

JAN 18 2013

A BILL FOR AN ACT

RELATING TO TOXIC PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that conditions such as
2 asthma, diseases such as cancer, and developmental disabilities
3 are linked to exposure to toxic substances. Growing children
4 are particularly at risk in this regard, as they are
5 physiologically more susceptible to chemicals. Precautionary
6 measures must be taken to protect them.

7 Bisphenol A is an industrial chemical that is used in
8 packaging and plastic bottles. Bisphenol A in plastics and
9 packaging materials can transfer to liquids and foods and
10 additional amounts of bisphenol A are transferred when hot or
11 boiling foods or liquids come in contact with packaging made of
12 bisphenol A. Some animal studies have shown that exposure to
13 bisphenol A may be linked to health problems such as diabetes,
14 cardiovascular disease, and reproductive disorders.

15 In July 2012, the United States Food and Drug
16 Administration banned the use of bisphenol A in infant feeding
17 bottles and spill-proof cups known as "sippy cups", including
18 their closures and lids, designed to help train babies and



1 toddlers to drink from cups, 21 Code of Federal Regulations
2 section 177.1580. This decision was made in response to a
3 petition that the American Chemistry Council filed because
4 manufacturers had stopped using bisphenol A in baby bottles and
5 sippy cups. However, the decision did not include banning the
6 use of bisphenol A in products such as baby formula containers.

7 Phthalates are chemicals often used in the manufacture of
8 plastics to make plastics softer. Phthalates are used in
9 products such as cosmetics, industrial solvents, food
10 containers, and adhesives. Animal studies have shown that
11 phthalates can affect the development of the reproductive
12 systems of the young, especially males. The European Union has
13 banned certain phthalates in toys and children's products that
14 might be placed in the mouth at levels greater than 0.1 per cent
15 of total object weight. In the United States, the Consumer
16 Product Safety Improvement Act of 2008, P.L. 110-314, prohibited
17 the manufacture, sale, distribution, or importation of any
18 children's toy or child care article that contains
19 concentrations of more than 0.1 per cent of di-2-ethyl hexyl
20 phthalate, dibutyl phthalate, or benzyl butyl phthalate. The
21 Act also prohibited, on an interim basis, the manufacture, sale,
22 distribution, or importation of any children's toy that can be



1 placed in a child's mouth or child care article that contains
2 concentrations of more than 0.1 per cent of diisononyl
3 phthalate, diisodecyl phthalate, or di-n-octyl phthalate. The
4 Act defined: (1) "children's toy" as a consumer product
5 designed or intended by the manufacturer for a child twelve
6 years of age or younger for use by the child when the child
7 plays; and (2) "child care article" as a consumer product
8 designed or intended by the manufacturer to facilitate sleep or
9 the feeding of children age three and younger, or to help
10 children with sucking or teething. The Act was amended in 2011,
11 P.L. 112-28, to clarify that the permanent and interim bans
12 applied to any plasticized component part of a children's toy or
13 child care article or any other component part of a children's
14 toy or child care article that is made of other materials that
15 may contain phthalates, but did not apply to any component part
16 of a children's toy or child care article that is not accessible
17 to a child through normal and reasonably foreseeable use and
18 abuse.

19 The legislature finds that it is in the best interest of
20 Hawaii's children to significantly reduce their exposure to
21 bisphenol A and phthalates as early as possible, and ultimately,
22 eliminate exposure altogether. The purpose of this Act is to



1 promote the health and safety of children by prohibiting the
2 manufacture, sale, and distribution of food and drink containers
3 for young children that contain bisphenol A or phthalates and
4 requiring manufacturers to choose safe alternatives.

5 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
6 amended by adding a new part to be appropriately designated and
7 to read as follows:

8 "PART . INFANT AND TODDLER SAFETY

9 §321- Short title. This part shall be known, and may
10 be cited, as the Toxin-Free Keiki Act.

11 §321- Definitions. As used in this part, unless the
12 context otherwise requires:

13 "Bisphenol A" refers to an estrogen-mimicking chemical used
14 in the production of epoxy resins and polycarbonate plastics.

15 "Child care article" means an empty food or drink container
16 that is designed and intended by the manufacturer to be filled
17 with food or liquid and to be used by a child.

18 "Phthalates" refers to a group of chemical compounds that
19 are used to plasticize food and drink containers, and are also
20 found in products such as shampoos, perfumes, and cosmetics.

21 §321- Prohibition of manufacture, sale, or
22 distribution. Beginning January 1, 2014, no person or legal



1 entity shall manufacture, sell, or distribute any child care
2 article in the State that is:

3 (1) Intended for use by a child under three years of age
4 and contains bisphenol A; or

5 (2) Intended for use by a child under three years of age,
6 and contains diisononyl phthalate, diisodecyl
7 phthalate, or di-n-octyl phthalate in concentrations
8 exceeding 0.1 per cent.

9 **§321- Alternatives to bisphenol A and phthalates.**

10 Manufacturers shall use the least toxic alternative when
11 replacing bisphenol A and phthalates in accordance with this
12 part. Manufacturers shall not replace bisphenol A and
13 phthalates, pursuant to this part, with either:

14 (1) Substances with the following cancer weight-of-
15 evidence descriptors: carcinogenic to humans; likely
16 to be carcinogenic to humans; or suggestive evidence
17 of carcinogenic potential, as described by the
18 Environmental Protection Agency's guidelines for
19 carcinogenic risk assessment; or

20 (2) Reproductive toxicants that cause birth defects,
21 reproductive harm, or developmental harm as identified
22 by the United States Environmental Protection Agency."



1 SECTION 3. This Act shall take effect on July 1, 2013.

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S.B. NO. 384

Report Title:

Toxic Products; Infant and Child Safety

Description:

Prohibits the manufacture, sale, or distribution of drink and food containers for young children containing bisphenol A or phthalates. Requires manufacturers to use the least toxic alternatives.

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