

SENATE No. 432

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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:

1 SECTION 1. Preamble

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

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

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

12 Whereas, a US Centers for Disease Controls study found that 95% of Americans have
13 detectable levels of bisphenol-A in their bodies. In a recent CDC study the observed levels

14 detected were at and above the concentrations known to reliably cause adverse effects in
15 laboratory experiments.

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

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

22 Whereas, with regard to many other toxic substances, the current regulatory system has
23 failed to protect health and environment due to fundamental flaws, namely that it places high
24 burdens on government to act, primarily after the damage is done rather than by prevention
25 through seeking the safest alternatives to toxics as they become available.

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

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

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

39 SECTION 2. Purpose

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

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

46 SECTION 3. Chapter 94B of the General Laws, as appearing in the 2006 official edition,
47 is hereby amended by adding section 22 the following section:- section 23

48 Section 23. 1. Definitions

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

50 “Child care article” means all products designed or intended by the manufacturer to
51 facilitate sleep, relaxation, or the feeding of children or to help children with sucking or teething.

52 “Toy” means all products designed or intended by the manufacturer to be used by
53 children when they play.

54 2. Bisphenol-A

55 Bisphenol-A, an estrogen-mimicking hormone disrupting chemical, is used in the
56 production of epoxy resins and is the main ingredient in hard polycarbonate plastics. These
57 plastics are used in food and drink packaging applications and in cans, bottle tops, and water
58 supply pipes.

59 Bisphenol-A is used in many products intended for use by young children, including but
60 not limited to, toys and baby bottles;

61 Commencing January 1, 2010, no person or entity shall manufacture, sell or distribute
62 toys or child care items in Massachusetts containing bisphenol-A.

63 3. Alternatives to Bisphenol-A

64 Manufacturers shall use the least toxic alternative when replacing bisphenol-A in
65 accordance with this chapter.

66 Manufacturers shall not replace bisphenol-A, pursuant to this chapter, with carcinogens
67 rated by the United States Environmental Protection Agency as A, B, OR C carcinogens, known
68 to be human carcinogens, likely to be human carcinogens, or suggestive of being human
69 carcinogens, as described in the “List of Chemicals Evaluated for Carcinogenic Potential.”

70 Manufacturers shall not replace bisphenol-A, pursuant to this chapter, with reproductive
71 toxicants that cause birth defects, reproductive harm, or developmental harm as identified by the
72 United States Environmental Protection Agency.