

**SENATE RULES COMMITTEE**

AB 1319

Office of Senate Floor Analyses  
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THIRD READING

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Bill No: AB 1319  
Author: Butler (D), et al.  
Amended: 8/22/11 in Senate  
Vote: 21

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SENATE HEALTH COMMITTEE: 5-3, 06/22/11

AYES: Alquist, De León, DeSaulnier, Rubio, Wolk

NOES: Strickland, Anderson, Blakeslee

NO VOTE RECORDED: Hernandez

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 07/06/11

AYES: Simitian, Hancock, Kehoe, Lowenthal, Pavley

NOES: Strickland, Blakeslee

ASSEMBLY FLOOR: 42-29, 05/23/11 - See last page for vote

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**SUBJECT:** Product safety: bisphenol A

**SOURCE:** Environmental Working Group  
Physicians for Social Responsibility, Los Angeles  
Black Women for Wellness  
Consumers Union

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**DIGEST:** This bill enacts 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 (BPA), 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 infants or children three years of age or younger. This prohibition would cease to be

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implemented for an item, on the date that a prescribed notice is posted regarding the department's adoption of related regulations.

Senate Floor Amendments of 8/22/11 make the bill consistent with other statutes relating to green chemistry.

**ANALYSIS:** Existing law:

1. Prohibits the sale, manufacture, or distribution in commerce of toys, child care articles, or products that can be placed in a child's mouth that contain phthalates in concentrations exceeding 0.1 percent.
2. Defines a "child care article" as all products designed or intended by the manufacturer to facilitate sleep, relaxation, or the feeding of children, or to help children with sucking or teething.
3. Requires manufacturers to use the least toxic alternative when replacing phthalates in products.
4. Prohibits the manufacture, sale, and distribution of toys that are contaminated with any toxic substance.
5. Requires the Department of Toxic Substances Control (DTSC), to adopt regulations by January 1, 2011, to identify and prioritize chemicals of concern, evaluate alternatives, and specify regulatory responses to limit exposure or to reduce the level of hazard posed by a chemical of concern found in consumer products.
6. Requires DTSC to establish an online, public Toxics Information Clearinghouse that includes science-based information on the toxicity and hazard traits of chemicals used in daily life.
7. Under the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65), requires the Governor to publish and annually revise a list of chemicals that have been scientifically proven to cause cancer or reproductive toxicity each year. 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.

8. Under the Toxic Substances Control Act of 1976, authorizes the United States Environmental Protection Agency (US EPA) to track industrial chemicals produced or imported into the United States.
9. Prohibits the sale of children's jewelry containing lead or cadmium.

This bill enacts the Toxin-Free Infants and Toddlers Act that:

1. Prohibits the manufacture, sale or distribution in commerce of any bottle or cup, intended to be used to consume foods, beverages or liquids by children under the age of three, and contains a detectable level of more than 0.1 ppb of BPA on or after July 1, 2013.
2. Requires manufacturers to use the least toxic alternative when replacing BPA.
3. Prohibits manufacturers from replacing BPA with cancer-causing chemicals and reproductive toxicants, as specified.
4. Requires that the above provisions no longer be implemented if DTSC adopts regulations regarding the use of BPA in an above-mentioned item and DTSC posts a notice on its Internet Web site regarding the regulations.
5. Specifies that these provisions are not intended to prohibit or restrict DTSC from adopting regulations to limit exposure to or reduce the level of hazard posed by BPA.
6. Makes clarifying changes to make the bill consistent with the green chemistry statute.

### Background

In January 2010, the Food and Drug Administration (FDA) announced that, on the basis of results from recent studies using novel approaches to test for subtle effects, both the NTP at the National Institutes of Health and the FDA have some concern about the potential effects of BPA on the brain, behavior, and prostate gland in fetuses, infants, and young children. The FDA stated that it would carry out in-depth studies to answer key questions and clarify uncertainties about the risks of BPA in cooperation with the NTP and FDA's National Center for Toxicological Research. In March 2010 the EPA

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declared BPA a “chemical of concern.” It later announced it would initiate an assessment under its Design for the Environment (DfE) program, to encourage reductions in BPA releases and exposures. The DfE environmental and health assessment is expected to be completed in the latter half of 2011.

There have also been attempts in Congress to ban BPA. In 2009, U.S. Senators Dianne Feinstein and Chuck Schumer introduced S. 593 and Congressman Edward Markey introduced H.R. 1523 to establish a federal ban on BPA in all food and beverage containers. Congressman John Dingell also introduced the federal Food Safety Enhancement Act, H.R. 2749, which would have required the Secretary of the U.S. Department of Health and Human Services to examine the evidence concerning BPA.

In October 2008, the Canadian government announced that it would ban the use of BPA in baby bottles, and take measures to limit the release of BPA in the environment. In March 2009, Suffolk County, New York became the first place in the nation to enact a BPA ban. Minnesota has also banned BPA in baby bottles and cups, and in June 2009 Connecticut acted to ban BPA in all children’s feeding products, including formula cans, and the full range of reusable food and beverage containers. In August 2010, the Maine Board of Environmental Protection voted unanimously to ban the sale of baby bottles and other reusable food and beverage containers made with BPA as of January 2012.

