



MEMORANDUM - February 19, 2008

To: The Honorable Robert N. Herkes, Chair
Members, House Committee on Consumer Protection & Commerce

From: Tim Shestek
Director, State Affairs and Grassroots
American Chemistry Council

Re: **HB 2449 HD 1 - OPPOSE**

On behalf of the American Chemistry Council (ACC), I am writing to convey our opposition to HB 2449 HD 1, legislation that seeks to ban two distinct chemicals – phthalates and bisphenol-A – from a wide range of popular consumer products that are intended for use by children. Attached to this cover memo is information about each of these specific chemicals, including an overview of the products in which they are used, as well as the comprehensive scientifically-based safety assessments that have been conducted affirming these products are safe as used.

Public health and safety is of the foremost concern for ACC and its member companies and the safety of consumer products is of the utmost concern to everyone; however arbitrarily banning chemicals through the legislative process would create a dangerous public policy precedent.

ACC would be please to schedule in-depth briefing with relevant scientific experts to review the safety of these products if you would desire. I thank you in advance for considering our comments and look forward to working with you on this important public policy issue.

If you have any questions or comments, please feel free to contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com.

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Phthalates Safety Overview Executive Summary

1. What Are Phthalates and How Are They Used?

Phthalates are liquids similar in appearance and consistency to vegetable oils. There are many different types of phthalates, each varying in chemical structure and molecular weight. Phthalates have a broad range of applications but their primary use is to impart flexibility to polyvinyl chloride (PVC or vinyl). Phthalates have made possible a wide range of flexible vinyl products which have improved the quality of life in homes, offices and hospitals for more than 50 years, including vinyl wall covering, flooring, upholstery, wire and cable sheathing, medical products, packaging, and toys.

2. Scientific Review of Phthalates

- In 2002, the **US Consumer Product Safety Commission** released a briefing package of the potential risks of diisononyl phthalate (DINP) in children's vinyl products that stated in part *"The staff concurs with the Chronic Hazard Advisory Panel (CHAP) that exposure to DINP from DINP-containing toys would be expected to pose a minimal to non-existent risk of injury for the majority of children. The new data from the behavioral observation study not only confirms this conclusion, but also demonstrates that children are exposed to DINP at lower levels than the CHAP assumed when it reached its conclusion. Also, since children mouth other products even less than they mouth toys and dermal exposure is expected to be negligible, there would be no justification for taking action against other products intended for children five years old and younger."*
- In 2003, the **CPSC** **voted unanimously to deny** a petition by the National Environmental Trust and other organizations to ban the use of PVC in products intended for children five years of age or under stating *"there is no demonstrated health risk posed by PVC toys or other products intended for children five years of age or younger."* CPSC went on to say that *"if DINP is to be replaced in children's products, whether on a mandatory or voluntary basis, the potential risks of the substitutes must be considered. Weaker or more brittle plastics might break and result in a choking hazard. Other plasticizers might not be as well studied as DINP."*
- The **European Chemicals Bureau** has published final risk assessments for dibutyl phthalate (DBP), diisononyl phthalate (DINP) and diisodecyl phthalate (DIDP).
 - For DBP, the risk assessment concluded that there is *no basis to expect human risk of cancer, reproductive or developmental toxicity, or any other health effect – including exposure from toys and childcare articles.*
 - For DINP the report concluded "the end products containing DINP (clothes, building materials, toys and baby equipment) and the sources of exposure (car and public transport interiors, food and food packaging) *are unlikely to pose a*

risk for consumers (adults, infants, and newborns) following inhalation, skin contact and ingestion.” This report explicitly considered exposures of newborns, infants, and children from, among other things, toys and baby equipment.

- For DIDP, the risk assessment results were essentially the same as for DINP, with one exception. The report considered a hypothetical scenario in which DIDP becomes substituted for DINP in toys (DIDP is not currently used in toys.)
 - The risk assessments for di(2-ethylhexyl) phthalate (DEHP) and butyl benzyl phthalate (BBP) are still being developed.
- Data from the **Centers for Disease Control and Prevention (CDC)** show that average exposures to DINP – the primary phthalate used in toys – of subjects aged six and up is well below federal safety levels established for all phthalates tested. Evidence of DINP could not even be detected in most subjects.
 - In 2000, an **Expert Panel of the National Toxicology Program (NTP) Center for the Evaluation of Risks to Human Reproduction (CERHR)** conducted an in-depth evaluation the reproductive and developmental toxicity data for several phthalates, including DINP. The panel expressed low, minimal or negligible concern for most uses of the phthalates.
 - For DINP specifically the evaluation report stated “The NTP concurs with the conclusions of the CERHR Phthalates Expert Panel and has minimal concern for DINP causing adverse effects to human reproduction or fetal development.” Furthermore, “The NTP has minimal concern for developmental effects in children.”

