

Chapter 190

(House Bill 4)

AN ACT concerning

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 ~~cans, jars, or other~~ containers of infant formula containing a certain amount of bisphenol-A on or after a certain date ~~if the cans, jars, or other containers contain a liquid, food, or beverage intended primarily for consumption by a child under a certain age; prohibiting the manufacture, sale, or distribution of sports water bottles containing bisphenol-A;~~ requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; 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 containers of infant formula and bisphenol-A.

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 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.

(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) On or after January 1, 2012, a person may not manufacture, knowingly sell, or distribute in commerce any ~~OF THE FOLLOWING ITEMS:~~

~~(1) A child care article containing bisphenol–A;~~

~~(2) A CAN, JAR, OR OTHER CONTAINER CONTAINING BISPHENOL A AT A LEVEL OF .5 PARTS PER BILLION, IF THE CAN, JAR, OR OTHER CONTAINER CONTAINS A LIQUID, FOOD, OR BEVERAGE INTENDED PRIMARILY FOR CONSUMPTION BY A CHILD UNDER THE AGE OF 4 YEARS; OR~~

~~(3) A SPORTS WATER BOTTLE 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.

~~(b)~~ (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)~~ ~~(1)~~ **(F)** 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 JULY 1, 2011, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT SUBSECTION (B)(2) AND (3) 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 June 1, 2011.

Approved by the Governor, May 10, 2011.