

118TH CONGRESS  
2D SESSION

# S. 4186

To eliminate toxic substances in beverage containers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 18, 2024

Mr. WELCH (for himself, Mr. MERKLEY, Mr. BOOKER, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To eliminate toxic substances in beverage containers, and  
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Banning Toxics from  
5 Plastic Bottles Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-  
9 trator” means the Administrator of the Environ-  
10 mental Protection Agency.

1 (2) BEVERAGE.—

2 (A) IN GENERAL.—The term “beverage”  
3 means any drinkable liquid intended for human  
4 oral consumption, including—

5 (i) water;

6 (ii) flavored water;

7 (iii) soda water;

8 (iv) mineral water;

9 (v) beer;

10 (vi) a malt beverage;

11 (vii) a carbonated soft drink;

12 (viii) liquor;

13 (ix) tea;

14 (x) coffee;

15 (xi) hard cider;

16 (xii) fruit juice;

17 (xiii) an energy or sports drink;

18 (xiv) coconut water;

19 (xv) wine;

20 (xvi) a yogurt drink;

21 (xvii) a probiotic drink;

22 (xviii) a wine cooler; and

23 (xix) any other beverage determined

24 to be appropriate by the Administrator.

1 (B) EXCLUSIONS.—The term “beverage”  
2 does not include—

3 (i) a drug regulated under the Federal  
4 Food, Drug, and Cosmetic Act (21 U.S.C.  
5 301 et seq.);

6 (ii) infant formula; or

7 (iii) a meal replacement liquid.

8 (3) BEVERAGE CONTAINER.—

9 (A) IN GENERAL.—The term “beverage  
10 container” means a prepackaged container  
11 that—

12 (i) is designed to hold a beverage;

13 (ii) is made of any material, including  
14 glass, plastic, and metal; and

15 (iii) has a volume of not more than 3  
16 liters.

17 (B) EXCLUSIONS.—The term “beverage  
18 container” does not include—

19 (i) a carton; or

20 (ii) aseptic packaging, such as a drink  
21 box.

22 (4) BRAND.—

23 (A) IN GENERAL.—The term “brand”  
24 means any mark, word, name, symbol, design,  
25 device, or graphic element that—

- 1 (i) identifies a product; and  
2 (ii) distinguishes the product from  
3 other products.

4 (B) INCLUSIONS.—The term “brand” in-  
5 cludes—

- 6 (i) any combination of 2 or more  
7 marks, words, names, symbols, designs, de-  
8 vices, or graphic elements described in sub-  
9 paragraph (A); and  
10 (ii) any registered or unregistered  
11 trademark.

12 (5) PLASTIC.—

13 (A) IN GENERAL.—The term “plastic”  
14 means a synthetic or semisynthetic material  
15 that is—

- 16 (i) synthesized by the polymerization  
17 of organic substances; and  
18 (ii) capable of being shaped into var-  
19 ious rigid and flexible forms.

20 (B) INCLUSIONS.—The term “plastic” in-  
21 cludes any coating or adhesive described in sub-  
22 paragraph (A).

23 (6) PRODUCT LINE.—The term “product line”  
24 means a group of related products marketed under  
25 a single brand name that—

1 (A) is sold, offered for sale, or distributed  
2 by a distributor in the United States, including  
3 through an internet transaction; and

4 (B) is used by the distributor for the pur-  
5 pose of distinguishing those products from  
6 other, similar products for better usability for  
7 consumers.

8 (7) RETAILER.—

9 (A) IN GENERAL.—The term “retailer”  
10 means an entity located in the United States  
11 that—

12 (i) engages in the sale of beverage  
13 containers to a consumer; or

14 (ii) provides beverage containers to an  
15 individual or entity in commerce, including  
16 provision free of charge, such as at a work-  
17 place or event.

18 (B) INCLUSION.—The term “retailer” in-  
19 cludes an entity located in the United States  
20 that engages in the sale of, or provides, bev-  
21 erage containers as described in subparagraph  
22 (A) through a vending machine or similar  
23 means.

24 (8) SINGLE-USE.—The term “single-use”, with  
25 respect to a beverage container, means that the bev-

1 erage container is routinely disposed of, recycled, or  
2 otherwise discarded after 1 use.

3 (9) TOXIC SUBSTANCE.—

4 (A) IN GENERAL.—The term “toxic sub-  
5 stance” means any substance, mixture, or com-  
6 pound that—

7 (i) may cause—

8 (I) personal injury or disease to  
9 humans through ingestion, inhalation,  
10 or absorption through any body sur-  
11 face; or

12 (II) adverse impacts on the envi-  
13 ronment; and

14 (ii) satisfies 1 or more of the condi-  
15 tions described in subparagraph (B).

16 (B) CONDITIONS.—The conditions referred  
17 to in subparagraph (A)(ii) are the following:

18 (i) The substance, mixture, or com-  
19 pound is subject to reporting requirements  
20 under—

21 (I) the Emergency Planning and  
22 Community Right-To-Know Act of  
23 1986 (42 U.S.C. 11001 et seq.);

24 (II) the Comprehensive Environ-  
25 mental Response, Compensation, and

1 Liability Act of 1980 (42 U.S.C. 9601  
2 et seq.); or

3 (III) section 112(r) of the Clean  
4 Air Act (42 U.S.C. 7412(r)).

5 (ii) The National Institute for Occu-  
6 pational Safety and Health, the Occupa-  
7 tional Safety and Health Administration,  
8 the National Toxicology Program, the Cen-  
9 ters for Disease Control and Prevention,  
10 the Administrator of Health and Human  
11 Services, the National Institute for Envi-  
12 ronmental Health Sciences, or the Envi-  
13 ronmental Protection Agency has estab-  
14 lished that the substance, mixture, or com-  
15 pound poses an acute or chronic health  
16 hazard, including developmental, reproduc-  
17 tive, or endocrine effects.

