S T A T E O F N E W Y O R K

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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:

Section 1. The general business law is amended by adding a new section 397-b to read as follows:

S 397-B. TOYS AND CHILD CARE PRODUCTS; BISPHENOL-A AND PHTHALATES. 1. THE LEGISLATURE HEREBY FINDS THAT BISPHENOL-A, AN ESTROGEN-MIMICKING ENDOCRINE DISRUPTER CHEMICAL, IS USED IN THE PRODUCTION OF EPOXY RESINS AND POLYCARBONATE PLASTICS, AND IS THE MAIN INGREDIENT IN HARD POLYCARBONATE PLASTICS. THESE PLASTICS ARE USED IN MANY FOOD AND DRINK PACKAGING APPLICATIONS, AND THE RESINS ARE COMMONLY USED AS LACQUERS TO COAT METAL PRODUCTS SUCH AS FOOD CANS, BOTTLE TOPS AND WATER SUPPLY PIPES. BISPHENOL-A HAS BEEN SHOWN TO HAVE HORMONE DISRUPTING EFFECTS, AND IS ALSO USED IN MANY PRODUCTS INTENDED FOR USE BY YOUNG CHILDREN INCLUDING TOYS, PACIFIERS, BABY BOTTLES AND TEETHERS.

THE LEGISLATURE ALSO FINDS THAT PHTHALATES ARE CHEMICALS USED TO PLASTICIZE SOME FOOD CONTAINERS, PLASTIC WRAP, TOYS, SHAMPOOS, PERFUMES AND BEAUTY PRODUCTS. SUCH CHEMICALS HAVE BEEN SHOWN TO HAVE HORMONE DISRUPTING EFFECTS.

2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL MANUFACTURE, DISTRIBUTE, SELL OR OFFER FOR SALE ANY TOY OR CHILD CARE PRODUCT CONTAINING BISPHENOL-A, INTENDED FOR USE 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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3. FOR THE PURPOSES OF THIS SECTION, "PHTHALATES" MEANS DI(2-ETHYLHEXYL) PHTHALATE (DEHP), DIBUTYL PHTHALATE (DBP), BENZYL BUTYL PHTHALATE (BBP), DIISONONYL PHTHALATE (DINP), DIISODECYL PHTHALATE (DIDP), OR DI-N-OCTYL PHTHALATE (DNOP).

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

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

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

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

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.