



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON HEALTH

January 30, 2013, 8:30 A.M.
(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 396 WITH PROPOSED AMENDMENTS

Aloha Chair Au Belatti and Members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 396. This measure prohibits the manufacture, sale, or distribution of containers for *keiki* containing bisphenol A or phthalates.

BPA is a known hormone disrupter. The National Institutes of Health is concerned that childhood exposure to BPA may lead to problems with brain development, behavior, early puberty, breast cancer, and prostate cancer. New research has also suggested that BPA may interfere with metabolism and lead to obesity, heart disease, and diabetes in humans.

At least seven states have enacted statutes prohibiting the manufacture, sale, or distribution of BPA in various articles including baby bottles. Canada has banned the use of BPA in food-related childcare items and is restricting its use in infant formula cans.

Many companies have phased out BPA from their products, or removed BPA-containing products from their store shelves, or both.

The Sierra Club supports HB 396 as a way to ensure our *keiki* are toxic-free and safe from the impacts of harmful toxins.

Proposed Amendments:

SECTION 3. Notification -- recall and reimbursement. (1) A manufacturer of products that are prohibited under this act shall notify persons that sell the manufacturer's products in this state of the prohibitions in not less than 90 days before January 1, 2014.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution under this act on or after January 1, 2014 shall recall the product and reimburse the retailer or any other purchaser for the product.

SECTION 4. **Civil penalties.** (1) A manufacturer, wholesaler, or retailer who knowingly violates the provisions of this act is subject to a civil penalty not to exceed \$5,000 for each violation in the case of a first offense. In the case of repeat violations, the civil penalty may not exceed \$10,000 for each repeat violation. (2) Penalties are recoverable in an action brought by the department. (3) An action under this section does not bar enforcement by injunction or other appropriate civil or administrative remedies.

Mahalo for the opportunity to testify.



TESTIMONY OF
TOY INDUSTRY ASSOCIATION (TIA)
SUBMITTED TO
HOUSE COMMITTEE ON HEALTH
IN OPPOSITION TO HOUSE BILL 396
“RELATING TO TOXIC PRODUCTS”

JANUARY 30, 2013

www.toyassociation.org

Chairwoman Au Belatti and Members of the House Committee on Health, the Toy Industry Association (TIA) appreciates this opportunity to provide testimony on House Bill 396. TIA is a not-for-profit trade association composed of more than six hundred (600) members, both large and small in size, located throughout North America.

Toy Industry Association and its members have long been leaders in toy safety. In this role, we develop safety standards for toys, working with industry, government, consumer organizations, and medical experts. The U.S.'s risk-based standards are widely used as models around the globe. TIA commends the bill sponsors for their keen interest in the safety of children. We share that interest, and our industry is founded on the mission of bringing fun and joy to children's lives – and in that pursuit protecting the safety of our young consumers is our top priority.

TIA would like to specifically address concerns with House Bill 396 which proposes to restrict certain phthalates and Bisphenol-A (BPA) - in children's product applications.

Federal Regulation of Phthalates in Children's Products is Preemptive

House Bill 396 proposes to ban products intended for use by a child under three years of age which contain diisononyl phthalate, diisodecyl phthalate, or di-n-octyl phthalate in concentrations exceeding 0.1 percent. However, the Consumer Product Safety Improvement Act (CPSIA), (H.R. 4040) – signed into law on August 18, 2008, already restricts the use of these specific phthalates in toys and children's products and has the effect of expressly preempting states and localities from imposing similar restrictions on phthalates in these product categories.

Specifically, the U.S. Consumer Product Safety Commission (CPSC) has issued the following guidance on this topic: “The new lead limits for lead paint and lead content preempt state law as do the new provisions on phthalates and ATVs”^[1] Therefore, these provisions relating to phthalates in House Bill 396 are preempted and are unnecessary to include in this legislation.

Additionally, if these provisions remain in this legislation it would both confuse retailers, consumers and could cause unnecessary disruption in the marketplace.

Scientific Bodies Have Verified the Safe Use of BPA

Additionally, House Bill 396 proposes to restrict the use of BPA in food or drink containers designed and intended by the manufacturer to be filled with food or liquid and to be used by a child. There is strong science to support the safe use of BPA in consumer product applications. There is extensive research and testimony from experts on the science demonstrating the very low risk associated with BPA as well as the unique safety benefits it provides. Specifically the following authoritative scientific bodies have found BPA to be safe or to not warrant special restrictions or handling:

- In November of 2010, an international panel of experts convened by the World Health Organization to examine the health risks from exposure to the chemical bisphenol A (BPA) agreed that it would be “premature” to take any public health measures to regulate or ban BPA.
- In September of 2010, the European Food Safety Authority (EFSA) concluded a review of over 800 studies on BPA and reconfirmed current safe levels of BPA in food products.
- In July of 2009, the California Developmental and Reproductive Toxicant Identification Committee voted unanimously against placing BPA on Proposition 65 - a list of chemicals believed to cause cancer, birth defects or other reproductive harm.

^[1] U.S. Consumer Product Safety Commission guidance on CPISA Section 231 – Preemption, <http://www.cpsc.gov/ABOUT/Cpsia/sect231.html>

- In 2009, the German Federal Institute for Risk Assessment found that BPA is safe for “normal” use in many product applications and should not be banned.
- In 2010, the U.S. Food and Drug Administration re-reviewed its assessment of the safety of BPA and expressed the need for additional research; but did not propose banning the use of BPA in any product category.
- The U.S. Toxicology Program, in September 2008, issued a report with that did not find BPA to warrant any special restrictions.

A ban on BPA as currently proposed by this legislation does not take into consideration the science supporting its safe use -- or its benefits.

Conclusion

The Toy Industry Association and its members have always recognized the special relationship we have with children, who are our principal consumers; their safety and well-being is always our top priority. As parents ourselves and an industry devoted to bringing joy (and safety) to childhood, we share your interest in the safety of toys and we urge you to carefully consider the unintended consequences of the provisions proposed in this legislation and how this bill will hurt those doing business in Hawaii. Therefore, TIA respectfully urges you **to oppose the unnecessary and federally preempted phthalate restrictions in House Bill 396.**

On behalf of the members of the Toy Industry Association and our 600 member companies, we thank you for consideration of these concerns. If you or the Committee has any questions with regard to our concerns on this legislation please do not hesitate to contact Jennifer Gibbons, Director of State Affairs for TIA, at 646-512-1320 or jgibbons@toyassociation.org.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 30, 2013 8:01 AM
To: HLTtestimony
Cc: ypeia01@yahoo.com
Subject: *Submitted testimony for HB396 on Jan 30, 2013 08:30AM*

HB396

Submitted on: 1/30/2013

Testimony for HLT on Jan 30, 2013 08:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
christine johnson	Individual	Support	No

Comments:

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