3. Conclusions

Phthalates are among the most widely studied materials in the world and have been researched and tested for more than 50 years. Independent scientists, government bodies, and phthalate producers have conducted extensive studies about the safety, health, and environmental effects of phthalates. This substantial body of research does not present reliable evidence that people are harmed by phthalates. There have been no confirmed reports of adverse health effects (including no human reproductive or developmental effects), in children or adults. Consumers can remain confident about using products that contain phthalates.

ATTACHMENT 1

BISPHENOL-A SAFE & IMPORTANT PART OF OUR DAILY LIVES

Bisphenol-A has been safely used for more than 50 years to make shatter-resistant polycarbonate plastic and versatile epoxy resins. Both are an important part of our daily lives, contributing to our health and safety in many products valued by consumers worldwide. Examples of the many places you'll find these materials are below.

HealthCare

- Eyeglass lenses
- Incubators
- Critical components of medical devices (e.g., kidney dialyzers, blood oxygenators, drug infusion units)
- Dental Sealants and Composites

Security

- Blast and bullet resistant shielding
- Police shields
- Protective visors

Automotive, Marine, and Aerospace

- Headlamp lenses, mirror housings and bumpers
- Instrument panels
- Primer coatings
- Fiber reinforced composites

Home Appliances

- Components of kitchen appliances (e.g., food processors, refrigerators)
- Electrical appliance housings (e.g., blow driers, curling irons, electric shavers)

Electronic

- Digital media (CDs/DVDs)
- Electronic product housings (e.g., cell phones, computers, fax machines)
- Electronic component overmolding (e.g., printed circuit boards, integrated circuits)

Sports Safety

- Bicycle and football helmets
- Sunglasses and visors
- Skiing and diving goggles
- Hockey rink sideboard panels

Building and Construction

- Roof, skylight and greenhouse glazing
- Corrosion resistant coatings for steel pipes/fittings, structural steel (e.g., bridges), concrete reinforcement bar
- Decorative and industrial flooring

Food Products

- Baby and water bottles
- Home food storage containers
- Tableware
- Food and beverage cans

ATTACHMENT 2

BISPHENOL A OVERVIEW

Bisphenol A is one of the most extensively tested of all substances and has been used safely for more than 50 years. It is used to make tough, shatter-resistant polycarbonate plastic and versatile epoxy resins, both of which are used in a wide array of consumer products that we value and use every day.

How It Is Used:

- Polycarbonate plastic is a key component of many vital medical devices. Among others, **incubators, kidney dialyzers, heart-lung machines, and infusion units** all contain polycarbonate components. It offers the unique characteristics of rigidity, strength and heat-resistance, which allow the components to be sterilized and used repeatedly without damage, while its transparency is critical to detecting life-threatening air bubbles.
- **Corrective eyeglass lenses as well as visors and safety goggles** protect the eyes with virtually unbreakable polycarbonate. Likewise, **sports safety equipment such as bicycle helmets** protects children from injury while being lightweight and comfortable to wear.
- Polycarbonate plastic is used for many products that keep food safe, fresh, and readily available for children and adults alike. For instance, **reusable baby bottles, food-storage containers, and tableware** made with polycarbonate are durable, shatter-resistant and heat-resistant.

In addition, most **metal food and beverage containers** have a thin coating of an epoxy resin to prevent the can from corroding, becoming contaminated with bacteria and spoiling the food.

- Many **dental sealants and composites**, which protect children's teeth from decay and help maintain dental health, are based on components derived from bisphenol A.

Why It Is Safe for Use:

The scientific evidence supporting the safety of bisphenol A has been comprehensively examined by many government and scientific bodies worldwide in recent years. These reviews demonstrate that **bisphenol A does not pose a risk to human health** at the extremely low levels of exposure that might occur from consumer use of products made from polycarbonate plastic or epoxy resins.

