

JAN 18 2013

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# 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.



1           The purpose of this Act is to promote the health and safety  
2 of children by prohibiting the manufacture, sale, and  
3 distribution of child care articles and toys for young children  
4 that contain bisphenol A or phthalates and requiring  
5 manufacturers to choose safe alternatives.

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

9                           **"PART . INFANT AND TODDLER SAFETY**

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

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

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

16           "Child care article" means all products designed or  
17 intended by a manufacturer to facilitate sleep, relaxation, or  
18 the feeding of children or to help children with sucking or  
19 teething.

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



1 "Toy" means a product designed or intended by a  
2 manufacturer to be used by children for recreational purposes.

3 §321- Prohibition of manufacture, sale, or  
4 distribution. Beginning January 1, 2014, no person or legal  
5 entity shall manufacture, sell, or distribute any toy or child  
6 care article that is:

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

9 (2) Intended for use by a child under three years of age,  
10 is small enough to be placed in a child's mouth, and  
11 contains diisononyl phthalate, diisodecyl phthalate,  
12 or di-n-octyl phthalate in concentrations exceeding  
13 0.1 per cent.

14 §321- Alternatives to bisphenol A and phthalates.

15 Manufacturers shall use the least toxic alternative when  
16 replacing bisphenol A and phthalates in accordance with this  
17 part. Manufacturers shall not replace bisphenol A and  
18 phthalates, pursuant to this part, with either:

19 (1) Substances with the following cancer weight-of-  
20 evidence descriptors: carcinogenic to humans; likely  
21 to be carcinogenic to humans; or suggestive evidence  
22 of carcinogenic potential, as described by the



1 Environmental Protection Agency's guidelines for  
2 carcinogenic risk assessment; or  
3 (2) Reproductive toxicants that cause birth defects,  
4 reproductive harm, or developmental harm as identified  
5 by the United States Environmental Protection Agency."

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

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# S.B. NO. 383

**Report Title:**

Children; Toxic Substances; Bisphenol A; Phthalates

**Description:**

Prohibits the manufacture, sale, or distribution of child care products and toys for young children that contain bisphenol A or phthalates. Requires manufacturers to choose the least toxic alternatives.

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