

People Serving People



est. 1947

Hawaii Restaurant Association

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February 3, 2008

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Please copy and send to meeting of Committee on Commerce,
Consumer Protection and Affordable Housing scheduled for Tuesday,
February 5, 2008 at 9:00 AM in Conference Room 229.

TO: Chair Russell Kokubun
Committee on Commerce, Consumer Protection
and Affordable Housing
Senate
415 S. Beretania Street
Honolulu, HI 96813

RE: SB 2239 – Relating to Toxic Products

Chairman Kokubun and Members of the Senate Committee on
Commerce, Consumer Protection and Affordable Housing:

On behalf of the Hawaii Restaurant Association, I am writing in
opposition to SB 2239 dealing with Toxic Products.

The Hawaii Restaurant Association supports the intent of this bill in
promoting safety for Hawaii's keiki; however, the time line of January
1, 2009 contained in the bill is not reasonable and would be
impossible for a business or manufacturer to comply with in less than
a year. Therefore, the HRA recommends that the time line be pushed
back to at least 2012.

Mahalo,


Gail Chew
Executive Director

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LATE

MEMORANDUM - February 4, 2008

To: The Honorable Russell S. Kokubun, Chair
Members, Senate Commerce, Consumer Protection, and Affordable
Housing Committee

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

Re: **SB 2239 – OPPOSE**

On behalf of the American Chemistry Council (ACC), I am writing to convey our opposition to SB 2239, 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.

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.

For more information on bisphenol A, please contact:

Steven G. Hentges, Ph.D.
Executive Director
Polycarbonate/BPA Global Group
American Chemistry Council
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e-mail: steve_hentges@americanchemistry.com
<http://www.bisphenol-a.org>

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.



LATE TESTIMONY

February 3, 2008

LATE

Honorable Senator Russell S. Kokubun (Chair)
Honorable Senator David Y. Ige (Vice Chair)
Committee on Commerce, Consumer Protection and Affordable Housing
Hawaii State Senate

Re: Opposition to SB ~~2339~~ 2239

Dear Senators Kokubun and Ige:

I am writing to express opposition to SB 2239, 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 SB 2239. 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

LATE TESTIMONY

MEMORANDUM - February 4, 2008

To: The Honorable Russell S. Kokubun, Chair
Members, Senate Commerce, Consumer Protection, and Affordable
Housing Committee

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

The Phthalate Esters Panel of the American Chemistry Council is opposed to SB 2239, 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 SB 2239 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.