18 (iii) The National Institute for Occu-  
19 pational Safety and Health or the Environ-  
20 mental Protection Agency has recognized  
21 that the substance, mixture, or compound  
22 may increase the risk of developing a la-  
23 tent disease.

24 (iv) The substance, mixture, or com-  
25 pound is—

- 1 (I) a perfluoroalkyl or  
2 polyfluoroalkyl substance;
- 3 (II) an orthophthalate;
- 4 (III) a bisphenol compound (but  
5 not including an alkyl-substituted  
6 bisphenol compound generated  
7 through a xylenol-aldehyde process);
- 8 (IV) a halogenated or nanoscale  
9 flame-retardant chemical;
- 10 (V) UV 328 (2-(2H-benzotriazol-  
11 2-yl)-4,6-di-tert-pentylphenol);
- 12 (VI) a chlorinated paraffin;
- 13 (VII) listed as a persistent or-  
14 ganic pollutant by the Stockholm Con-  
15 vention on Persistent Organic Pollut-  
16 ants;
- 17 (VIII) given an overall carcino-  
18 genicity evaluation of Group 1, Group  
19 2A, or Group 2B by the International  
20 Agency for Research on Cancer; or
- 21 (IX) listed as a toxic, poisonous,  
22 explosive, corrosive, flammable,  
23 ecotoxic, or infectious waste by the  
24 Basel Convention on the Control of  
25 Transboundary Movements of Haz-



1           ardous Wastes and Their Disposal,  
2           done at Basel, Switzerland, March 22,  
3           1989.

4           (v) The substance, mixture, or com-  
5           pound is a chemical or chemical class that,  
6           as determined by the Administrator, has  
7           been identified by a Federal agency, State  
8           agency, or international intergovernmental  
9           agency as being 1 or more of the following:

10                   (I) A carcinogen, mutagen, repro-  
11                   ductive toxicant, immunotoxicant,  
12                   neurotoxicant, or endocrine disruptor.

13                   (II) A persistent bioaccumulative.

14                   (III) A chemical or chemical class  
15                   that may—

16                           (aa) harm the normal devel-  
17                           opment of a fetus or child or  
18                           cause other developmental tox-  
19                           icity in humans or wildlife;

20                           (bb) harm organs or cause  
21                           other systemic toxicity; or

22                           (cc) have an adverse impact  
23                           on—

24                                   (AA) air quality;

25                                   (BB) ecology;

1 (CC) soil quality; or  
 2 (DD) water quality.

3 (IV) A chemical or chemical class  
 4 that has toxicity equivalent to the tox-  
 5 icity reflected in a criterion described  
 6 in any of subclauses (I) through (III).

7 **SEC. 3. ELIMINATION OF TOXIC SUBSTANCES IN BEVERAGE**  
 8 **CONTAINERS.**

9 (a) PROHIBITION.—Effective beginning on the date  
 10 that is 2 years after the date of enactment of this Act,  
 11 no retailer may sell, offer for sale, or distribute any single-  
 12 use beverage container that—

13 (1) is composed wholly or partially of poly-  
 14 ethylene terephthalate glycol;

15 (2) is opaque or pigmented a color other than  
 16 transparent blue or transparent green;

17 (3) contains polyethylene glycol; or

18 (4) contains a toxic substance.

19 (b) PENALTY.—

20 (1) IN GENERAL.—A retailer that violates a  
 21 prohibition under subsection (a) shall be subject to  
 22 a fine for each violation.

23 (2) TREATMENT OF PRODUCT LINES.—For pur-  
 24 poses of this section, each product line of beverage  
 25 containers shall be considered to be a separate viola-

1       tion of this section if any beverage container in-  
 2       cluded in the product line is a beverage container de-  
 3       scribed in subsection (a).

4               (3) MAXIMUM AMOUNT.—The amount of a fine  
 5       under this subsection shall be not more than  
 6       \$50,000 per violation.

7               (4) DEPOSITS.—Fines collected under this sub-  
 8       section shall be deposited into the Local Clean Up  
 9       of Plastics Fund established by section 4(a).

10 **SEC. 4. GRANTS TO LOCAL GOVERNMENTS FOR SOLID**  
 11                               **WASTE AND WATER SYSTEM INFRASTRUC-**  
 12                               **TURE IMPROVEMENTS.**

13       (a) ESTABLISHMENT OF FUND.—There is estab-  
 14       lished in the Treasury of the United States a fund, to be  
 15       known as the “Local Clean Up of Plastics Fund”.

16       (b) USE OF FUND.—Amounts in the Fund shall be  
 17       available to the Administrator, without further appropria-  
 18       tion or fiscal year limitation, to make competitively award-  
 19       ed grants to units of local government for projects to make  
 20       improvements to solid waste infrastructure, water system  
 21       infrastructure, recycling facilities, and composting facili-  
 22       ties, for the purpose of increasing the rate of diversion  
 23       of waste from landfills or complying with environmental  
 24       regulations relating to such infrastructure or facilities, in-  
 25       cluding—

- 1           (1) the remediation of toxic substances;
- 2           (2) improving water filtration;
- 3           (3) replacing broken infrastructure;
- 4           (4) expanding infrastructure; and
- 5           (5) educational programming relating to such
- 6           infrastructure or facilities.

7           (c) PRIORITY.—In making grants under subsection  
8 (b), the Administrator shall give priority to projects that  
9 would serve—

- 10           (1) a rural area (as defined in section 203(b)
- 11           of the Rural Electrification Act of 1936 (7 U.S.C.
- 12           924(b))); or
- 13           (2) an underserved community, as determined
- 14           by the Administrator.

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