



House of Representatives

General Assembly

File No. 165

January Session, 2009

Substitute House Bill No. 6572

House of Representatives, March 24, 2009

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING BANNING BISPHENOL-A IN CHILDREN'S PRODUCTS AND FOOD PRODUCTS AND PROHIBITING CERTAIN ALTERNATIVE SUBSTANCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this
2 section, "prohibited alternative substance" means a substance:

3 (1) Listed as known or reasonably anticipated to be, a human
4 carcinogen in the most recent Report on Carcinogens by the United
5 States Department of Health and Human Services;

6 (2) That appears on the most recent National Institute for
7 Occupational Safety and Health Carcinogen List;

8 (3) Classified by the International Agency for Research on Cancer as
9 group 1, carcinogenic to humans, group 2A, probably carcinogenic to
10 humans, or group 2B, possibly carcinogenic to humans; or

11 (4) Listed on the electronic database of the United States

12 Environmental Protection Agency in group A, carcinogenic to humans,
13 group B, likely to be carcinogenic to humans, or group C, suggestive
14 evidence of carcinogenic potential.

15 (b) No manufacturer shall use a prohibited alternative substance to
16 manufacture a product that was made with bisphenol-A prior to the
17 prohibition against using bisphenol-A in such a product under sections
18 2, 3 and 4 of this act.

19 Sec. 2. (NEW) (*Effective October 1, 2009*) (a) For the purposes of this
20 section, "reusable food or beverage container" means a receptacle for
21 storing food or beverages, including, but not limited to, baby bottles,
22 spill-proof cups, sports bottles and thermoses, and excluding food or
23 beverage containers intended for disposal after initial use.

24 (b) Except as provided in subsection (c) of this section, on and after
25 October 1, 2010, no person shall manufacture, sell, offer for sale or
26 distribute in this state any reusable food or beverage container
27 containing bisphenol-A.

28 (c) A person may sell his or her existing inventory of reusable food
29 or beverage containers containing bisphenol-A as of October 1, 2010,
30 until March 1, 2011, provided such person can demonstrate that such
31 containers were purchased prior to October 1, 2010, in a quantity
32 comparable to the containers purchased during the same period of the
33 preceding year.

34 Sec. 3. (NEW) (*Effective October 1, 2009*) (a) For the purpose of this
35 section, (1) "infant formula" means a milk-based or soy-based powder,
36 concentrated liquid or ready-to-feed substitute for human breast milk,
37 that is intended for infant consumption and is commercially available,
38 and (2) "baby food" means a prepared solid food consisting of a soft
39 paste or an easily chewed food that is intended for consumption by
40 children aged two years or younger and is commercially available.

41 (b) Except as provided in subsection (c) of this section, on and after
42 January 1, 2010, no person shall manufacture, sell, offer for sale or

43 distribute in this state any infant formula or baby food that is stored in
44 a plastic container, jar or can that contains bisphenol-A.

45 (c) A person may sell or distribute his or her existing inventory of
46 infant formula or baby food containers, jar or cans containing
47 bisphenol-A as of January 1, 2010, until January 1, 2011, provided such
48 person can demonstrate that such containers, jars or cans were
49 purchased or acquired prior to January 1, 2010, in a quantity
50 comparable to the containers, jars or cans purchased or acquired
51 during the same period of the prior year.

52 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) On and after October 1,
53 2011, the manufacturer of a food product that is contained in a jar or
54 can containing bisphenol-A shall label such jar or can with a
55 conspicuous label stating "WARNING: This container is made using
56 bisphenol-A". On and after said date, no person shall sell or offer for
57 sale any such food product in the state without such warning label
58 affixed to the jar or can.

59 (b) On and after October 1, 2014, no person shall manufacture, sell,
60 offer for sale or distribute in this state any food product that is
61 contained in a jar, can or other container containing bisphenol-A.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section

Statement of Legislative Commissioners:

The definition of "safe alternative" was deleted to conform to the amendment which removed any references to the defined term.

