

4036

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. GABRYSZAK, WEISENBERG, MILLMAN, WEPRIN, MAYERSOHN
-- Multi-Sponsored by -- M. of A. CAHILL, GIBSON, GOTTFRIED, HIKIND,
McENENY, SCHIMEL -- read once and referred to the Committee on Consumer
Affairs and 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.

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

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1 3. FOR THE PURPOSES OF THIS SECTION, "PHTHALATES" MEANS
2 DI(2-ETHYLHEXYL) PHTHALATE (DEHP), DIBUTYL PHTHALATE (DBP), BENZYL BUTYL
3 PHTHALATE (BBP), DIISONONYL PHTHALATE (DINP), DIISODECYL PHTHALATE
4 (DIDP), OR DI-N-OCTYL PHTHALATE (DNOP).

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

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

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

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

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