

State of Wisconsin



2009 Senate Bill 271

Date of enactment: **March 3, 2010**
Date of publication*: **March 17, 2010**

2009 WISCONSIN ACT 145

AN ACT to create 20.115 (1) (ip), 100.335 and 814.75 (1d) of the statutes; **relating to:** prohibiting the manufacture and sale at wholesale or retail of certain baby bottles and cups for children that contain bisphenol A, creating labeling requirements, making an appropriation, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.115 (1) (ip) of the statutes is created to read:

20.115 (1) (ip) *Bisphenol A enforcement.* All moneys received under s. 100.335 (7), for enforcement and administration of s. 100.335.

SECTION 2. 100.335 of the statutes is created to read:

100.335 Child's containers containing bisphenol

A. (1) In this section, "child's container" means an empty baby bottle or spill-proof cup primarily intended by the manufacturer for use by a child 3 years of age or younger.

(2) No person may manufacture or sell, or offer for sale, at wholesale in this state a child's container that contains bisphenol A. A manufacturer or wholesaler who sells or offers for sale in this state a child's container that is intended for retail sale shall ensure the container is conspicuously labeled as not containing bisphenol A. A manufacturer or wholesaler who sells or offers for sale in this state a child's container that is not intended for retail sale shall do one of the following:

(a) Ensure that the container is conspicuously labeled as not containing bisphenol A.

(b) Confirm to the buyer that the container does not contain bisphenol A.

(3) No person may sell, or offer for sale, at retail in this state a child's container that contains bisphenol A. A person who sells or offers for sale at retail in this state a child's container shall ensure the container is conspicuously labeled as not containing bisphenol A.

(4) (a) The department may commence an action in the name of the state to restrain by temporary or permanent injunction a violation of this section.

(b) The department or a district attorney may commence an action in the name of the state to recover a forfeiture to the state of not less than \$100 nor more than \$10,000 for each violation of sub. (2). A person who violates sub. (2) may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both.

(c) The department or a district attorney may commence an action in the name of the state to recover a forfeiture to the state of not less than \$50 nor more than \$200 for each violation of sub. (3).

(d) For purposes of this subsection, each child's container manufactured, sold, or offered for sale in violation of this section constitutes a separate violation.

(5) The department may, after notice and opportunity for hearing under s. 93.18, order a manufacturer or seller of a child's container in violation of this section to recall the container or to repair any defects in a container that

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2009 Wisconsin Act 145

2009 Senate Bill 271

has been sold. No person may refuse to comply with an order under this subsection.

(6) This section does not apply to the sale of a used child's container.

(7) If a court imposes a fine or forfeiture for a violation of this section, the court shall impose a bisphenol A surcharge under ch. 814 equal to 50 percent of the amount of the fine or forfeiture.

SECTION 3. 814.75 (1d) of the statutes is created to read:

814.75 (1d) The bisphenol A surcharge under s. 100.335.

SECTION 4. Effective date.

(1) This act takes effect on the 90th day beginning after publication.
