

## ASSEMBLY THIRD READING

AB 1108 (Ma)

As Amended May 14, 2007

Majority vote

ENVIRONMENTAL SAFETY	5-2	HEALTH	9-4
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Ayes: Huffman, Eng, Evans, Feuer, Nava	Ayes: Bass, Berg, De Leon, Hancock, Hayashi, Jones, Lieber, Ma, Salas
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Nays: Smyth, Jeffries	Nays: Dymally, Nakanishi, Huff, Strickland
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**SUMMARY:** Prohibits the use of phthalates in toys and childcare products designed for babies and children under three years of age. Specifically, this bill:

- 1) Prohibits, commencing on January 1, 2009, the manufacture, sale, or distribution in commerce of any toy or child care article:
  - a) That contains di-(2-ethylhexyl) phthalate (DEHP), di-n-butyl phthalate (DBP), or benzyl butyl phthalate (BBP), in concentrations exceeding 0.1%; and,
  - b) Intended for use by a child under three years of age if that product can be placed in the child's mouth and contains diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP), in concentrations exceeding 0.1%.
- 2) Requires that manufacturers use the least toxic alternative when replacing phthalates in accordance with this chapter.
- 3) Prohibits manufacturers from replacing phthalates with carcinogens rated by the United States Environmental Protection Agency (US EPA) 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 Carcinogenic Potential," or known to the state to cause cancer as listed in the California Safe Drinking Water Act (Act) (Chapter 4 (commencing with Section 116270) of Part 12).
- 4) Prohibits manufacturers from replacing phthalates with reproductive toxicants that cause birth defects, reproductive harm, or developmental harm as identified by US EPA or listed in the Act.

**EXISTING LAW:**

- 1) Requires, under the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65) the Governor to revise and publish a list of chemicals that have been scientifically proven to cause cancer or reproductive toxicity each year.
- 2) Prohibits any person in the course of doing business in California from knowingly exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning, nor can such chemicals be discharged into the drinking water.

FISCAL EFFECT: None

COMMENTS:

- 1) Need for the bill: Over the last few years public health professionals, scientists and community groups have become increasingly concerned about human beings being exposed to potentially toxic chemicals. Studies reveal that chemical loading in human bodies is increasingly being detected, and are finding connections between chemical exposure and human disabilities and developmental diseases.

According to the author, this bill is needed to limit the exposure of phthalates from toys and child care articles that are used by children three years and younger. The focus of this bill is toward young children, because they are most vulnerable, and chemicals pose too much of a risk to the health and proper development of babies and young children.

- 2) Phthalates: Phthalates, or phthalate esters, are a group of chemical compounds that are mainly used as plasticizers (substances added to plastics to increase their flexibility). They are used to turn polyvinyl chloride from a hard plastic into a flexible plastic. The effects of phthalates vary in scientific studies on animals, but testicular injury, liver injury, and liver cancer have been associated with exposure to the chemical. Once in the system, there are claims that they may disrupt the hormones and the reproductive system.
- 3) Phthalates and Proposition 65: Proposition 65 provides three primary mechanisms for listing chemicals that are known to the state to cause cancer or reproductive toxicity. As the lead agency for the implementation, the Office of Environmental Health Hazard Assessment (OEHHA) lists these chemicals. A chemical can be listed if an agency of the state or federal government requires that it be labeled or identified as causing cancer or birth defects or other reproductive harm. Most chemicals listed in this manner are prescription drugs that are required by the US Food and Drug Administration to contain warnings relating to cancer or birth defects or other reproductive harm. A chemical can also be listed if either of two independent committees of scientists and health professionals finds that the chemical has been clearly shown to cause cancer or birth defects or other reproductive harm. These two committees, the Carcinogen Identification Committee (CIC) and the Developmental and Reproductive Toxicant (DART) Identification Committee, are part of OEHHA's Science Advisory Board. The third mechanism is when a body considered to be authoritative by the state's qualified experts has formally identified the chemical as causing cancer or reproductive toxicity. The entities identified as "authoritative bodies" for purposes of Proposition 65 include US EPA, the International Agency for Research on Cancer, the US Food and Drug Administration, the National Institute for Occupational Safety and Health, and the National Toxicology Program. In 2004, OEHHA began the process of listing of butyl benzyl phthalate (BBP), DBP, and di-n-hexyl phthalate (DnHP). In 2005, OEHHA determined all three met the criteria for listing under Proposition 65. In April 2007, OEHHA added di-isodecyl phthalate (DIDP) to the list as well.
- 4) Opposition to a ban on phthalates: Groups in opposition to this bill assert that the primary phthalate used in children's toys is DINP and it has been used safely for over 40 years. They

cite a United States Consumer Product Safety Commission conducted a five year, peer reviewed, health risk study which determined that children were not at risk from plastic toys. They also contend that the alternatives to DINP might result in more brittle plastics that could break and create choking and other hazards. The European Chemicals Bureau on DBP, BBP, and DINP found them safe to use in their current consumer applications, including toys and childcare articles. They argue that the European ban on some phthalates in cosmetics is not based on evidence that they present an actual risk to humans, but is based solely upon hazard.

- 5) Efforts elsewhere: There are two bills newly introduced in New York. One measure, A6829 mirrors the introduced version of this bill and would prohibit the manufacture, distribution and sale of certain toys and child care products containing Bisphenol-A or phthalates. Another bill, A333 would prohibit certain sales containing measurable amounts of phthalates which have proven to be harmful to young children. In Maryland, A833 was introduced that mirrors the introduced version of this bill as well.

Bans for phthalates in products intended for children exist in European nations and Japan. Austria, Denmark, Finland, France, Germany, Greece, Norway, and Sweden placed bans on the use of phthalates in manufacturing soft vinyl toys. Subsequently, in 2005, the European Parliament, one of the European Union's legislative arms, made permanent an earlier temporary emergency ban in place since the 1990s on six phthalates (those covered by the San Francisco ordinance) in children's toys. DEHP, DBP, and BBP were permanently banned in all toys and childcare items, while DINP, DIDP, and DnOP were banned in toys able to be placed in a child's mouth. The European Union has also banned some phthalates in cosmetics. The Japanese government put a temporary ban in place in 2001, and made it permanent 2003, on the use of phthalates in objects intended for the mouths of young children (e.g., pacifiers, bite rings and teething).

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