The European Food Safety Authority, however, and the United Kingdom Food Standards Agency recently reaffirmed their position that BPA is safe at a daily intake below 0.05 milligrams/kilogram of body weight.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

**SUPPORT:** (Verified 8/23/11)

Environmental Working Group (co-source)  
Physicians for Social Responsibility, Los Angeles (co-source)  
Black Women for Wellness (co-source)  
Consumers Union (co-source)  
United States Senator Dianne Feinstein  
Alliance of California Autism Organizations  
American Academy of Pediatrics (California Chapter)  
American Congress of Obstetricians and Gynecologists

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American Federation of State, County and Municipal Employees, AFL-CIO  
Asian Communities for Reproductive Justice  
Autism One  
Autism Research Institute  
Black Women for Wellness  
Breast Cancer Fund  
California League of Conservation Voters  
California Medical Association  
California Nurses Association  
California WIC Association  
Center for Environmental Health  
CHANGE (Californians for a Healthy & Green Economy)  
Children Now  
City of Berkeley  
Clean Water Action  
Commonweal  
Community Health Council  
Consumer Federation of California  
County of Santa Clara Board of Supervisors  
County of Solano Board of Supervisors  
County of Los Angeles  
EcoMom Alliance  
Environment California  
Environmental Defense Fund  
First 5 Association of California  
First 5 Fresno County  
First 5 LA  
Food & Water Watch  
Fresno Metro Ministry  
Green to Grow  
Great Beginnings for Black Babies  
Having Our Say  
Healthy Child Healthy World  
Latinos Unidos Concientizados Al Ambiente  
Making Our Milk Safe (MOMS)  
Moms Advocating Sustainability  
Mothers of Marin Against the Spray  
Natural Resources Defense Council  
Planned Parenthood Advocacy Project of LA  
Planned Parenthood of CA  
Reproductive Justice Coalition

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Reproductive Justice Association of L.A.  
San Diego and Imperial Counties Labor Council  
San Diego Coast Keeper  
SF Environment  
Sierra Club California  
Silicon Valley Toxics Coalition  
St. John's Well Child and Family Center  
Teens Turning Green  
The Help Group  
US Autism & Asperger Association  
Worksite Wellness LA

**OPPOSITION:** (Verified 8/23/11)

California Chamber of Commerce  
Advanced Medical Technology Association  
California League of Food Processors  
International Formula Council  
California Manufacturers and Technology Association  
California Citizens Against Lawsuit Abuse  
Grocery Manufacturers Association  
American Chemistry Council  
Can Manufacturers Institute  
Civil Justice Association of California  
Consumer Specialty Products Association  
Juvenile Products Manufacturers Association  
North American Metal Packaging Alliance, Inc.  
California Healthcare Institute

**ARGUMENTS IN SUPPORT:** Supporters state that there are many alternatives for products that are the subject of this bill, and some major manufacturers have already taken the responsible path toward eliminating these hazards from their products. They believe that this bill will help ensure that products laden with BPA are not channeled towards poorer communities.

The American Academy of Pediatrics, California believes that while it is difficult to establish a causal link, existing and emerging data are sufficient to warrant banning BPA in products that are used for food consumption by infants and children.

**ARGUMENTS IN OPPOSITION:** Opponents believe this bill runs contrary to the consensus of the scientific community and of international regulatory agencies that have concluded BPA is safe as used. Opponents state that the Legislature established a process by which state scientists would be empowered to evaluate chemicals in consumer products and implement a variety of regulatory actions if necessary. The opponents assert that the bill requires manufacturers to use the “least toxic alternative” but provides no clear indication of what that is or what regulatory body will make such a determination. The opponents believe that any assessment of chemicals and potential replacement products is best handled in the scientific arena, not a political setting.

**ASSEMBLY FLOOR:** 42-29, 05/23/11

**AYES:** Alejo, Allen, Ammiano, Atkins, Beall, Block, Blumenfield, Bonilla, Bradford, Brownley, Buchanan, Butler, Campos, Carter, Chesbro, Davis, Dickinson, Eng, Feuer, Fong, Furutani, Galgiani, Gatto, Gordon, Hayashi, Roger Hernández, Hill, Hueso, Huffman, Lara, Bonnie Lowenthal, Ma, Mitchell, Monning, Portantino, Skinner, Swanson, Torres, Wieckowski, Williams, Yamada, John A. Pérez

**NOES:** Achadjian, Bill Berryhill, Conway, Donnelly, Fletcher, Fuentes, Beth Gaines, Garrick, Grove, Hagman, Halderman, Harkey, Jeffries, Jones, Knight, Logue, Mansoor, Miller, Morrell, Nestande, Nielsen, Norby, Olsen, Pan, Perea, Silva, Smyth, Valadao, Wagner

**NO VOTE RECORDED:** Charles Calderon, Cedillo, Cook, Gorell, Hall, Huber, Mendoza, V. Manuel Pérez, Solorio

CTW:nl 8/23/11 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

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