

No. 112. An act relating to bisphenol A.

(S.247)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Bisphenol A (BPA) is a synthetic estrogen that was originally considered for use in managing challenging pregnancies. Low-dose exposure to BPA has been linked to breast cancer, prostate cancer, recurrent miscarriages, early onset puberty, reduced sperm count, delayed development, heart disease, diabetes, and obesity.

(2) Over 90 percent of the more than 100 government-funded studies of low-dose exposure to BPA have demonstrated adverse health effects.

(3) According to the Centers for Disease Control and Prevention, more than 90 percent of Americans have detectable levels of BPA in their bodies, and children have higher concentrations of BPA in their bodies than do adolescents or adults.

(4) Approximately seven billion pounds of BPA is produced globally each year for use in baby bottles, dental sealants, compact discs, water bottles, food cans, and a wide variety of other items.

(5) BPA is one of the most frequently detected industrial chemicals in groundwater and is also found in landfill leachate, surface water, sewage, sludge, and treated wastewater discharge.

(6) The use of BPA should be limited in order to protect the health of the citizens and environment of Vermont.

(7) Alternatives to BPA exist, including glass, stainless steel, and aluminum bottles; BPA-free plastic containers, some of which are already used by several manufacturers of infant formula; foil packets; and powdered foods stored in cardboard boxes.

Sec. 2. 18 V.S.A. § 1512 is added to read:

§ 1512. BISPHENOL A

(a) As used in this section:

(1) “Baby food” means a prepared solid food consisting of a soft paste or an easily chewed food that is intended for consumption by children two years of age or younger and that is commercially available.

(2) “Bisphenol A” means an industrial chemical used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(3) “Infant formula” means a milk-based or soy-based powder, concentrated liquid, or ready-to-feed substitute for human breast milk that is intended for infant consumption and that is commercially available.

(4) “Reusable food or beverage container” means a receptacle for storing food or beverages, including baby bottles, spill-proof cups, sports bottles, and thermoses. The term does not include food or beverage containers intended for disposal after initial usage. The term shall not include commercial water cooler jugs.

(b) Beginning July 1, 2012, no person or entity shall manufacture, sell, or distribute in commerce in this state any reusable food or beverage container containing bisphenol A.

(c)(1) Beginning July 1, 2012, no person or entity shall manufacture, sell, or distribute in commerce in this state any infant formula or baby food stored in a plastic container or jar that contains bisphenol A.

(2) Beginning July 1, 2014, no person or entity shall manufacture, sell, or distribute in commerce in this state any infant formula or baby food stored in a can that contains bisphenol A.

(d) Manufacturers shall use the least toxic alternative when replacing bisphenol A in accordance with this section.

(e) Manufacturers shall not replace bisphenol A, pursuant to this section, with carcinogens rated by the U.S. Environmental Protection Agency (EPA) as A, B, or C carcinogens or substances listed on the EPA’s “List of Chemicals Evaluated for Carcinogenic Potential” as known or likely carcinogens, known

to be human carcinogens, likely to be human carcinogens, or suggestive of being carcinogens.

(f) Manufacturers shall not replace bisphenol A, pursuant to this section, with reproductive toxicants that the EPA has identified as causing birth defects, reproductive harm, or developmental harm.

(g) A violation of this section shall be deemed a violation of the Consumer Fraud Act, chapter 63 of Title 9. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies, as provided under subchapter 1 of chapter 63 of Title 9.

Sec. 3. AVAILABILITY OF ALTERNATIVE CONTAINERS FOR USE IN
WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM

The department of health shall identify as soon as possible one or more bisphenol A-free containers, including cans, for use in Vermont's women, infants, and children (WIC) program. No later than January 15, 2012, the department shall report to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary with respect to the availability of bisphenol A-free containers for use in the WIC program.

Approved: May 19, 2010