

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 56 (Delegate Hubbard)
Health and Government Operations

Phthalates and Bisphenol-A - Prohibitions - Toys and Child Care Articles

This bill prohibits the manufacture, sale, or distribution of a toy or child care article that contains specified chemicals beginning January 1, 2010. Violators are subject to fines.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues beginning in FY 2010 due to the bill's penalty provision. It is assumed that enforcement could be handled with existing resources.

Local Effect: Potential minimal increase in revenues beginning in FY 2010 due to the bill's penalty provision. No effect on expenditures.

Small Business Effect: Potentially meaningful.

Analysis

Bill Summary: A person may not manufacture, sell, or distribute any toy or child care article that • contains bisphenol-a and is intended for use by a child younger than age six; • contains diethylhexyl phthalate (DEHP), dibutyl phthalate, or butyl benzyl phthalate in concentrations greater than 0.1%; or • is intended for use by a child younger than age six if it can be placed in the child's mouth and contains diisononyl phthalate (DINP), diisodecyl phthalate, or di-n-octyl phthalate in concentrations greater than 0.1%. A person has to use the least toxic alternative when replacing the chemicals mentioned above and may not replace them with carcinogens rated by the U.S. Environmental

Protection Agency as A, B, or C carcinogens or with EPA identified reproductive toxicants that cause birth defects, reproductive harm, or developmental harm.

Violating any provision of this bill is considered to be a misdemeanor offense with a maximum penalty of \$10,000 per violation upon conviction.

Current Law: The Health-General Article limits the manufacture or sale of certain items to protect the public's health. For example, statute prohibits a person from knowingly manufacturing, selling, renting, or offering for sale any toy depicting torture or resembling a torture device. This restriction does not apply to a toy gun or a model of an aircraft, ship, car, spacecraft, or other vehicle.

Background: Phthalates are industrial chemicals used in the production of plastics to make them flexible and durable. More than a billion pounds of phthalates are produced in the world each year, and everyone is exposed to phthalates on a daily basis.

Phthalates occur in small amounts as contaminants in food, indoor air, soils, and sediments and are often used in many everyday items. Specific examples of products containing phthalates include food wrapping, vinyl shower curtains, vinyl flooring adhesives, detergents, soap, shampoo, hair spray, and nail polish. Children's toys such as teething rings and rattles also contain phthalates. Two specific types of phthalates, DEHP and DINP, are more likely to affect children than adults because these phthalates are used to make toys.

In 2005, the European Union placed a permanent ban on certain phthalates in toys and child care articles. In 2003, Japan imposed a ban on the use of phthalates in objects intended for the mouths of young children, such as pacifiers, bite rings, and teething.

In 2007, a law was enacted in California prohibiting the manufacture, sale, and distribution of toys and child care products containing phthalates used by children younger than age three.

The U.S. Census Bureau's County Business Patterns (2005) data show that the toys and games retail industry in the State has 179 establishments, an annual payroll of \$41.4 million, and 2,824 employees. The toys and games wholesale industry in the State consists of 25 establishments, 341 employees, and an annual payroll of \$12.9 million.

State Revenues: General fund revenues could increase minimally beginning in fiscal 2010 under the bill's monetary penalty provision for those cases heard in the District Court.

Local Revenues: Revenues could increase minimally beginning in fiscal 2010 under the bill's monetary penalty provision for those cases heard in the circuit courts.

Small Business Effect: Expenditures could potentially increase significantly beginning in fiscal 2010 for small business manufacturers that use the chemicals prohibited by the bill to make a toy or child care article intended for use by a child under age six. While there are manufacturers in Maryland that would be affected by the bill, it cannot be reliably determined at this time how many, if any, have 50 or fewer employees and would be considered small businesses.

Small business retailers' revenues could potentially decrease significantly in fiscal 2010 for retailers that would not be allowed to sell any products in their existing stock on or after January 1, 2010 that contain these prohibited chemicals.

Additional Information

Prior Introductions: Similar bills, HB 833 of 2007 and HB 52 of 2006, were heard in the House Health and Government Operations Committee but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of the Environment, Department of Health and Mental Hygiene, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2008
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