
SENATE BILL 5282

State of Washington

61st Legislature

2009 Regular Session

By Senators Keiser, Franklin, Kohl-Welles, Marr, Murray, McAuliffe, Regala, Oemig, Kilmer, Fairley, Pridemore, Ranker, and McDermott

Read first time 01/19/09. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the use of bisphenol A; adding a new chapter to
2 Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Alternative" or "alternatives" means a substitute process,
7 product, material, chemical, strategy, or combination of these that
8 serves a functionally equivalent purpose to a chemical in a consumer
9 product.

10 (2) "Department" means the department of ecology.

11 NEW SECTION. **Sec. 2.** Beginning July 1, 2010, no manufacturer,
12 wholesaler, or retailer may manufacture, knowingly sell, offer for
13 sale, distribute for sale, or distribute for use in this state any of
14 the following:

15 (1) Any bottle, cup, or other container that contains bisphenol A
16 if that container is designed or intended to be filled with any liquid,
17 food, or beverage primarily for consumption from that container by

1 children three years of age or younger and is sold or distributed
2 without containing any liquid, food, or beverage;

3 (2) Any liquid, food, or beverage in a can, jar, or other container
4 containing bisphenol A, at a level of .5 parts per billion if the
5 liquid, food, or beverage is designed or intended primarily for
6 consumption by children three years of age or younger; or

7 (3) Any sports water bottle that contains bisphenol A.

8 NEW SECTION. **Sec. 3.** Manufacturers may not replace bisphenol A as
9 a result of the prohibitions in section 2 of this act with a high
10 priority chemical that has been identified by the department under RCW
11 70.240.030.

12 NEW SECTION. **Sec. 4.** (1) By July 1, 2012, the department, in
13 consultation with the department of health, shall conduct an
14 alternatives assessment for bisphenol A in cans, jars, or other
15 containers that are used to hold liquids, food, or beverages primarily
16 for human consumption and are not prohibited under section 2 of this
17 act.

18 (2) In conducting the alternatives assessment, the department shall
19 use scientific studies and other relevant findings regarding bisphenol
20 A and the alternatives to the use of bisphenol A, including any
21 information identified in section 5 (1) through (3) of this act.

22 (3) For the purpose of determining whether a safer alternative is
23 available, the department may presume that, in the absence of
24 persuasive evidence to the contrary:

25 (a) An alternative is a safer alternative if the alternative is not
26 a high priority chemical that is of high concern for children, as
27 determined under RCW 70.240.030;

28 (b) A safer alternative is available if the sale of the product
29 containing bisphenol A has been banned by another state within the
30 United States;

31 (c) A safer alternative is available if the alternative is sold in
32 the United States.

33 NEW SECTION. **Sec. 5.** The manufacturer of a product described in
34 section 4 of this act containing bisphenol A must provide the following

1 information if requested by the department as part of its alternatives
2 assessment:

3 (1) Information on bisphenol A and alternatives to the use of
4 bisphenol A;

5 (2) Information on the hazard characteristics of the alternative
6 chemicals; and

7 (3) An assessment of the availability, cost, feasibility, and
8 performance, including potential for harm to human health and the
9 environment, of alternatives to bisphenol A and the reason the chemical
10 is used in the manufacture of the product in lieu of identified
11 alternatives.

12 NEW SECTION. **Sec. 6.** (1) If the department finds, after
13 consideration of the alternatives assessment conducted under section 4
14 of this act and other relevant information submitted to or obtained by
15 the department, that one or more safer alternatives to bisphenol A are
16 available, the department must seek public input on their findings and
17 present them in a report to the appropriate committees of the
18 legislature by December 31st of the year in which the findings are
19 made.

20 (2)(a) Before the department submits its report on its findings to
21 the legislature under subsection (1) of this section, it must publish
22 its findings in the Washington State Register and provide notice of its
23 findings by other means designed to inform those most likely to have an
24 interest in the findings.

25 (b) After the legislative session that follows the submission of
26 the report on findings, the department shall adopt rules that prohibit
27 the manufacture, sale, or distribution of products found to contain
28 bisphenol A.

29 NEW SECTION. **Sec. 7.** (1) A manufacturer of products that are
30 restricted under this chapter must notify persons that sell the
31 manufacturer's products in this state about the provisions of this
32 chapter no less than ninety days prior to the effective date of the
33 restrictions.

34 (2) A manufacturer that produces, sells, or distributes a product
35 prohibited from manufacture, sale, or distribution in this state under

1 this chapter shall recall the product and reimburse the retailer or any
2 other purchaser for the product.

3 NEW SECTION. **Sec. 8.** (1) A manufacturer who fails to provide
4 information within three months of the date requested by the department
5 under section 5 of this act may be subject to penalties up to the
6 amount it would cost the department to obtain the information on the
7 availability of safer alternatives from another source.

8 (2) A manufacturer, wholesaler, or retailer that manufacturers,
9 knowingly sells, or distributes products in violation of this chapter
10 is subject to a civil penalty not to exceed five thousand dollars for
11 each violation in the case of a first offense. Manufacturers,
12 wholesalers, or retailers who are repeat violators are subject to a
13 civil penalty not to exceed ten thousand dollars for each repeat
14 offense. Penalties collected under this section must be deposited in
15 the state toxics control account created in RCW 70.105D.070.

16 (3) Retailers who unknowingly sell products that are restricted
17 from sale under this chapter are not subject to the civil penalties
18 under this chapter.

19 NEW SECTION. **Sec. 9.** Expenses to cover the cost of administering
20 this chapter shall be paid from the toxics control account under RCW
21 70.150D.070.

22 NEW SECTION. **Sec. 10.** The department may adopt rules as necessary
23 for the purpose of implementing, administering, and enforcing this
24 chapter.

25 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
26 constitute a new chapter in Title 70 RCW.

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