

## Chapter 189

(Senate Bill 151)

AN ACT concerning

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

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

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

### Preamble

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

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

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

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

**Article – Health – General**

24–304.

(a) (1) In this section, “child care article” means ~~an~~:

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

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

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

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

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

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

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

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

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

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

(2) May not replace bisphenol-A with:

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before September 1, 2012, the Department of Health and Mental Hygiene shall report to the House Health and Government Operations Committee and the Senate Finance Committee, in accordance with § 2-1246 of the State Government Article, on the findings of federal research and regulatory activities related to bisphenol-A.

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

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

**Approved by the Governor, May 10, 2011.**