

Fiscal Estimate - 2009 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-1837/4	Introduction Number SB-271
Description Prohibiting the manufacture and sale at wholesale of certain baby bottles and cups for children that contain bisphenol A, creating labeling requirements, making an appropriation, and providing penalties	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
DATCP/ Michelle Reinen (608) 224-5160	Bill Walker (608) 224-4353
Date	
11/10/2009	

Fiscal Estimate Narratives
DATCP 11/10/2009

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Description Prohibiting the manufacture and sale at wholesale of certain baby bottles and cups for children that contain bisphenol A, creating labeling requirements, making an appropriation, and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

This bill prohibits the manufacture, sale or offer to sell at wholesale, in Wisconsin, of baby bottles or spill-proof cups, primarily intended for use by children 5 years or younger, that contain bisphenol A (BPA). The bill also provides that the department may enforce the statute either as a civil forfeiture or as a request for injunctive relief.

Since one cannot see BPA, one has to test for it. The department's understanding is that there is no nationally agreed upon standard for testing which leave the evidentiary value of the test results in question. Moreover, testing would have to be conducted by an outside laboratory and preliminary inquiries indicate that each test could cost approximately \$500.

The legislation does provide that if a court imposes a fine or forfeiture, a BPA surcharge shall be imposed equal to 50% of the amount of the fine or forfeiture, of which money will come to the department.

At this time the department does not have the funding necessary to conduct testing. If it did have funds available, it is unknown how many tests would need to be conducted before determining a business was in violation of the law. The bill does provide for a labeling requirement, however, this is not an assurance of compliance by the business and it could be argued that even those bottles could be subject to testing for compliance.

Should a business be discovered through testing, it would then be left to the courts to decide on the evidentiary value of the test. Should the courts side in the departments favor, they still need to determine the amount of the forfeiture to be paid. Based on that amount, 50% could go into a fund to cover testing, which may or may not be enough to recover the initial costs of that testing and any other testing done.

Long-Range Fiscal Implications