Based on these scientific evaluations, **no government body worldwide has banned or restricted bisphenol A, polycarbonate plastic or epoxy resins, in particular for use of these materials in food contact or children's products.** Key examples of the most recent government assessments include:

- **European Food Safety Authority (EFSA)** – In January 2007, EFSA released a comprehensive scientific assessment of bisphenol A that was conducted by a panel of independent scientific experts from throughout the European Union. Based on their review of the most recent scientific information, the panel increased by a factor of five the safe intake

level for bisphenol A that was established in 2002. The increase was based on the panel's view that there is now more certainty about the safety of bisphenol A.

- In mid-2006, an **expert scientific panel** published the results of their weight-of-the-evidence evaluation of low-dose reproductive and developmental effects of bisphenol A. Overall, the panel concluded: *"Taken together, the weight of evidence does not support the hypothesis that low oral doses of BPA adversely affect human reproductive and developmental health."*
- **US Food and Drug Administration (FDA)** – In a November 2005 letter to the California Legislature, FDA stated: *"based on all the evidence available at this time, FDA sees no reason to change its long-held position that current uses with food are safe"* and *"Considering all the evidence, including measurements by FDA chemists of levels found in canned foods or migrating from baby bottles, FDA sees no reason at this time to ban or otherwise restrict the uses now in practice."*
- A comprehensive report published in November 2005 by the **Japanese National Institute of Advanced Industrial Science and Technology** (affiliated with the Japanese Ministry of Economy, Trade and Industry) confirmed no risk of bisphenol A to human health, including infants and children, and noted that no bans or restrictions are needed.
- In 2005, the **Japanese Ministry of Environment** concluded, based on their own comprehensive testing, that there were no clear endocrine disrupting effects found at low doses and that no regulatory action is required to manage risks.
- In 2004, an independent panel of scientific experts organized by the **Harvard Center for Risk Analysis** published the results of their comprehensive assessment of bisphenol A. As their overall conclusion *"the panel found no consistent affirmative evidence of low-dose BPA effects for any endpoint...the weight of the evidence for low-dose effects is very weak."*
- A comprehensive 2003 **European Union** risk assessment report confirmed low risk of bisphenol A to human health, including use of polycarbonate plastic and epoxy resins in consumer products. Based on this report, no bans or restrictions have been proposed.
- In 2002, the **European Union Committee on Toxicity, Ecotoxicity, and the Environment** – an independent scientific committee – affirmed the key conclusions of the EU risk assessment report.
- In 2002, the **European Union Scientific Committee on Food** – another independent scientific committee – published a detailed assessment of bisphenol A focused on food contact applications. Conclusions reached support the continued safe use of polycarbonate plastic and epoxy resins with food and beverages.
- In 2001, the **United States National Toxicology Program (NTP)** reviewed the evidence for reproductive and developmental effects from exposure to low doses of chemicals, including bisphenol A. The review confirmed that "low-dose" effects for BPA have not been conclusively established as a general or reproducible finding.

In light of the frequency, consistency, and timeliness of government assessments of bisphenol A, it is apparent that there is no need for additional legislation or regulation for bisphenol A. **Existing**

regulatory processes are adequate to protect human health, including children's health, and have proven to be functional and timely.



February 18, 2008

Honorable Robert N. Herkes, Chair
Members, House Committee on Consumer Protection and Commerce

Re: Opposition to HB 2449 HD 1

Dear Representative Herkes and Members of the Committee:

I am writing to express opposition to HB 2449 HD 1, a bill that proposes to prohibit toys and child care articles that contain bisphenol A. My interest in this matter is due to my role as the Executive Director of the Polycarbonate/BPA Global Group, which consists of the leading global manufacturers of polycarbonate plastic and epoxy resins. The safety of these materials is our highest priority and our group is focused entirely on the health and environmental aspects of polycarbonate plastic and bisphenol A.

As summarized in this letter and attachments, bisphenol A has been safely used for 50 years to make shatter-resistant polycarbonate plastic and versatile epoxy resins. Both of these materials have an equally long history of safe use in a wide array of products that are valued by consumers worldwide. There is no basis in science to prohibit any of these products and bisphenol A is not banned or restricted anywhere in the world.

Examples of the many products that rely on these materials, including many that are designed to protect the health and safety of children, are provided in Attachment 1. Notable examples of children's products made from shatter-resistant polycarbonate plastic include baby bottles and related feeding products (e.g., sippy cups); sports safety equipment such as helmets and visors; and eyeglass lenses, incubators and components of life-saving medical devices.

