



State of Wisconsin
2009 - 2010 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 271**

January 14, 2010 – Offered by Senator LASSA.

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

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

5 **SECTION 1.** 20.115 (1) (ip) of the statutes is created to read:
6 20.115 (1) (ip) *Bisphenol A enforcement.* All moneys received under s. 100.335
7 (7), for enforcement and administration of s. 100.335.

8 **SECTION 2.** 100.335 of the statutes is created to read:
9 **100.335 Child’s containers containing bisphenol A.** (1) In this section,
10 “child’s container” means an empty baby bottle or spill-proof cup primarily intended
11 by the manufacturer for use by a child 5 years of age or younger.

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

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

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

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

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

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

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

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

1 **(5)** The department may, after notice and opportunity for hearing under s.
2 93.18, order a manufacturer or seller of a child's container in violation of this section
3 to recall the container or to repair any defects in a container that has been sold. No
4 person may refuse to comply with an order under this subsection.

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

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

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

10 814.75 **(1d)** The bisphenol A surcharge under s. 100.335.

11 **SECTION 4. Effective date.**

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

13

(END)