

**SENATE . . . . . No. 382**

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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:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Michael O. Moore</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Patricia D. Jehlen</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>

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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.

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

The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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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  
3 people shall have the right to clean air and water; and

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

9 Whereas, scientific evidence increasingly links many chronic diseases with  
10 repeated and increased exposure to toxic substances. These diseases and disorders include:

11 asthma, autism, birth defects, cancers, developmental disabilities, diabetes, endometriosis,  
12 infertility, Parkinson's disease, and others; and

13                   Whereas, a U.S. Centers for Disease Controls study found that 95% of  
14 Americans have detectable levels of bisphenol-A in their bodies. In a recent CDC study the  
15 observed levels detected were at and above the concentrations known to reliably cause adverse  
16 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.