

2011 DRAFTING REQUEST

Bill

Received: **01/18/2012**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Chris Taylor 266-5342**

By/Representing:

May Contact:

Drafter: **mkunkel**

Subject: **Trade Regulation - other**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosure for products containing bisphenol A

Instructions:

Require manufacturers to disclose whether a product contains bishpenol A (BPA). However, do not affect last session's act which prohibited PBA in baby bottles

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	mkunkel 02/08/2012	kfollett 02/15/2012	rschluet 02/15/2012	_____	sbasford 02/15/2012	sbasford 03/05/2012	

FE Sent For:

<END>

at
intro
3-19-12

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limit to food containers

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Require manufacturers to disclose whether a product contains bisphenol A (BPA). However, do not affect last session's act which prohibited PBA in baby bottles

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/?	mkunkel	1/15 2/15		==			
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FE Sent For:

<END>

*Civil forfeiture only
(no criminal penalties)*



Bisphenol A (BPA)

What is BPA?

Bisphenol A, more commonly known as BPA, is a chemical widely used to make polycarbonate plastics and epoxy resins.

Where is BPA found?

Polycarbonate plastics have many applications including use in some food and drink packaging such as water and baby bottles, compact discs, impact-resistant safety equipment, and medical devices including those used in hospital settings.¹ Epoxy resins are used to coat metal products such as food cans, bottle tops, and water supply pipes. BPA can also be found in certain thermal paper products, including some cash register and ATM receipts. Some dental sealants and composites may also contribute to BPA exposure.

How does BPA get into the body?

BPA can leach into food from the epoxy resin lining of cans and from consumer products such as polycarbonate tableware, food storage containers, water bottles, and baby bottles. Additional traces of BPA can leach out of these products when they are heated at high temperatures. Recent studies also suggest that the public may be exposed to BPA by handling cash register receipts.² More research is needed to determine how much BPA from a receipt's coating enters the body and how it gets there. The National Institute of Environmental Health Sciences expects to support more research to determine if BPA in receipts poses a risk to human health.



Why are people concerned about BPA?

One reason people may be concerned about BPA is because human exposure to BPA is widespread. The 2003-2004 National Health and Nutrition Examination Survey (NHANES), conducted by the Centers for Disease Control and Prevention (CDC), found detectable levels of BPA in 93% of Americans six years and older. Another reason for concern, especially for parents, may be because some laboratory animal studies report subtle developmental effects in fetuses and newborns exposed to low doses of BPA.

Why did the National Toxicology Program (NTP) evaluate BPA?

The NTP Center for the Evaluation of Risks to Human Reproduction (CERHR) conducted the BPA evaluation. BPA was selected for evaluation because of the following factors:

- Widespread human exposure from use and occurrence in the environment
- Growing public concern
- Amount of BPA produced
- Extensive database of animal studies on reproductive and developmental effects

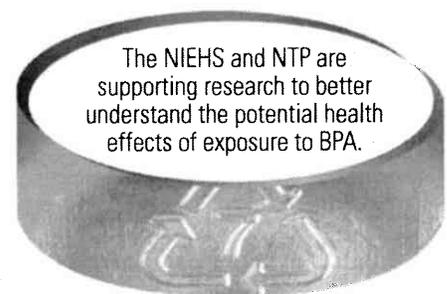
What did the NTP conclude about BPA?

The NTP has "some concern" for BPA's effects on the brain, behavior, and prostate gland in fetuses, infants, and children at current exposure levels.

The NTP has "minimal concern" for effects on the mammary gland and an earlier age for puberty in females, fetuses, infants, and children at current exposure levels.

The NTP has "negligible concern" that exposure of pregnant women to BPA will result in fetal or neonatal mortality, birth defects, or reduced birth weight and growth in their offspring.

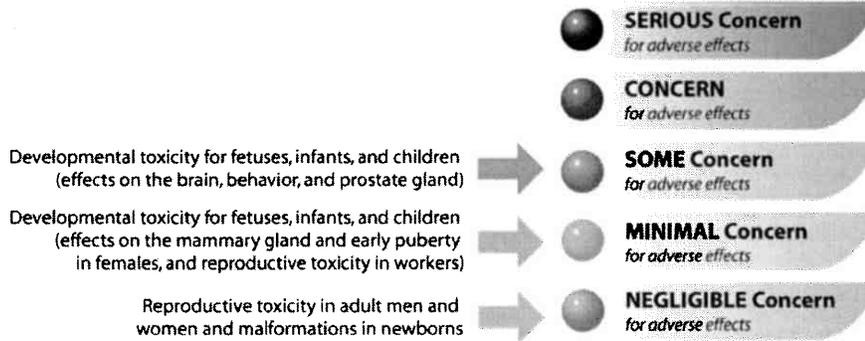
The NTP has "negligible concern" that exposure to BPA will cause reproductive effects in non-occupationally exposed adults and "minimal concern" for workers exposed to higher levels in occupational settings.