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Consumer Protection, Dept.	GF - Cost	92,000	56,000
State Comptroller - Fringe Benefits ¹	GF - Cost	24,000	32,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a cost to the Department of Consumer Protection (DCP) of approximately \$116,000 in FY 10 with an ongoing cost of \$88,000 thereafter. The DCP will need one Product Safety Inspector (funded at three-quarter year in FY 10) plus testing equipment. The testing equipment will cost an estimated \$50,000 in FY 10. The annual cost of the Product Safety Inspector would be \$56,000 plus associated fringe benefits. The Product Safety Inspector would be needed to inspect, identify and test for prohibited substances and to ensure after October 2011 that the industry is complying with the conspicuous labeling requirement.

The Out Years

The annualized ongoing fiscal impact identified above would

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

continue into the future subject to inflation.

OLR Bill Analysis

sHB 6572

AN ACT CONCERNING BANNING BISPHENOL-A IN CHILDREN'S PRODUCTS AND FOOD PRODUCTS AND PROHIBITING CERTAIN ALTERNATIVE SUBSTANCES.

SUMMARY:

This bill phases in bans on the sale, manufacture, and distribution of products made with bisphenol-A.

It bans, starting January 1, 2010, the sale, manufacture, and distribution of infant formula and baby food stored in containers made with bisphenol-A.

Starting October 1, 2010, it bans the sale, manufacture, and distribution of reusable food and beverage containers made with bisphenol-A.

It requires manufacturers of food products stored in containers made with bisphenol-A to label them accordingly, starting October 1, 2011. It prohibits manufacturers from substituting for bisphenol-A other substances that are or may be carcinogenic.

It bans, as of October 1, 2014, the sale, manufacture, or distribution of any food product contained in a jar, can, or other container made with bisphenol-A.

EFFECTIVE DATE: October 1, 2009

INFANT FORMULA AND BABY FOOD IN CONTAINERS MADE WITH BISPHENOL-A

The bill bans, starting January 1, 2010, anyone from manufacturing, selling, or offering for sale or distribution infant formula or baby food stored in a plastic container, can, or jar that contains bisphenol-A. It

allows people who can prove they purchased these containers before January 1, 2010 to sell their existing inventory until January 1, 2011, if they can show they purchased about the same number of containers before January 1, 2010 that they purchased in the same period the previous year.

The bill defines infant formula as a commercially available milk- or soy-based powder, concentrated liquid, or ready-to-feed substitute for human breast milk, intended for infant consumption. It defines baby food as a commercially available prepared solid food consisting of a soft paste or an easily chewed food intended for consumption by children age 2 or younger.

REUSABLE FOOD AND BEVERAGE CONTAINERS MADE WITH BISPHENOL-A

The bill bans, as of October 1, 2010, anyone from manufacturing, selling, or offering for sale or distribution reusable food and beverage containers containing bisphenol-A. It allows people who can prove they purchased these containers before October 1, 2010 to sell their existing inventory until March 1, 2011. But they must show they purchased about the same number of containers before October 1, 2010 that they purchased in the same period the previous year.

Under the bill, a reusable food or beverage container is a receptacle for storing food or beverages, including baby bottles, spill-proof cups, sports bottles, and thermoses, but excluding food and beverage containers intended for disposal after initial use.

LABELING FOOD PRODUCTS IN CONTAINERS MADE WITH BISPHENOL-A

The bill prohibits, starting October 1, 2011, manufacturers of food products contained in a jar or can made with bisphenol-A to sell the product in the state unless they conspicuously label the container: "WARNING: This container is made using bisphenol-A."

PROHIBITED ALTERNATIVE SUBSTANCES

The bill bans manufacturers from substituting certain substances for

bisphenol-A in the manufacture of a product. Prohibited substances are those:

1. listed as known, or reasonably anticipated to be, a human carcinogen in the most recent U.S. Department of Health and Human Services' Report on Carcinogens;
2. appearing on the most recent National Institute for Occupational Safety and Health carcinogen list;
3. classified by the International Agency for Research on Cancer as carcinogenic, probably carcinogenic, or possibly carcinogenic to humans; or
4. listed on the U.S. Environmental Protection Agency's electronic database as carcinogenic or likely to be carcinogenic to humans, or suggesting evidence of carcinogenic potential.

BACKGROUND

Bisphenol-A

Bisphenol-A is an industrial chemical used to make polycarbonate plastics found in such products as beverage containers, compact discs, protective food can linings, plastic dinnerware, and epoxy resins. It has been shown in laboratory animal studies to have reproductive and developmental toxicity.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 24 Nay 3 (03/06/2009)