivisions (a) and (b) shall not apply to food and beverage containers designed or intended primarily to contain liquid, food, or beverages for consumption by the general population.

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

(b) Manufacturers shall not replace bisphenol A, pursuant to this chapter, with carcinogens rated by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or suggestive evidence of

1 carcinogenic potential, or known to the state to cause cancer as
2 listed in the Safe Drinking Water and Toxic Enforcement Act of
3 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division
4 20).

5 (c) Manufacturers shall not replace bisphenol A, pursuant to
6 this chapter, with reproductive toxicants that cause birth defects,
7 reproductive harm, or developmental harm as identified by the
8 United States Environmental Protection Agency or listed in the
9 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter
10 6.6 (commencing with Section 25249.5) of Division 20).

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