
SUBSTITUTE HOUSE BILL 1180

State of Washington 61st Legislature 2009 Regular Session

By House Environmental Health (originally sponsored by Representatives Dickerson, Hudgins, Campbell, Dunshee, Pedersen, Hunt, Rolfes, Appleton, Moeller, Kagi, Van De Wege, Hunter, Cody, Chase, Green, Morrell, Pettigrew, White, Williams, Simpson, and Kenney)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to the use of bisphenol A; adding a new chapter to
2 Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Alternative" or "alternatives" means a substitute process,
7 product, material, chemical, strategy, or combination of these that
8 serves a functionally equivalent purpose to a chemical in a consumer
9 product.

10 (2) "Department" means the department of ecology.

11 NEW SECTION. **Sec. 2.** Beginning July 1, 2010, no manufacturer,
12 wholesaler, or retailer may manufacture, knowingly sell, offer for
13 sale, distribute for sale, or distribute for use in this state any of
14 the following:

15 (1) Any bottle, cup, or other container, except a can, that
16 contains bisphenol A if that container is designed or intended to be
17 filled with any liquid, food, or beverage primarily for consumption

1 from that container by children three years of age or younger and is
2 sold or distributed without containing any liquid, food, or beverage;
3 or

4 (2) Any sports water bottle that contains bisphenol A.

5 NEW SECTION. **Sec. 3.** (1) By July 1, 2012, the department, in
6 consultation with the department of health, shall conduct an
7 alternatives assessment for bisphenol A in cans, jars, or other
8 containers that are used to hold liquids, food, or beverages primarily
9 for human consumption and are not prohibited under section 2 of this
10 act. The department shall prioritize cans, jars, or other containers
11 that are used to hold liquids, foods, or beverages designed or intended
12 primarily for consumption by children three years of age or younger.

13 (2) In conducting the alternatives assessment, the department shall
14 use scientific studies and other relevant findings regarding bisphenol
15 A and the alternatives to the use of bisphenol A, including any
16 information identified in section 4 (1) through (3) of this act.

17 (3) For the purpose of determining whether a safer alternative is
18 available, the department may presume that, in the absence of
19 persuasive evidence to the contrary:

20 (a) An alternative is a safer alternative if the alternative is not
21 a high priority chemical that is of high concern for children, as
22 determined under RCW 70.240.030;

23 (b) A safer alternative is available if the sale of the product
24 containing bisphenol A has been banned by another state within the
25 United States;

26 (c) A safer alternative is available if the alternative is sold in
27 the United States.

28 NEW SECTION. **Sec. 4.** The manufacturer of a product described in
29 section 3 of this act containing bisphenol A must provide the following
30 information if requested by the department as part of its alternatives
31 assessment:

32 (1) Information on bisphenol A and alternatives to the use of
33 bisphenol A;

34 (2) Information on the hazard characteristics of the alternative
35 chemicals; and

1 (3) An assessment of the availability, cost, feasibility, and
2 performance, including potential for harm to human health and the
3 environment, of alternatives to bisphenol A and the reason the chemical
4 is used in the manufacture of the product in lieu of identified
5 alternatives.

6 NEW SECTION. **Sec. 5.** (1) If the department finds, after
7 consideration of the alternatives assessment conducted under section 3
8 of this act and other relevant information submitted to or obtained by
9 the department, that one or more safer alternatives to bisphenol A are
10 available, the department must seek public input on their findings and
11 present them in a report to the appropriate committees of the
12 legislature by December 31st of the year in which the findings are
13 made.

14 (2)(a) Before the department submits its report on its findings to
15 the legislature under subsection (1) of this section, it must publish
16 its findings in the Washington State Register and provide notice of its
17 findings by other means designed to inform those most likely to have an
18 interest in the findings.

19 (b) After the legislative session that follows the submission of
20 the report on findings, the department shall adopt rules that prohibit
21 the manufacture, sale, or distribution of products found to contain
22 bisphenol A. A product may be banned only if there is at least one
23 product available that uses a safer alternative identified in the
24 alternatives assessment that is approved for use by the federal food
25 and drug administration.

26 NEW SECTION. **Sec. 6.** (1) A manufacturer of products that are
27 restricted under this chapter must notify persons that sell the
28 manufacturer's products in this state about the provisions of this
29 chapter no less than ninety days prior to the effective date of the
30 restrictions.

31 (2) A manufacturer that produces, sells, or distributes a product
32 prohibited from manufacture, sale, or distribution in this state under
33 this chapter shall recall the product and reimburse the retailer or any
34 other purchaser for the product.

1 NEW SECTION. **Sec. 7.** (1) A manufacturer who fails to provide
2 information within three months of the date requested by the department
3 under section 4 of this act may be subject to a civil penalty not to
4 exceed five thousand dollars. Penalties collected under this section
5 must be deposited in the state toxics control account created in RCW
6 70.105D.070.

7 (2) A manufacturer, wholesaler, or retailer that manufacturers,
8 knowingly sells, or distributes products in violation of this chapter
9 is subject to a civil penalty not to exceed five thousand dollars for
10 each violation in the case of a first offense. Manufacturers,
11 wholesalers, or retailers who are repeat violators are subject to a
12 civil penalty not to exceed ten thousand dollars for each repeat
13 offense. Penalties collected under this section must be deposited in
14 the state toxics control account created in RCW 70.105D.070.

15 (3) Retailers who unknowingly sell products that are restricted
16 from sale under this chapter are not subject to the civil penalties
17 under this chapter.

18 NEW SECTION. **Sec. 8.** Expenses to cover the cost of administering
19 this chapter shall be paid from the toxics control account under RCW
20 70.150D.070.

21 NEW SECTION. **Sec. 9.** The department may adopt rules as necessary
22 for the purpose of implementing, administering, and enforcing this
23 chapter.

24 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
25 a new chapter in Title 70 RCW.

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