

SENATE No. 400

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 adoption of the accompanying bill:

An Act to protect children from bisphenol-A.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 400

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 400) of Karen E. Spilka for legislation to protect children from toxic toys. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 382 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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.

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 U.S. 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 not been able to completely protect health and environment due to fundamental flaws, namely
24 that it places high burdens on government to act, primarily after the damage is done rather than
25 by prevention 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 every day.

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 2010 Official
47 Edition, is hereby amended by inserting after section 10 the following new section:-

48 Section 11. (a) 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 three years of age or younger or to help said
52 children with sucking or teething.

53 “Infant formula”, means milk-based or soy-based powder, concentrated liquid or ready-
54 to-feed substitute for human breast milk that is intended for infant consumption and is
55 commercially available.

56 “Baby food”, means a prepared solid food consisting of a soft paste or an easily chewed
57 food that is intended for consumption by children three years of age or younger and is
58 commercially available.

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

63 (b) Bisphenol-A

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

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

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

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

75 (c) Alternatives to Bisphenol-A

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

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

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