The NIEHS and NTP are supporting research to better understand the potential health effects of exposure to BPA.



NTP conclusions regarding the possibilities that human development or reproduction might be adversely affected by exposure to bisphenol A. The NTP uses a five-level scale of concern:



Explain the levels of concern used by the NTP. What does "some concern" mean?

"Some concern" represents the mid-point of a five-level scale of concern used by the NTP. The likelihood of an adverse effect resulting from human exposure is expressed as a level of concern. The levels from highest to lowest are:

- Serious Concern
- Concern
- Some Concern
- Minimal Concern
- Negligible Concern

In the case of BPA, the NTP expressed "some concern" for potential exposures to the fetus, infants, and children. There are insufficient data from studies in humans to reach a conclusion on reproductive or developmental hazards presented by current exposures to BPA, but there is limited evidence of developmental changes occurring in some animal studies at doses that are experienced by humans. It is uncertain if similar changes would occur in humans, but the possibility of adverse health effects cannot be dismissed.

The NTP conclusions are based on the weight of scientific evidence, and integrate toxicity and exposure information.

How will the NTP conclusions be used?

The NTP shares the results widely. For example, The NTP-CERHR Monograph, which includes the NTP Brief on BPA, the Expert Panel Report, and the public comments on the Panel Report, are added to the NTP/CERHR and NIEHS Web sites, and distributed to federal and state agencies, and interested individuals and organizations. It is also indexed in PubMed.

What is the FDA's current perspective on BPA?

In January 2010, the U.S. Food and Drug Administration (FDA) announced it shares the perspective of the NTP that recent studies provide reason for some concern about the potential effects of BPA on the brain, behavior, and prostate gland of fetuses, infants, and children. Visit the FDA Web site at <http://www.fda.gov/newsevents/publichealthfocus/ucm064437.htm> for more information.

What can I do to prevent exposure to BPA?

If you are concerned, you can make personal choices to reduce exposure:

- Don't microwave polycarbonate plastic food containers. Polycarbonate is strong and durable, but over time it may break down from repeated use at high temperatures.
- Avoid plastic containers with the #7 on the bottom (http://www.recyclenow.org/r_plastics.html).
- Don't wash polycarbonate plastic containers in the dishwasher with harsh detergents.
- Reduce your use of canned foods. Eat fresh or frozen foods.
- When possible, opt for glass, porcelain, or stainless steel containers, particularly for hot food or liquids.
- Use infant formula bottles that are BPA free and look for toys that are labeled BPA free.

Bisphenol A

Where can I go for more information?

For more information on what federal agencies are doing related to BPA, visit the following web sites and search for "BPA."

U.S. Department of Health and Human Services:
<http://www.hhs.gov>

U.S. Food and Drug Administration:
<http://www.fda.gov/>

Centers for Disease Control and Prevention:
<http://www.cdc.gov/>

U.S. Environmental Protection Agency:
<http://www.epa.gov/>

Consumer Product Safety Commission:
<http://www.cpsc.gov/>

National Institute of Environmental Health Sciences:
<http://www.niehs.nih.gov>

National Toxicology Program:
<http://ntp.niehs.nih.gov>

¹Calafat AM, Weuve J, Ye X, Jia LT, Hu H, Ringer S, et al. 2009. Exposure to bisphenol A and other phenols in neonatal intensive care unit premature infants. *Environmental Health Perspectives* 117(4):639-644.

²Biedermann S, Tschudin P, and Grob K. 2010. Transfer of bisphenol A from thermal printer paper to the skin. *Analytical and Bioanalytical Chemistry*. Epub ahead of print. DOI 10.1007/s00216-010-3936-9.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3851/1

MDK...

gf

NOTE

2011 BILL

Wld
(cmh)

Soon
in 2-8

Gen

- 1 AN ACT ...; relating to: manufacture and sale of food and beverage containers
- 2 that contain bisphenol A and providing penalties.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from manufacturing or selling at wholesale a "child's container" which is defined as an empty baby bottle or spill-proof cup for use by a child who is 3 years or younger, that contains bishpenol A (BPA). In addition, a manufacturer or wholesaler of a child's container must ensure that the container is conspicuously labeled as not containing BPA. Current law also requires a retail seller to ensure that a child's container is so labelled, and prohibits a retail seller from selling a child's container that contains BPA. The foregoing requirements do not apply to sales of used child's containers. Current law allows the Department of Agriculture, Trade and Consumer Protection (DATCP) to commence actions to restrain violations of the foregoing requirements. In addition, DATCP is authorized to order manufacturers, wholesalers, and retail sellers to recall child containers sold in violation of the requirements. A manufacturer or wholesaler who violates the requirements is subject to a forfeiture of not less than \$100 and not more than \$10,000 for each violation, and is also subject to a fine of not more than \$5,000, imprisonment for not more than 1 year in the county jail, or both. A retail seller who violates the requirements is subject to a forfeiture of not less than \$50 and not more than \$200 for each violation. If a court imposes a forfeiture or fine, current law requires the court to also impose a surcharge equal to 50% of the forfeiture or fine, which is appropriated to DATCP for enforcing and administering the foregoing requirements.

