

### **3. Finance EBR**

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: May 14, 2007  
RECOMMENDATION: Veto

BILL NUMBER: AB 1108  
AUTHOR: F. Ma  
RELATED BILLS: AB 319 (2006 Session)

ASSEMBLY: 41/34  
SENATE: 21/18

**BILL SUMMARY: Children's Products: Phthalates**

Beginning January 1, 2009, this bill would prohibit the manufacture, sale, or distribution in commerce of specified toys and child care articles, if those products contain specified types of phthalates in concentrations exceeding 0.1 percent. This bill would also require manufacturers to use the least toxic alternative when replacing phthalates in their products and prohibit manufacturers from replacing the specified phthalates with certain carcinogens and reproductive toxicants.

**FISCAL SUMMARY**

The Office of Environmental Health Hazard Assessment (OEHHA) and the Department of Toxic Substances Control (Toxics) both state that this bill would not place any requirements on them. Therefore, the bill would not have a fiscal impact on either organization. According to Toxics, the authority to implement the bill falls under the Department of Public Health (DPH). However, DPH staff also state that this bill would have no fiscal impact. The bill contains no enforcement provisions or penalties for non-compliance.

**COMMENTS**

While this bill appears to be well-intended, the Department of Finance recommends this bill be vetoed for the following reasons:

- This bill's provisions are premature. The Secretary for Environmental Protection is developing a comprehensive set of recommendations pursuant to the California Environmental Protection Agency's (Cal/EPA's) Green Chemistry Initiative. The Green Chemistry Initiative is intended to provide recommendations by July 1, 2008 for developing a consistent means for evaluating risk to the public from harmful chemicals, reducing exposure, encouraging less-toxic industrial processes, and identifying safer, non-chemical alternatives.
- Banning the six specified phthalates from the listed items would take a piecemeal approach to ensuring consumer safety, banning only certain substances from being used in the manufacture of specified items without a comprehensive consumer protection plan. Moreover, OEHHA staff report that no scientific, health-based risk assessment has yet been conducted on these substances to justify such a ban.
- The bill contains no enforcement provisions or funding for this purpose. Additionally, the bill's provision requiring manufacturers to use "the least toxic alternative" when replacing the banned phthalates in their products does not define the term "least toxic alternative" or provide any guidelines for manufacturers to use in determining if a potential alternative chemical is the "least toxic."

(Continued)

Analyst/Principal (0623) T. Tatosian	Date 9/11/07	Program Budget Manager Karen Finn	Date 7/10/07
Department Director			Date

ENROLLED BILL REPORT

Form DF-43 (Rev. 03/95 Pink)

**BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**

**AUTHOR**

**AMENDMENT DATE**

**BILL NUMBER**

F. Ma

May 14, 2007

AB 1108

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP	2007-2008		2008-2009		2009-2010		
	RV	98	FC	FC	FC	FC			
3960/ToxicSubCtrl	SO	No	-----	-----	No/Minor	Fiscal Impact	-----	0001	
3980/EnvirHlthHaz	SO	No	-----	-----	No/Minor	Fiscal Impact	-----	0001	
4265/PublicHealth	SO	No	-----	-----	No/Minor	Fiscal Impact	-----	0001	

**SUGGESTED VETO MESSAGE**

**AB 1108**

(as amended May 14, 2007)

I am returning Assembly Bill No. 1108 without my signature.

This bill would, beginning January 1, 2009, prohibit the manufacture, sale, or distribution in commerce of specified toys and child care articles, if those products contain specified types of phthalates in concentrations exceeding 0.1 percent. This bill would also require manufacturers to use the least toxic alternative when replacing phthalates in their products and would prohibit manufacturers from replacing phthalates with specified substances.

While well intended, this bill is premature. The Secretary for Environmental Protection is currently developing a comprehensive set of recommendations pursuant to the California Environmental Protection Agency's Green Chemistry Initiative. The Green Chemistry Initiative will provide comprehensive recommendations by July 1, 2008 to the Secretary. These recommendations will provide a framework for developing a consistent means for evaluating risk to the public from harmful chemicals, reducing exposure, encouraging less-toxic industrial processes, and identifying safer, non-chemical alternatives.