

Assembly Bill No. 1319

CHAPTER 467

An act to add Chapter 12 (commencing with Section 108940) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, Butler. Product safety: bisphenol A.

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. The department is prohibited from duplicating or adopting conflicting regulations for regulated product categories. A violation of the hazardous waste control law is a crime.

The bill would enact the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after July 1, 2013, the manufacture, sale, or distribution in commerce of any bottle or cup that contains bisphenol A, at a detectable level above 0.1 parts per billion (ppb), if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by children 3 years of age or younger. This prohibition would not apply to a product subject to a regulatory response by the department, on the date that a prescribed notice is posted regarding the department's adoption of the regulatory response. The bill would also require manufacturers to use the least toxic alternative when replacing bisphenol A in containers in accordance with this bill.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Toxin-Free Infants and Toddlers Act.

SEC. 2. Chapter 12 (commencing with Section 108940) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 12. BISPHENOL A

108940. (a) On and after July 1, 2013, no person shall manufacture, sell, or distribute in commerce any bottle or cup that contains bisphenol A, at a detectable level above 0.1 parts per billion (ppb), if the bottle or cup is

designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption from that bottle or cup by children three years of age or younger.

(b) Subdivision (a) shall not apply to medical devices, as defined in Section 109920, or to food and beverage containers designed or intended primarily to contain liquid, food, or beverages for consumption by the general population.

(c) Notwithstanding subdivision (a), if the Department of Toxic Substances Control adopts a regulatory response described in Section 25253 regarding the use of bisphenol A in a product that is prohibited by this section, the prohibition of this section shall not apply to that product upon the date that the department posts a notice on its Internet Web site that it has adopted the response.

(d) Notwithstanding subdivisions (b) and (c) of Section 25257.1, this section shall not be construed to prohibit or restrict the authority of the Department of Toxic Substances Control to prioritize or take action on any products containing bisphenol A in order to limit exposure to or reduce the level of hazard posed by bisphenol A.

108941. (a) Manufacturers shall use the least toxic alternative when replacing bisphenol A in containers in accordance with this chapter.

(b) Manufacturers shall not replace bisphenol A, pursuant to this chapter, with chemicals classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(c) Manufacturers shall not replace bisphenol A, pursuant to this chapter, with reproductive toxicants that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.