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BILL

This bill creates additional requirements for food containers that contain BPA. The bill defines "food container" as any container in which any food or beverage is intended to be enclosed for retail sale of the food or beverage. The bill prohibits the manufacture or wholesale of food containers that contain BPA unless the manufacturer or wholesaler ensures that the food container is conspicuously labeled as containing BPA. The bill also prohibits a person from selling food or beverage at retail in a container that contains BPA unless the container is conspicuously labeled as containing BPA. The bill's requirements do not apply to sales of used food containers.

As with violations of child container requirements under current law, the bill authorizes DATCP to commence actions to restrain violations of the bill and to issue recall orders. Manufacturers, wholesalers, and retailers who violate the bill are subject to the forfeitures under current law that apply to violations of the child container requirements. However, the bill does not subject manufacturers or wholesalers to fines or imprisonment. If a court imposes a forfeiture under the bill, the court must also impose a 50% surcharge, which is appropriated to DATCP for enforcing and administering both the child container requirements under current law and the food container requirements under the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 100.335 (title) of the statutes is amended to read:

2 100.335 (title) ~~Child's containers containing Containers and bisphenol~~

3 A.

4 History: 2009 a. 145. SECTION 2. 100.335 (1) of the statutes is renumbered 100.335 (1) (intro.) and
5 amended to read:

6 100.335 (1) DEFINITIONS. In this section, "child's:

7 (a) "Child's container" means an empty baby bottle or spill-proof cup primarily
8 intended by the manufacturer for use by a child 3 years of age or younger.

9 History: 2009 a. 145. SECTION 3. 100.335 (1) (b) of the statutes is created to read:

10 100.335 (1) (b) "Food container" means any container in which any food or
11 beverage is intended to be enclosed for retail sale of the food or beverage.

BILL

1 **SECTION 4.** 100.335 (2) (title) of the statutes is created to read:

2 100.335 (2) (title) ~~CHILD'S CONTAINERS.~~

3 **SECTION 5.** 100.335 (2) of the statutes is renumbered 100.335 (2) (am).

4 **SECTION 6.** 100.335 (3) of the statutes is renumbered 100.335 (2) (bm).

5 **SECTION 7.** 100.335 (3m) of the statutes is created to read:

6 100.335 (3m) **FOOD CONTAINERS.** (a) No person may manufacture or sell, or offer
7 for sale, at wholesale in this state a food container that contains bisphenol A unless
8 the person ensures that the food container is conspicuously labeled as containing
9 bisphenol A.

10 (b) No person may sell, or offer for sale, food or beverage at retail in a food
11 container that contains bisphenol A unless the food container is conspicuously
12 labeled as containing bisphenol A.

13 **SECTION 8.** 100.335 (4) (title) of the statutes is created to read:

14 100.335 (4) (title) **ENFORCEMENT.**

15 **SECTION 9.** 100.335 (4) (b) of the statutes is amended to read:

16 100.335 (4) (b) The department or a district attorney may commence an action
17 in the name of the state to recover a forfeiture to the state of not less than \$100 nor
18 more than \$10,000 for each violation of sub. (2) (am) or (3m) (a). A person who
19 violates sub. (2) (am) may be fined not more than \$5,000 or imprisoned for not more
20 than one year in the county jail or both.

History: 2009 a. 145.

21 **SECTION 10.** 100.335 (4) (c) of the statutes is amended to read:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3851/1dn

MDK: *gf*

Date

Rep. Taylor:

Please note the following about this bill:

1. The bill does not affect current law regarding child's containers.
2. I made the new requirements for food containers consistent with the requirements under current law for child's containers. As a result, the bill applies to manufacturers, wholesalers, and retailers. Is that okay, or do you want to exclude wholesalers or retailers from the bill?
3. I delayed the bill by approximately *three* months to give people affected by the bill time to make changes that are necessary to comply with the bill. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3851/1dn
MDK:kjf:rs

February 15, 2012

Rep. Taylor:

Please note the following about this bill:

1. The bill does not affect current law regarding child's containers.
2. I made the new requirements for food containers consistent with the requirements under current law for child's containers. As a result, the bill applies to manufacturers, wholesalers, and retailers. Is that okay, or do you want to exclude wholesalers or retailers from the bill?
3. I delayed the bill by approximately three months to give people affected by the bill time to make changes that are necessary to comply with the bill. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Basford, Sarah

From: Walsh, Patrick

Sent: Saturday, March 03, 2012 12:17 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-3851/1 Topic: Disclosure for products containing bisphenol A

Please Jacket LRB 11-3851/1 for the ASSEMBLY.