



2019 ASSEMBLY BILL 923

February 17, 2020 - Introduced by Representatives C. TAYLOR, STUBBS, ZAMARRIPA, NEUBAUER, TUSLER, BILLINGS, CABRERA, SARGENT, POPE, SINICKI, BROSTOFF, OHNSTAD, CONSIDINE, FIELDS, SHANKLAND and EMERSON, cosponsored by Senators JOHNSON, RISSER, L. TAYLOR and LARSON. Referred to Committee on Consumer Protection.

1 **AN ACT** *to renumber* 100.335 (2) and 100.335 (3); *to renumber and amend*
2 100.335 (1); *to amend* 100.335 (title), 100.335 (4) (b), 100.335 (4) (c), 100.335
3 (4) (d), 100.335 (5) and 100.335 (6); and *to create* 100.335 (1) (b), 100.335 (2)
4 (title), 100.335 (3m), 100.335 (4) (title) and 100.335 (7) (title) of the statutes;
5 **relating to:** manufacture and sale of food and beverage containers that contain
6 bisphenol A and providing penalties.

Analysis by the Legislative Reference Bureau

This bill creates requirements for food containers that contain bisphenol A (BPA) that are similar to requirements for children's containers under current law. The bill defines "food container" as any container in which any food or beverage is intended to be enclosed for the 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.

The bill authorizes the Department of Agriculture, Trade and Consumer Protection to bring actions to restrain violations of the bill and to order manufacturers, wholesalers, and retail sellers to recall food containers sold in

ASSEMBLY BILL 923

violation of the bill. The bill also subjects a manufacturer or wholesaler who violates the bill to a forfeiture of not less than \$100 and not more than \$10,000 for each violation, and retail sellers to a forfeiture of not less than \$50 and not more than \$200 for each violation. In addition, the bill requires a court that imposes a forfeiture under the bill to also impose a 50 percent 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 **SECTION 2.** 100.335 (1) of the statutes is renumbered 100.335 (1) (intro.) and
5 amended to read:

6 100.335 (1) DEFINITIONS. (intro.) 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 **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.

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

13 100.335 (2) (title) CHILD'S CONTAINERS.

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

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

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

ASSEMBLY BILL 923

1 100.335 **(3m)** FOOD CONTAINERS. (a) No person may manufacture or sell, or offer
2 for sale, at wholesale in this state a food container that contains bisphenol A unless
3 the person ensures that the food container is conspicuously labeled as containing
4 bisphenol A.

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

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

9 100.335 **(4)** (title) ENFORCEMENT.

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

11 100.335 **(4)** (b) The department or a district attorney may commence an action
12 in the name of the state to recover a forfeiture to the state of not less than \$100 nor
13 more than \$10,000 for each violation of sub. (2) (am) or (3m) (a). A person who
14 violates sub. (2) (am) may be fined not more than \$5,000 or imprisoned for not more
15 than one year in the county jail or both.

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

17 100.335 **(4)** (c) The department or a district attorney may commence an action
18 in the name of the state to recover a forfeiture to the state of not less than \$50 nor
19 more than \$200 for each violation of sub. ~~(3)~~ (2) (bm) or (3m) (b).

20 **SECTION 11.** 100.335 (4) (d) of the statutes is amended to read:

21 100.335 **(4)** (d) For purposes of this subsection, each child's container or food
22 container manufactured, sold, or offered for sale in violation of this section
23 constitutes a separate violation.

24 **SECTION 12.** 100.335 (5) of the statutes is amended to read:

