

# HOUSE BILL 4

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11r0376

(PRE-FILED)

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By: ~~Delegate Hubbard~~ Delegates Hubbard, Cullison, A. Kelly, Kipke, Morhaim, Murphy, Nathan-Pulliam, Oaks, Pena-Melnyk, Pendergrass, Reznik, and V. Turner

Requested: September 23, 2010

Introduced and read first time: January 12, 2011

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2011

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Containers of Infant Formula Manufactured with**  
3 **Bisphenol-A – Prohibition**

4 FOR the purpose of prohibiting the State from purchasing infant formula in containers  
5 containing a certain amount of bisphenol-A on or after a certain date;  
6 prohibiting the manufacture, sale, or distribution of certain ~~cans, jars, or other~~  
7 containers of infant formula containing a certain amount of bisphenol-A on or  
8 after a certain date ~~if the cans, jars, or other containers contain a liquid, food, or~~  
9 ~~beverage intended primarily for consumption by a child under a certain age;~~  
10 ~~prohibiting the manufacture, sale, or distribution of sports water bottles~~  
11 ~~containing bisphenol-A;~~ requiring the Department of Health and Mental  
12 Hygiene to adopt certain regulations on or before a certain date; authorizing the  
13 Secretary of Health and Mental Hygiene to suspend implementation of certain  
14 provisions of this Act under certain circumstances; requiring the Department to  
15 make a certain report to certain committees of the General Assembly on or  
16 before a certain date; and generally relating to containers of infant formula and  
17 bisphenol-A.

18 BY repealing and reenacting, with amendments,  
19 Article – Health – General  
20 Section 24-304  
21 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2009 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The presence of the chemical bisphenol-A is of concern because of potential adverse side effects; and

WHEREAS, The National Institute of Environmental Health Sciences and the U.S. Food and Drug Administration are engaged in a 2-year research effort, including psychologically-based pharmacokinetic modeling studies and rodent subchronic and behavioral or neuroanatomical pilot studies that are due in 2012, to identify health risks associated with bisphenol-A; and

WHEREAS, The U.S. Food and Drug Administration will update its assessment of bisphenol-A and will be prepared to take additional action if warranted; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health – General**

24–304.

(a) (1) In this section, “child care article” means an empty bottle or cup to be filled with food or liquid that is designed or intended by a manufacturer to be used by a child under the age of 4 years.

(2) If a federal law regulating the use of bisphenol-A in child care articles is enacted, “child care article” shall be defined as specified in the federal law.

(b) On or after January 1, 2012, a person may not manufacture, knowingly sell, or distribute in commerce any ~~OF THE FOLLOWING ITEMS:~~

~~(1) A child care article containing bisphenol-A;~~

~~(2) A CAN, JAR, OR OTHER CONTAINER CONTAINING BISPHENOL A AT A LEVEL OF .5 PARTS PER BILLION, IF THE CAN, JAR, OR OTHER CONTAINER CONTAINS A LIQUID, FOOD, OR BEVERAGE INTENDED PRIMARILY FOR CONSUMPTION BY A CHILD UNDER THE AGE OF 4 YEARS; OR~~

~~(3) A SPORTS WATER BOTTLE CONTAINING BISPHENOL A.~~

(C) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, ON OR AFTER JULY 1, 2014:

1           **(1) THE STATE MAY NOT PURCHASE INFANT FORMULA IN**  
 2 **CONTAINERS CONTAINING MORE THAN 0.5 PARTS PER BILLION OF**  
 3 **BISPHENOL-A; AND**

4           **(2) A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR**  
 5 **DISTRIBUTE IN COMMERCE A CONTAINER OF INFANT FORMULA CONTAINING**  
 6 **MORE THAN 0.5 PARTS PER BILLION OF BISPHENOL-A.**

7           ~~(e)~~ **(D)** In complying with ~~subsection (b)~~ **SUBSECTIONS (B) AND (C)** of  
 8 this section, a person:

9           (1) Shall use ~~the least toxic alternative~~ **A SAFE AND LEGAL**  
 10 **ALTERNATIVE** when replacing bisphenol-A; and

11           (2) May not replace bisphenol-A with:

12           (i) Carcinogens rated by the United States Environmental  
 13 Protection Agency as Group A, B, or C carcinogens; or

14           (ii) Reproductive toxicants that cause birth defects, reproductive  
 15 harm, or developmental harm as identified by the United States Environmental  
 16 Protection Agency.

17           ~~(d)~~ **(E)** A person that violates this section is guilty of a misdemeanor and  
 18 on conviction is subject to a fine not exceeding \$10,000 for each violation.

19           ~~(e)~~ ~~(1)~~ **(F)** On or before January 1, ~~2011~~ **2012**, the Department shall  
 20 adopt regulations to carry out **SUBSECTION (B)(1)** OF this section.

21           ~~(2) ON OR BEFORE JULY 1, 2011, THE DEPARTMENT SHALL~~  
 22 ~~ADOPT REGULATIONS TO CARRY OUT SUBSECTION (B)(2) AND (3) OF THIS~~  
 23 ~~SECTION.~~

24           **(G) IF THE SECRETARY CERTIFIES THAT THE SAFETY CONCERNS FOR**  
 25 **BISPHENOL-A ARE RESOLVED BY ADDITIONAL RESEARCH OR IF**  
 26 **IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION WOULD ADVERSELY**  
 27 **AFFECT THE HEALTH OR WELL-BEING OF CHILDREN OR ADULTS, THE**  
 28 **SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) OF THIS**  
 29 **SECTION.**

30           SECTION 2. AND BE IT FURTHER ENACTED, That:

31           (a) On or before September 1, 2012, the Department of Health and Mental  
 32 Hygiene shall report to the House Health and Government Operations Committee and  
 33 the Senate Finance Committee, in accordance with § 2-1246 of the State Government

1 Article, on the findings of federal research and regulatory activities related to  
2 bisphenol-A.

3 (b) The report required under subsection (a) of this section shall address the  
4 availability and safety of substitutes for bisphenol-A used in food containers  
5 containing infant formula.

6 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
7 effect June 1, 2011.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.