

SENATE NO. 545

AN ACT TO PROTECT CHILDREN FROM TOXIC TOYS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 Whereas, Article 97 of the Constitution of Massachusetts provides that the people shall have the
2 right to clean air and water; and

3 Whereas, more than 80,000 synthetic chemicals have been produced for use in the U.S since
4 World War II, yet very few were ever adequately tested for their potential impact on our health.
5 The substances have contaminated the air we breathe, the water and food we consume, everyday
6 products, our homes, schools, workplaces, and therefore end up in our bodies; and

7 Whereas, scientific evidence increasingly links many chronic diseases with repeated and
8 increased exposure to toxic substances. These diseases and disorders include: asthma, autism,
9 birth defects, cancers, developmental disabilities, diabetes, endometriosis, infertility,
10 Parkinson's disease, and others; and

11 Whereas, scientific literature reports adverse effects of phthalates and scientific evidence shows
12 that phthalates of concern are found in humans at levels associated with adverse effects.

13 Whereas, population studies show that virtually everyone carries some level of phthalates in
14 their body.

15 Whereas, the European Union and many countries have restricted the use of phthalates in
16 children's toys. The EU has banned DEHP, DBP, BBP in all toys and child care articles and
17 banned DINP, DIDP and DNOP in toys and child care articles that can be put in the mouth.

18 Prior to the EU's permanent ban, the following countries had also banned phthalates in

19 children's toys: Argentina, Austria, Cyprus, Czech Republic, Denmark, Fiji, Finland, Germany,
20 Greece, Italy, Japan, Mexico, Norway and Sweden.

21 Whereas, a US Centers for Disease Controls study found that 95% of Americans have
22 detectable levels of bisphenol-A in their bodies. In a recent CDC study the observed levels
23 detected were at and above the concentrations known to reliably cause adverse effects in
24 laboratory experiments.

25 Whereas, more than 130 studies suggest that bisphenol-A exposure at very low doses is linked
26 to a staggering number of health problems, including prostate and breast cancer, obesity,
27 attention deficit and hyperactivity disorder, brain damage, altered immune system, lowered
28 sperm counts, and early puberty.

29 Whereas, numerous studies show that polycarbonate plastics break down and leach bisphenol-A
30 into food or beverages in contact with the plastics.

31 Whereas the General Court finds that:

32 With regard to many other toxic substances, the current regulatory system has failed to
33 protect health and environment due to fundamental flaws, namely that it places high burdens on
34 government to act, primarily after the damage is done rather than by prevention through seeking
35 the safest alternatives to toxics as they become available;

36 That the current regulatory system for toxic chemicals has particularly failed to protect
37 vulnerable populations: the developing fetus and child; people who are vulnerable due to health
38 conditions or genetic predispositions; and low-income communities or disadvantaged workers
39 who are overburdened with greater exposure to these toxic substances;

40 That Massachusetts is already a leader on environmental health policy as a result of the
41 Toxics Use Reduction Act (TURA), which shows that there are many benefits to businesses and

42 the economy by implementing safer alternatives for toxic chemicals; however that such act has
43 failed to address the broader need to substantially reduce the use of harmful chemicals in
44 products used in workplaces and homes even though safer alternatives are often available;
45 Whereas, growing children are particularly at risk to chemicals in their environment because
46 they face greater exposure and are physiologically more susceptible to them. Because greater
47 growing children are particularly at risk from exposure, precautionary measures must be taken
48 to protect children from such exposure from products they use everyday.

49 Section 2. Purpose

50 It is hereby resolved, that the policy goals of this Act shall be to prohibit the manufacture, sale
51 or distribution in commerce of any toy or child care article that (1) is intended for use by a child
52 under 3 years of age if that product contains bisphenol-A., (2) contains DEHP, DBP, or BBP in
53 concentrations exceeding 0.1%, or (3) is intended for use by a child under 3 years of age if that
54 product can be placed in the child's mouth and contains DINP, DIDP, or DNOP in
55 concentrations exceeding 0.1%.

56 This bill would require manufacturers to use the least toxic alternative when replacing
57 bisphenol-A and phthalates in their products and would prohibit manufacturers from replacing
58 bisphenol-A and phthalates with certain carcinogens and reproductive toxicants.

59 SECTION 3. Chapter 94B of the Massachusetts General Laws is hereby amended by adding
60 Section 23 after Section 22.

61 Section 23a Definitions

62 Section 23a. The following words as used in Section 23, unless the context otherwise requires
63 shall have the following meanings –

64 “Child care article” means all products designed or intended by the manufacturer to facilitate
65 sleep, relaxation, or the feeding of children or to help children with sucking or teething.

66 “Toy” means all products designed or intended by the manufacturer to be used by children when
67 the play.

68 SECTION 4. Section 23b. Bisphenol-A

69 (a) Bisphenol-A, an estrogen-mimicking hormone disrupting chemical, is used in the
70 production of epoxy resins and is the main ingredient in hard polycarbonate plastics.

71 The plastics are used in food and drink packaging applications, and the cans, bottle tops,
72 and water supply pipes.

73 (b) Bisphenol-A is used in many products intended for use by young children, including but
74 not limited to, toys and baby bottles;

75 (c) Commencing January 1, 2008, no person or entity shall manufacture, sell or distribute
76 toys or child care items in Massachusetts containing bisphenol-A.

77 Section 23c. Phthalates

78 (a) Phthalates are chemicals used to plasticize some food containers, plastic wrap, toys,
79 shampoos, perfumes, and beauty products.

80 (b) Phthalates have been shown to have hormone disrupting effects; however, they are used
81 in many products intended for use by young children, including, but not limited to, toys,
82 pacifiers, baby bottles and teethers.

83 (c) Commencing January 1, 2008, no person or entity shall manufacture, sell, or distribute
84 any toy or child care item in Massachusetts that contains DEHP, DBP, or BBP in
85 concentrations exceeding 0.1 percent.

86 (d) Commencing January 1, 2008, no person or entity shall manufacture, sell, or distribute
87 in commerce any toy or child care article intended for use by a child under three years of
88 age if that product can be placed in the child's mouth and contains DINP, DIDP, or
89 DNOP in concentrations exceeding 0.1 percent.

90 Section 23d. Alternatives to Bisphenol-A and Phthalates

91 (a) Manufacturers shall use the least toxic alternative when replacing bisphenol-A and
92 phthalates in accordance with this chapters.

93 (b) Manufacturers shall not replace bisphenol-A and phthalates, pursuant to this chapter,
94 with carcinogens rated by the United States Environmental Protection Agency as A, B,
95 OR C carcinogens, known to be human carcinogens, likely to be human carcinogens, or
96 suggestive of being human carcinogens, as described in the "List of Chemicals
97 Evaluated for Carcinogenic Potential."

98 (c) Manufacturers shall not replace bisphenol-A and phthalates, pursuant to this chapter,
99 with reproductive toxicants that cause birth defects, reproductive harm, or
100 developmental harm as identified by the United States Environmental Protection
101 Agency.