Epoxy resins provide an important public health benefit as the protective coating used in nearly all food and beverage cans. These coatings protect the safety and integrity of canned foods by preventing contamination of food by corroded metal. Epoxy resins are also widely used to protect the integrity of circuit boards that are used in toys and other electronic products for children.

Over the last 50 years, bisphenol A has become one of the best studied and tested of all substances. We have an extraordinarily rich scientific database available to assess the safety of bisphenol A and, most importantly, the science has been reviewed by independent scientific and government bodies worldwide.

As summarized in Attachment 2, these reviews, in every case, support the conclusion that bisphenol A is not a risk to human health. Based on these reviews, bisphenol A is not banned or



restricted anywhere in the world. Products made from polycarbonate plastic and epoxy resins are accepted as safe for use, and are widely used, around the world.

Notable examples that are of particular relevance to children's products include:

- US Food and Drug Administration (FDA)

FDA has made several recent statements on the safety of bisphenol A, based on their review of the science, with the following conclusions:

"FDA has confidence that no safety concern exists for BPA in regulated food contact materials. Furthermore, FDA has determined that the use of polycarbonate-based baby bottles and BPA-based epoxy coated cans used to hold infant formula is safe." (July 2007)

"Considering all the evidence, including the very low dietary exposure to BPA (3.7 ppb) based on measurements by FDA chemists of levels found in canned foods or migrating from baby bottles, and the fact that bisphenol-A has not demonstrated adverse effects when consumed by animals in amounts far higher (orders of magnitude) than humans would consume, FDA sees no reason at this time to ban or otherwise restrict the uses now authorized." (November 2007)

"BPA has been used in consumer products for over 50 years. In that time, there has been no evidence that BPA is harmful to humans, either as the result of dietary intake or industrial worker exposures." (December 2007)

- European Food Safety Authority (EFSA)

In a comprehensive report released one year ago, a panel of 21 independent scientific experts from throughout the EU reaffirmed the safety of bisphenol A based on the most up-to-date scientific information available. Based on this evaluation, food contact products such as polycarbonate baby bottles are accepted as safe for use, and are used, throughout Europe with no restrictions.

I encourage you to carefully consider the information included in this letter as you review HB 2449. Please feel free to contact me if you have any questions or need additional information.

Regards,



Steven G. Hentges, Ph.D.
Executive Director
Polycarbonate/BPA Global Group

MEMORANDUM - February 19, 2008

To: The Honorable Robert N. Herkes, Chair
Members, Committee on Consumer Protection and Commerce

From: Marian Stanley
Phthalate Esters Panel of the American Chemistry Council

The Phthalate Esters Panel of the American Chemistry Council is opposed to HB 2449 HD 1, legislation that would ban the use of “phthalates” in a wide range of consumer products that are intended for use by children. ACC believes that HB 2449 HD 1 contradicts the significant body of credible scientific research that affirms the safety of phthalates, including their use in consumer products.

Phthalates are commonly used to make vinyl soft and flexible, without sacrificing its durability. They are used as softeners in toys; cars and products found in the home, businesses, and hospitals. Comprehensive reviews of the scientific evidence on phthalates have found no scientific basis to restrict these materials:

- ✓ In a peer reviewed health risk study, the **US Consumer Product Safety Commission (CPSC)** found “**no demonstrated health risk**” from the primary phthalate in children’s toys (DINP) and “**no justification**” for banning its use. In fact, the CPSC said “If DINP is to be replaced in children’s products, whether on a mandatory or voluntary basis, the potential risks of the substitutes must be considered. **Weaker or more brittle plastics might break and result in a choking hazard.**” The CPSC declined to even issue a health alert regarding phthalates in vinyl toys.
- ✓ The **European Union**, following the release of a 10-year risk assessment of various phthalates concluded that DINP was “**unlikely to pose a risk to consumers**” which **included assessing impact on adults, children and infants.**
- ✓ **The National Toxicology Program**, an arm of the **U.S. National Institutes of Health**, assessed both DINP and DIDP and concluded both phthalates are of “**minimal concern**” for all age groups.
- ✓ Data from the **Centers for Disease Control and Prevention (CDC)** show that the average human exposure to DINP is far below safety levels set by the U.S. government.

