

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH10458-MH-138

Short Title: Toxic-Free Kids Act.

(Public)

Sponsors: Representatives Morey, Harrison, and Butler (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROTECT CHILDREN FROM THE HEALTH IMPACTS OF TOXIC
CHEMICALS IN CHILDREN'S PRODUCTS BY PROHIBITING THE SALE OF
CHILDREN'S PRODUCTS CONTAINING BISPHENOL A, TRIS, OR PHTHALATES.

Whereas, rates of chronic diseases among children, including childhood cancers, autism spectrum disorders, certain birth defects, reproductive disorders, allergies, and developmental disorders are increasing and are associated with children's exposures to environmental agents; and

Whereas, infants and children are sensitive to toxic chemical exposure because their neurological and endocrine systems are not fully developed and their ability to detoxify and eliminate toxic residues is immature; and

Whereas, the Toxic Substances Control Act (TSCA), enacted in 1976, has allowed more than 82,000 chemicals into commerce in the United States, and only about 200 of those chemicals are subject to limited health and safety testing; and

Whereas, the chemicals known collectively as TRIS are added to plastics, foams, and textiles as flame retardants, and these materials are then used in children's products such as car seats, baby changing pads, and baby carriers, despite the fact that the U.S. Consumer Product Safety Commission has determined that these chemicals are not the best way to prevent fires and is currently updating its flammability standards; and

Whereas, studies show that TRIS chemicals may induce leukemia, the most common childhood cancer; and

Whereas, phthalates are a group of chemical additives used as thickeners, softeners, or controlled release agents in plastics used in a wide variety of children's products; and

Whereas, the U.S. Centers for Disease Control and Prevention have found that phthalates, which are absorbed through the skin, are ubiquitous in the bodies of Americans, that levels are increasing, and that the highest levels are found in children and women of reproductive age; and

Whereas, several phthalates are listed as "probable" or "possible" human carcinogens by the U.S. Environmental Protection Agency, and exposure to phthalates has been associated with birth defects, shortened pregnancy, behavioral problems, lower IQ, and liver and kidney damage; and

Whereas, Bisphenol A (BPA) is an industrial chemical regularly used by the plastics industry for the production of items such as baby bottles, water bottles, food storage containers, and metal can liners; and

Whereas, the U.S. Food and Drug Administration has cited concerns about the potential effects of BPA on the brain, behavior, and endocrine glands of infants and children; and



1 Whereas, hundreds of scientific studies have linked BPA to health effects such as
2 miscarriage for pregnant women, as well as diabetes, obesity, and cancer; and

3 Whereas, at least 11 other states have passed legislation to limit the use of BPA, and
4 additional states have had legislation introduced; Now, therefore,

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Chapter 130A of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 24.

9 "North Carolina Toxic-Free Kids Act.

10 **"§ 130A-511. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Bisphenol A. – The bicyclic phenol more particularly identified as
13 4,4'-isopropylidenediphenol and assigned Chemical Abstracts Service
14 Registry Number 80-05-7.
- 15 (2) Casual or isolated sale. – A sale made by a person who is not engaged in the
16 business of selling the product involved.
- 17 (3) Chemical. – A substance with a distinct molecular composition or a group of
18 structurally related substances, including the breakdown products of the
19 substance or substances that form through decomposition, degradation, or
20 metabolism.
- 21 (4) Chemical of high concern. – A chemical regulated by this Article.
- 22 (5) Child. – A person under 12 years of age.
- 23 (6) Children's product. – A consumer product intended for use by children, such
24 as baby products, toys, car seats, personal care products, or clothing.
25 Children's product shall also mean food containers for infant and toddler foods
26 intended for consumption by children under three years of age, such as baby
27 food and infant formula.
- 28 (7) Department. – The Department of Environment and Natural Resources.
- 29 (8) Distributor. – A person who sells consumer products to retail establishments
30 on a wholesale basis.
- 31 (9) Division. – The Division of Public Health of the Department of Health and
32 Human Services.
- 33 (10) Phthalates. – Di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP),
34 benzyl butyl phthalate (BBP), diisonoyl phthalate (DINP), diisodecyl
35 phthalate (DIDP), or di-n-octyl phthalate (DnOP).
- 36 (11) Safer alternative. – An alternative whose potential to harm human health is
37 less than that of the use of a chemical of high concern that it could replace.
- 38 (12) TRIS. – Either or both of the following chemicals:
39 a. TDCPP (tris(1,3-dichloro-2-propyl)phosphate), Chemical Abstracts
40 Service Registry Number 13674-87-8, as of the effective date of this
41 section.
42 b. TCEP (tris(2-chloroethyl)phosphate), Chemical Abstracts Service
43 Registry Number 115-96-8, as of the effective date of this section.

