

117TH CONGRESS  
1ST SESSION

# S. 2669

To ban the use of ortho-phthalate chemicals as food contact substances.

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IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2021

Mrs. FEINSTEIN (for herself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To ban the use of ortho-phthalate chemicals as food contact substances.

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 “Preventing Harmful  
5 Exposure to Phthalates Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Prenatal exposures to phthalates can do  
9 lasting harm to child brain development and increase

1 children's risks for learning, attention, and behavior  
2 disorders.

3 (2) Pregnant women's exposures to phthalates,  
4 which are known to decrease fetal testosterone, can  
5 harm reproductive tract development in male babies  
6 which may have lifelong consequences.

7 (3) Phthalates that are used in food production  
8 materials have been shown to leach into food from  
9 plastic equipment, such as tubing used in commer-  
10 cial dairy operations, lid gaskets, food preparation  
11 gloves, conveyor belts, and food packaging materials.

12 (4) Exposure to phthalates can come from mul-  
13 tiple sources simultaneously, including food and food  
14 contact substances and other products. Therefore,  
15 assessing risks from individual phthalates may un-  
16 derestimate the health risks from exposure to mix-  
17 tures of phthalates.

18 (5) Research shows that women have higher ex-  
19 posure to phthalates found in personal care products  
20 than men.

21 (6) Studies have shown that Black and Latina  
22 women have higher exposure to certain phthalates  
23 compared with White women.

24 (7) In a nationally representative sample, Black  
25 women had higher exposures to a real-world mixture

1 of hormonally-active phthalates compared to White  
2 women.

3 **SEC. 3. PROHIBITION ON USE OF ORTHO-PHTHALATE**  
4 **CHEMICALS AS FOOD CONTACT SUBSTANCES,**  
5 **INCLUDING FOOD PACKAGING MATERIALS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law, effective on the date that is 2 years after the  
8 date of enactment of this Act—

9 (1) the use of any ortho-phthalate chemical as  
10 a food contact substance shall be deemed to be un-  
11 safe for the purposes of the application of clause  
12 (2)(C) of section 402(a) of the Federal Food, Drug,  
13 and Cosmetic Act (21 U.S.C. 342(a));

14 (2) any regulation previously issued under sec-  
15 tion 409 of such Act (21 U.S.C. 348) prescribing  
16 the conditions under which any ortho-phthalate  
17 chemical may be safely used as a food contact sub-  
18 stance shall have no force or effect; and

19 (3) the Secretary of Health and Human Serv-  
20 ices (referred to in this Act as the “Secretary”) shall  
21 object to any notification of an intended use of an  
22 ortho-phthalate chemical as a food contact substance  
23 submitted under section 409(h)(1) of such Act, and  
24 may not issue regulations prescribing any conditions

1 under which any ortho-phthalate chemical may be  
2 safely used as a food contact substance.

3 (b) ALTERNATIVE SUBSTANCES.—Notwithstanding  
4 any other provision of law, beginning on the date that is  
5 2 years after the date of enactment of this Act, in acting  
6 in response to any petition under section 409 of the Fed-  
7 eral Food, Drug, and Cosmetic Act (21 U.S.C. 348) to  
8 establish safety with respect to a food contact substance  
9 that the Secretary determines to be an alternative to an  
10 ortho-phthalate chemical, in addition to the criteria under  
11 subsection (c) of such section 409, the Secretary shall con-  
12 sider potential adverse effects of exposure to the substance  
13 on vulnerable populations, including pregnant women, in-  
14 fants, children, the elderly, and populations with high ex-  
15 posure, including workers who are exposed through pro-  
16 duction practices or handling of final products.

17 **SEC. 4. FDA REVIEW OF PRODUCTS.**

18 (a) IN GENERAL.—The Secretary shall—

19 (1) conduct a review of products other than  
20 food that is subject to regulation by the Food and  
21 Drug Administration to determine whether such  
22 products lead to exposure of the general public to  
23 any ortho-phthalate chemical through use of such  
24 products; and

1           (2) not later than 1 year after the date of en-  
2           actment of this Act, issue a report on the findings  
3           of such review, to be made available to the public on  
4           the website of the Department of Health and  
5           Human Services.

6           (b) CONSIDERATIONS.—In conducting the review  
7           under subsection (a), the Secretary shall consider dis-  
8           proportionate exposure of products containing an ortho-  
9           phthalate chemical to members of communities of color  
10          and the health effects of such exposure to members of  
11          such communities, including any increased risk of preterm  
12          birth, low birth weight, or other risks to children’s health.

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