Other phthalates that would be banned are rarely if ever used in children’s toys. Attached to this memo are more information about phthalates and the various safety assessments that have been conducted. If you have any questions or comments, please contact me at 703-741-5623 or via email at marian_stanley@americanchemistry.com. I thank you in advance for considering our views.



Written Testimony of Dr. J. Mijin Cha on behalf of the Progressive States Network
Before the Hawaii House of Representatives Consumer Protection and Commerce Committee
With Respect to HB 2449, *Protecting Children from Certain Toxic Products*

Dear Chairman Herkes and fellow Committee Members:

My name is Mijin Cha and I am a senior policy specialist at the Progressive States Network. The Progressive States Network is dedicated to working with state legislators to pass legislation that offers protections for consumers, working families, affordable health care, and a cleaner environment.

Starting last fall, we began a nationwide campaign to support efforts by local and national groups, such as the Washington Toxics Coalition and the United States Steelworkers, to ban toxics in toys and children's products to protect the most vulnerable segment of our society. Today, we submit testimony in support of Hawaii's House Bill 2449, which protects children from toxic products by banning harmful toxics in children's products and requiring manufacturers to choose safer alternatives. Hawaii has the exciting opportunity to be one of the leaders in this fight to protect children from toxic and harmful products.

There is movement across the country to ban toxics in toys and children's products. Over half of the states have introduced, or are planning to introduce, legislation to protect children against toxics in toys and products. States like Florida, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Rhode Island, Vermont, West Virginia, and Washington have all introduced bills to address this very serious issue.

HB 2449 is one of the strongest pieces of legislation being introduced. The bill bans the manufacture, sale, and distribution of products for children that contain bisphenol-A (BPA) or phthalates. According to a study published by the National Institute of Environmental Health Sciences, exposure to BPA during early development disrupts hormonal growth and can also affect immune function and brain chemistry. The phthalates banned in HB 2449 have already been banned by not only the European Union, but also Japan, Mexico and Argentina.

The bill also requires manufacturers to use the least toxic alternative when replacing BPA and phthalates in children's products. This will ensure that children are continually protected from exposure to toxic toys.

The fact that states, like Nebraska and West Virginia, are introducing legislation similar to that introduced in Massachusetts and Michigan highlights the urgent need for state action in the absence of comprehensive federal reform. Hawaii legislators have the opportunity to really take leadership on this issue. I strongly urge the legislature to take quick action on this bill and start protecting Hawaii's children.

Hawaii is no stranger to being a leader on environmental health concerns. HB 2449 is one of the most comprehensive, forward looking bills to regulate toxics in toys and products and protect the most vulnerable class of citizens in the state and beyond.

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IN SUPPORT

To the Committee on Consumer Protection & Commerce, Representative Robert Herkes, Chair, Representative Angus McKelvey, Vice Chair, and Committee Members, regarding Hearing on Wednesday, February 20, 2008, at 2:00 PM, in Room 325, at the Hawaii State Capitol.

RE: HB 2449, HD1 (HSCR354-08) PROTECTING CHILDREN FROM CERTAIN TOXIC PRODUCTS. Prohibits the manufacture, sale, and distribution of products for young children that contain bisphenol-A or phthalates. Requires manufacturers to choose safe alternatives. (HB2449 HD1)

From Patricia Urieff, MSW, ACSW, LSW, employed with twenty-four years of experience providing social work services to children and families, including grandparents raising grandchildren. 1959 to 1971 in Hawaii, I had four pregnancies, four children, and was a stay at home mom. Currently, I have five grandchildren. I am an advocate of government protecting children from harm.

Thank you very much for hearings on this very important subject and bill. I appreciate government efforts to mandate that Hawaii's children are protected from toxic products.

In our communities, parents are the busiest people with the hard daily tasks related to caring for their children. Most parents assume that what is for sale (in legitimate markets) is safe. There is no way a parent can analyze (contents of a product for children) to decide what is safe and what is toxic. Consumers should not have to make that analysis.

If there are toxic items on the market now, it does not make sense "to have discussion until 2010". Instead, **as soon as possible action steps are needed to remove toxic items from markets and to prevent toxic materials from going to market.** You can save tax payers' money that will go to settle a law suit because another year is needed "to discuss" the situation. **Please reconsider, make the effective date ASAP!**

Please support this bill that aims to have a system to make the analysis, prevent toxic products from market sales, and in several ways protect Hawaii's children from toxic products.

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