

770

2009-2010 Regular Sessions

I N S E N A T E

January 15, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting the manufacture, distribution and sale of toys and child care products, containing bisphenol-A or phthalates, which are intended for use by or upon a child under the age of fourteen years

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 397-b to read as follows:
3 S 397-B. TOYS AND CHILD CARE PRODUCTS; BISPHENOL-A AND PHTHALATES. 1.
4 THE LEGISLATURE HEREBY FINDS THAT BISPHENOL-A, AN ESTROGEN-MIMICKING
5 ENDOCRINE DISRUPTER CHEMICAL, IS USED IN THE PRODUCTION OF EPOXY RESINS
6 AND POLYCARBONATE PLASTICS, AND IS THE MAIN INGREDIENT IN HARD POLYCAR-
7 BONATE PLASTICS. THESE PLASTICS ARE USED IN MANY FOOD AND DRINK PACKAG-
8 ING APPLICATIONS, AND THE RESINS ARE COMMONLY USED AS LACQUERS TO COAT
9 METAL PRODUCTS SUCH AS FOOD CANS, BOTTLE TOPS AND WATER SUPPLY PIPES.
10 BISPHENOL-A HAS BEEN SHOWN TO HAVE HORMONE DISRUPTING EFFECTS, AND IS
11 ALSO USED IN MANY PRODUCTS INTENDED FOR USE BY YOUNG CHILDREN INCLUDING
12 TOYS, PACIFIERS, BABY BOTTLES AND TEETHERS.
13 THE LEGISLATURE ALSO FINDS THAT PHTHALATES ARE CHEMICALS USED TO PLAS-
14 TICIZE SOME FOOD CONTAINERS, PLASTIC WRAP, TOYS, SHAMPOOS, PERFUMES AND
15 BEAUTY PRODUCTS. SUCH CHEMICALS HAVE BEEN SHOWN TO HAVE HORMONE DISRUPT-
16 ING EFFECTS.
17 2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPA-
18 NY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE
19 ANY TOY OR CHILD CARE PRODUCT CONTAINING BISPHENOL-A, INTENDED FOR USE
20 BY A CHILD UNDER FOURTEEN YEARS OF AGE.
21 3. FOR THE PURPOSES OF THIS SECTION, "PHTHALATES" MEANS
22 DI(2-ETHYLHEXYL) PHTHALATE (DEHP), DIBUTYL PHTHALATE (DBP), BENZYL BUTYL

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 PHTHALATE (BBP), DIISONONYL PHTHALATE (DINP), DIISODECYL PHTHALATE
2 (DIDP), OR DI-N-OCTYL PHTHALATE (DNOP).

3 4. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPA-
4 NY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE
5 ANY TOY OR CHILD CARE PRODUCT CONTAINING ANY INDIVIDUAL PHTHALATE OR
6 MULTIPLE PHTHALATES IN CONCENTRATIONS IN EXCESS OF 0.1 PERCENT.

7 5. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPA-
8 NY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE
9 ANY TOY OR CHILD CARE PRODUCT CONTAINING ANY INDIVIDUAL PHTHALATE OR
10 MULTIPLE PHTHALATES IN CONCENTRATIONS IN EXCESS OF 0.1 PERCENT, INTENDED
11 FOR USE BY A CHILD UNDER FOURTEEN YEARS OF AGE WHEN SUCH TOY OR PRODUCT
12 MAY BE PLACED IN THE CHILD'S MOUTH.

13 6. EVERY MANUFACTURER OF A PRODUCT OR TOY PROHIBITED BY THIS SECTION
14 SHALL USE THE LEAST TOXIC ALTERNATIVE TO THE BISPHENOL-A OR PHTHALATE IN
15 THE TOY OR PRODUCT. SUCH ALTERNATIVE SHALL NOT BE (I) A CARCINOGEN RATED
16 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A, B OR C CARCI-
17 NOGENS, OR SUBSTANCES LISTED AS KNOWN OR LIKELY CARCINOGENS, KNOWN TO BE
18 HUMAN CARCINOGENS, LIKELY TO BE HUMAN CARCINOGENS OR SUGGESTIVE OF BEING
19 HUMAN CARCINOGENS, AS DESCRIBED IN THE "LIST OF CHEMICALS EVALUATED FOR
20 CARCINOGEN POTENTIAL"; OR (II) REPRODUCTIVE TOXICANTS THAT CAUSE BIRTH
21 DEFECTS, REPRODUCTIVE HARM OR DEVELOPMENTAL HARM AS IDENTIFIED BY THE
22 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

23 7. ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY
24 COMPANY OR CORPORATION WHICH VIOLATES ANY PROVISION OF THIS SECTION
25 SHALL BE LIABLE FOR A CIVIL FINE OF NOT LESS THAN TEN THOUSAND DOLLARS
26 FOR EACH DAY OF SUCH VIOLATION.

27 S 2. This act shall take effect on the first of January next succeed-
28 ing the date on which it shall have become a law.