

SENATE BILL 151

J1

11r1098

By: **Senators Frosh, Benson, Gladden, Jones–Rodwell, Kelley, Klausmeier, Madaleno, Manno, Middleton, Montgomery, Peters, Pinsky, Pugh, Raskin, Rosapepe, ~~and Zirkin~~ Zirkin, Garagiola, Glassman, Mathias, and Muse**

Introduced and read first time: January 24, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2011

CHAPTER _____

1 AN ACT concerning

2 ~~Child Care Articles~~ **Public Health – Containers of Infant Formula**
3 **Manufactured with Bisphenol–A – Prohibition**

4 FOR the purpose of prohibiting the State from purchasing infant formula in containers
5 containing a certain amount of bisphenol–A on or after a certain date;
6 prohibiting the manufacture, sale, or distribution of certain ~~child care articles~~
7 containers of infant formula containing a certain amount of bisphenol–A on or
8 after a certain date; requiring the Department of Health and Mental Hygiene to
9 adopt certain regulations on or before a certain date; ~~altering a certain~~
10 definition; ~~making stylistic and conforming changes;~~ authorizing the Secretary
11 of Health and Mental Hygiene to suspend implementation of certain provisions
12 of this Act under certain circumstances; requiring the Department to make a
13 certain report to certain committees of the General Assembly on or before a
14 certain date; and generally relating to ~~prohibitions on~~ containers of infant
15 formula and bisphenol–A ~~in child care articles.~~

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 24–304
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Preamble

2 WHEREAS, The presence of the chemical bisphenol-A is of concern because of
 3 potential adverse side effects; and

4 WHEREAS, The National Institute of Environmental Health Sciences and the
 5 U.S. Food and Drug Administration are engaged in a 2-year research effort, including
 6 psychologically-based pharmacokinetic modeling studies and rodent subchronic and
 7 behavioral or neuroanatomical pilot studies that are due in 2012, to identify health
 8 risks associated with bisphenol-A; and

9 WHEREAS, The U.S. Food and Drug Administration will update its assessment
 10 of bisphenol-A and will be prepared to take additional action if warranted; now,
 11 therefore,

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Health - General**

15 24-304.

16 (a) (1) In this section, "child care article" means ~~fan~~

17 ~~(I) AN~~ empty bottle or cup to be filled with food or liquid that is
 18 designed or intended by a manufacturer to be used by a child under the age of 4 years;
 19 ~~AND.~~

20 ~~(II) A CAN, A JAR, OR ANY OTHER CONTAINER THAT HOLDS~~
 21 ~~A LIQUID, FOOD, OR BEVERAGE INTENDED PRIMARILY FOR CONSUMPTION BY A~~
 22 ~~CHILD UNDER THE AGE OF 4 YEARS.~~

23 (2) If a federal law regulating the use of bisphenol-A in child care
 24 articles is enacted, "child care article" shall be defined as specified in the federal law.

25 (b) ~~(1)~~ On or after January 1, 2012, a person may not manufacture,
 26 knowingly sell, or distribute in commerce any child care article ~~DESCRIBED IN~~
 27 ~~SUBSECTION (A)(1)(I) OF THIS SECTION~~ containing bisphenol-A.

28 ~~(2) ON OR AFTER JANUARY 1, 2013, A PERSON MAY NOT~~
 29 ~~MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE ANY CHILD~~
 30 ~~CARE ARTICLE DESCRIBED IN SUBSECTION (A)(1)(II) OF THIS SECTION~~
 31 ~~CONTAINING BISPHENOL A.~~

32 (C) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, ON OR
 33 AFTER JULY 1, 2014:

1 **(1) THE STATE MAY NOT PURCHASE INFANT FORMULA IN**
 2 **CONTAINERS CONTAINING MORE THAN 0.5 PARTS PER BILLION OF**
 3 **BISPHENOL-A; AND**

4 **(2) A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR**
 5 **DISTRIBUTE IN COMMERCE A CONTAINER OF INFANT FORMULA CONTAINING**
 6 **MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL-A.**

7 ~~(e)~~ **(D)** In complying with ~~subsection (b)~~ **SUBSECTIONS (B) AND (C)** of
 8 this section, a person:

9 (1) Shall use ~~the least toxic alternative~~ **A SAFE AND LEGAL**
 10 **ALTERNATIVE** when replacing bisphenol-A; and

11 (2) May not replace bisphenol-A with:

12 (i) Carcinogens rated by the United States Environmental
 13 Protection Agency as Group A, B, or C carcinogens; or

14 (ii) Reproductive toxicants that cause birth defects, reproductive
 15 harm, or developmental harm as identified by the United States Environmental
 16 Protection Agency.

17 ~~(d)~~ **(E)** A person that violates this section is guilty of a misdemeanor and
 18 on conviction is subject to a fine not exceeding \$10,000 for each violation.

19 ~~(e)~~ **(F)(1)** On or before January 1, ~~2011~~ **2012**, the Department shall adopt
 20 regulations to carry out **SUBSECTION (B)(1)** OF this section.

21 ~~**(2) ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT SHALL**~~
 22 ~~**ADOPT REGULATIONS TO CARRY OUT SUBSECTION (B)(2) OF THIS SECTION.**~~

23 **(G) IF THE SECRETARY CERTIFIES THAT THE SAFETY CONCERNS FOR**
 24 **BISPHENOL-A ARE RESOLVED BY ADDITIONAL RESEARCH OR IF**
 25 **IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION WOULD ADVERSELY**
 26 **AFFECT THE HEALTH OR WELL-BEING OF CHILDREN OR ADULTS, THE**
 27 **SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) OF THIS**
 28 **SECTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That:

30 (a) On or before September 1, 2012, the Department of Health and Mental
 31 Hygiene shall report to the House Health and Government Operations Committee and
 32 the Senate Finance Committee, in accordance with § 2-1246 of the State Government

1 Article, on the findings of federal research and regulatory activities related to
2 bisphenol-A.

3 (b) The report required under subsection (a) of this section shall address the
4 availability and safety of substitutes for bisphenol-A used in food containers
5 containing infant formula.

6 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect ~~July~~ June 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.