

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 15 (Delegate Hubbard, *et al.*)
Health and Government Operations

Finance

Child Care Articles Containing Bisphenol-A - Prohibition

This bill prohibits the sale, manufacture, or distribution of children’s toys or child care articles that contain bisphenol-A (BPA) on or after January 1, 2011. Manufacturers must instead use the least toxic alternative, and may not replace BPA with specific carcinogens or reproductive toxicants. Violators are guilty of a misdemeanor and subject to fines of up to \$10,000 per violation.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues beginning in FY 2011 due to the bill’s penalty provision. Enforcement can be handled with existing resources, assuming it is complaint based.

Local Effect: Potential minimal increase in revenues beginning in FY 2011 due to the bill’s penalty provision. Enforcement can be handled with existing resources, assuming it is complaint based.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “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 younger than age three.

Manufacturers have to indicate on the child care article that it does not contain BPA.

Current Law: Chapter 483 of 2008 prohibits a person from selling, offering for sale, importing, or distributing a lead-containing children's product. There are no restrictions on BPA.

Background: BPA is a compound found in many plastics. According to the Centers for Disease Control and Prevention (CDC), BPA can leach from the linings of canned foods and polycarbonate water and baby bottles. CDC reports that BPA has hormone-like effects on the developing reproductive system and neurobehavioral changes on the offspring of laboratory test animals. In addition, a study published in the *Journal of the American Medical Association* in September 2008 reported that an adult with high levels of BPA in his or her urine is more than twice as likely to be diagnosed with diabetes or heart disease compared to an adult with low levels.

The U.S. Food and Drug Administration (FDA) generally considers exposure to BPA through food packaging to be safe. However, in October 2008 the FDA Science Board Subcommittee on BPA found the evidence supporting its safety to be inadequate. In response, FDA reports that it is planning research on the potential effects of BPA.

California, Connecticut, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New Jersey, New York, and Rhode Island have considered or are considering passing legislation restricting the use of BPA. San Francisco and Suffolk County, New York, have already passed BPA bans for specific children's articles.

In addition, several large companies have stopped manufacturing baby bottles with BPA, and some major retailers have stopped selling water bottles that contain BPA.

State Revenues: Potential increase in general fund revenues beginning in fiscal 2011 under the bill's monetary penalty provision for those cases heard in District Court.

State Expenditures: The bill's requirements can be handled with existing resources, assuming enforcement is based on complaints. However, Department of Health and Mental Hygiene (DHMH) expenditures may increase if a large number of child care articles need to be tested for BPA by the DHMH lab.

Local Fiscal Effect: Potential minimal increase in revenues beginning in fiscal 2011 due to the bill's penalty provision. Enforcement can be handled with existing resources, assuming it is complaint based. If a large number of child care articles need to be tested for BPA, local health department workloads may increase to gather samples for the DHMH lab.

Small Business Effect: Potential increase in expenditures beginning in fiscal 2011 for small business manufacturers that use BPA to make child care articles intended for use by

children. While some manufacturers in Maryland may be affected by the bill, it cannot be reliably determined at this time how many, if any, have 50 or fewer employees and are considered small businesses.

Potential decrease in small retailer revenue in fiscal 2011 for retailers that will not be allowed to sell products in their existing stock that contain BPA on or after January 1, 2011.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Maryland Department of the Environment, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Centers for Disease Control and Prevention, U.S. Food and Drug Administration, Chemicals Policy Initiative, Department of Legislative Services

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