SENATE DOCKET, NO. 1273 FILED ON: 1/20/2011

# SENATE . . . . . No. 382

## The Commonwealth of Massachusetts

PRESENTED BY:

***Karen E. Spilka***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to protect children from bisphenol-A..

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Karen E. Spilka* | ☐ *[District]* ☐ |
| *Chris Walsh* | *6th Middlesex* |
| *Michael O. Moore* | ☐ *[District]* ☐ |
| *Carolyn C. Dykema* | *8th Middlesex* |
| *Frank I. Smizik* | *15th Norfolk* |
| *Patricia D. Jehlen* | ☐ *[District]* ☐ |
| *Richard J. Ross* | *Norfolk, Bristol, and Middlesex* |
| *Cory Atkins* | *14th Middlesex* |
| *Denise Andrews* | *2nd Franklin* |

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By Ms. Spilka, a petition (accompanied by bill, Senate, No. 382) of Karen E. Spilka, Chris Walsh, Michael O. Moore, Carolyn C. Dykema and other members of the General Court for legislation to protect children from toxic toys. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *432* OF 2009-2010.]

## The Commonwealth of Massachusetts

An Act to protect children from bisphenol-A..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1.

Whereas, Article 97 of the Constitution of Massachusetts provides that the people shall have the right to clean air and water; and

Whereas, more than 80,000 synthetic chemicals have been produced for use in the U.S since World War II, yet very few were ever adequately tested for their potential impact on our health. The substances have contaminated the air we breathe, the water and food we consume, everyday products, our homes, schools, workplaces, and therefore end up in our bodies; and

Whereas, scientific evidence increasingly links many chronic diseases with repeated and increased exposure to toxic substances. These diseases and disorders include: asthma, autism, birth defects, cancers, developmental disabilities, diabetes, endometriosis, infertility, Parkinson's disease, and others; and

Whereas, a U.S. Centers for Disease Controls study found that 95% of Americans have detectable levels of bisphenol-A in their bodies. In a recent CDC study the observed levels detected were at and above the concentrations known to reliably cause adverse effects in laboratory experiments.

17 Whereas, more than 130 studies suggest that bisphenol-A exposure at very low
18 doses is linked to a staggering number of health problems, including prostate and breast cancer,
19 obesity, attention deficit and hyperactivity disorder, brain damage, altered immune system,
20 lowered sperm counts, and early puberty.

21 Whereas, numerous studies show that polycarbonate plastics break down and
22 leach bisphenol-A into food or beverages in contact with the plastics.

23 Whereas, with regard to many other toxic substances, the current regulatory
24 system has not been able to completely protect health and environment due to fundamental
25 flaws, namely that it places high burdens on government to act, primarily after the damage is
26 done rather than by prevention through seeking the safest alternatives to toxics as they become
27 available.

28 Whereas, the current regulatory system for toxic chemicals has particularly
29 failed to protect vulnerable populations: the developing fetus and child; people who are
30 vulnerable due to health conditions or genetic predispositions; and low-income communities or
31 disadvantaged workers who are overburdened with greater exposure to these toxic substances.

32 Whereas, Massachusetts is already a leader on environmental health policy as a
33 result of the Toxics Use Reduction Act (TURA), which shows that there are many benefits to
34 businesses and the economy by implementing safer alternatives for toxic chemicals; however
35 that such act has failed to address the broader need to substantially reduce the use of harmful
36 chemicals in products used in workplaces and homes even though safer alternatives are often
37 available.

38 Whereas, growing children are particularly at risk to chemicals in their
39 environment because they face greater exposure and are physiologically more susceptible to
40 them and because growing children are particularly at risk from exposure, precautionary
41 measures must be taken to protect children from such exposure from products they use everyday.

42 SECTION 2. Purpose

43 It is hereby resolved, that the policy goals of this Act shall be to prohibit the
44 manufacture, sale or distribution in commerce of any toy or child care article that is intended for
45 use by a child under 3 years of age if that product contains bisphenol-A .

46 This bill would require manufacturers to use the least toxic alternative when
47 replacing bisphenol-A in their products and would prohibit manufacturers from replacing
48 bisphenol-A with certain carcinogens and reproductive toxicants.

49 SECTION 3. Chapter 94B of the General Laws, as appearing in the 2008
50 Official Edition, is hereby amended by inserting after section 22 the following new section:-

51 Section 23. (a) Definitions

52 The following words as used in this section shall have the following meanings:

53 "Child care article", means all products designed or intended by the manufacturer to
54 facilitate sleep, relaxation, or the feeding of children three years of age or younger or to help said
55 children with sucking or teething.

56 "Infant formula", means milk-based or soy-based powder, concentrated liquid or ready-
57 to-feed substitute for human breast milk that is intended for infant consumption and is
58 commercially available.

59 "Baby food", means a prepared solid food consisting of a soft paste or an easily chewed
60 food that is intended for consumption by children three years of age or younger and is
61 commercially available.

62 "Toy", means all products designed or intended by the manufacturer to be used by
63 children three years of age or younger when they play; provided however, that the commissioner
64 of the department of public health, by regulation, may exempt categories of products that the
65 commissioner determines do not pose a significant risk to the child.

66 (b) Bisphenol-A

67 (1) Bisphenol-A, an estrogen-mimicking hormone disrupting
68 chemical, is used in the production of epoxy resins and is the main ingredient in hard
69 polycarbonate plastics. These plastics are used in food and drink packaging applications and in
70 cans, bottle tops, and water supply pipes.

71 (2) Bisphenol-A is used in many products intended for use by young
72 children, including but not limited to, toys, infant formula containers and baby bottles;

73 (3) Commencing January 1, 2014, no person or entity shall
74 manufacture, sell or distribute toys or child care articles in the Commonwealth containing
75 bisphenol-A.

76 (4) Commencing January 1, 2014, no person or entity shall
77 manufacture, sell or distribute in the Commonwealth any infant formula or baby food that is
78 stored in a plastic container, jar or can that contains bisphenol-A.

79 (c) Alternatives to Bisphenol-A

80 (1) Manufacturers shall use the least toxic alternative when replacing
81 bisphenol-A in accordance with this chapter.

82 (2) Manufacturers shall not replace bisphenol-A, pursuant to this
83 chapter, with carcinogens rated by the United States Environmental Protection Agency as A, B,
84 OR C carcinogens, known to be human carcinogens, likely to be human carcinogens, or
85 suggestive of being human carcinogens, as described in the "List of Chemicals Evaluated for
86 Carcinogenic Potential."

87 (3) Manufacturers shall not replace bisphenol-A under this chapter
88 with reproductive toxicants that cause birth defects, reproductive harm, or developmental harm
89 as identified by the United States Environmental Protection Agency.