44 **"§ 130A-512. Prohibition on the sale of children's products that contain chemicals of high**
45 **concern.**

46 On or after July 1, 2019, no wholesaler or retailer may knowingly sell, offer for sale, distribute
47 for sale, or distribute for use in this State a children's product containing any of the following:

- 48 (1) Bisphenol A.
- 49 (2) Phthalates, individually or in combination, greater than one-tenth of one
50 percent (0.10%) by weight (1,000 parts per million).
- 51 (3) TRIS in amounts greater than 50 parts per million in any component.

"§ 130A-513. Applicability.

The requirements of this Article shall not apply to any of the following:

- (1) The sale or purchase of any previously owned product containing a substance listed in G.S. 130A-512 made in casual or isolated sales and sales by nonprofit organizations.
- (2) Children's products manufactured using chemicals of high concern, when the chemicals of high concern are not present in the final children's product.
- (3) Chemicals of high concern used in agriculture production.
- (4) Motor vehicles as defined in G.S. 20-4.01 and personal watercraft as that term is defined in G.S. 75A-13.3, except that the use of chemicals of high concern in detachable car seats is not exempt.
- (5) Chemicals of high concern generated solely as combustion by-products or that are present in combustible fuels.
- (6) Pharmaceutical products or biologics.
- (7) A medical device as defined in the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321).
- (8) Consumer electronics products and electronic components, including personal computers, audio and video equipment, calculators, digital displays, wireless phones, cameras, game consoles, printers, and handheld electronic and electrical devices used to access interactive software or their associated peripherals, and products that comply with Directive 2002/95/EC of the European Union (Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment).
- (9) Outdoor sport equipment, including all-terrain vehicles and motorcycles as those terms are defined in G.S. 20-4.01, and all attachments and repair parts for outdoor sport equipment.
- (10) Food and beverage packaging except a container containing infant food, toddler food, or infant formula.

"§ 130A-514. Notice that a children's product contains a chemical of high concern.

On or after October 1, 2020, a retailer or distributor of a children's product, or a trade organization on behalf of its member retailers or distributors, shall provide notice to the Department of any children's products that contain a chemical regulated under this Article. The notice shall be filed annually with the Department and shall include all of the following information:

- (1) The name of the chemical used or produced and its Chemical Abstracts Service Registry Number.
- (2) A brief description of the product or product component containing the substance.
- (3) A description of the function of the chemical in the product.
- (4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges rather than the exact amount.
- (5) The name and address of the product manufacturer and the name, address, and phone number of a contact person for the product manufacturer.
- (6) Any other information the retailer or distributor deems relevant to the appropriate use of the product.

"§ 130A-515. Adoption of rules.

The Department may adopt rules as necessary to implement, administer, and enforce this Article."

SECTION 1.(b) G.S. 130A-17(b) reads as rewritten:

1 "(b) The Secretary of Environment and Natural Resources and a local health director shall
2 have the same rights enumerated in subsection (a) of this section to enforce the provisions of
3 Articles ~~9 and 10-9~~, 10, and 24 of this Chapter."

4 **SECTION 1.(c)** G.S. 130A-18(b) reads as rewritten:

5 "(b) The Secretary of Environment and Natural Resources and a local health director shall
6 have the same rights enumerated in subsection (a) of this section to enforce the provisions of
7 Articles ~~9 and 10-9~~, 10, and 24 of this Chapter."

8 **SECTION 1.(d)** G.S. 130A-19(b) reads as rewritten:

9 "(b) The Secretary of Environment and Natural Resources and a local health director shall
10 have the same rights enumerated in subsection (a) of this section to enforce the provisions of
11 Articles ~~9 and 10-9~~, 10, and 24 of this Chapter."

12 **SECTION 1.(e)** G.S. 130A-20(b) reads as rewritten:

13 "(b) The Secretary of Environment and Natural Resources and a local health director shall
14 have the same rights enumerated in subsection (a) of this section to enforce the provisions of
15 Articles ~~9 and 10-9~~, 10, and 24 of this Chapter."

16 **SECTION 2.(a)** The Department of Environmental Quality, in consultation with the
17 Division of Public Health of the Department of Health and Human Services, shall report to the
18 General Assembly no later than January 1, 2021, summarizing and evaluating retailers' and
19 distributors' notices on chemicals of high concern under Section 1 of this act. The report shall
20 include recommendations for legislation to protect children's health and to improve the
21 alternatives assessment process, as well as the following elements:

- 22 (1) A summary of the information provided by the reports about the use of
23 chemicals of high concern in children's products.
- 24 (2) Evidence of children's exposure to chemicals of high concern.
- 25 (3) Opportunities for preventing children's exposure to chemicals of high concern.
- 26 (4) The availability of safer alternatives to each chemical of high concern.

27 **SECTION 2.(b)** The definitions in G.S. 130A-511, as enacted by Section 1 of this
28 act, apply to this section unless the context clearly requires otherwise.

29 **SECTION 3.** Section 1 of this act becomes effective December 1, 2019. The
30 remainder of this act is effective when it becomes law.