

# SENATE, No. 1428

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MARCH 6, 2008

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Union)**

**Co-Sponsored by:**

**Senators Allen, Ciesla, Codey, Cunningham, Singer, Lance, Turner, Gordon, Sacco, Adler, Lesniak, Gill, S.Kean, Madden, Sarlo and Cardinale**

**SYNOPSIS**

The "Toxic-free Children's Products Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/14/2009)**

1 AN ACT concerning the sale, distribution, and manufacture of toys  
2 and child care articles containing bisphenol A and phthalates and  
3 supplementing Title 56 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. This act shall be known and may be cited as the “Toxic-free  
9 Children’s Products Act.”

10  
11 2. The Legislature finds and declares that high levels of  
12 bisphenol A and phthalates can have adverse effects on people and  
13 there is substantial evidence that virtually everyone carries some  
14 level of phthalates in their body; that bisphenol A has been shown  
15 to have hormone disrupting effects; and that high levels of exposure  
16 to phthalates may pose a hazard to reproduction and to the health  
17 and welfare of children.

18 The Legislature further finds and declares that bisphenol A and  
19 phthalates are used in many plastics; that reusable plastic storage  
20 containers and baby bottles can leach bisphenol A into food and  
21 beverages; and that phthalates are found in many plastic toys for  
22 children and other child care articles, such as teething rings and  
23 rattles.

24 The Legislature also finds and declares that bis (2-ethylhexyl)  
25 phthalate, also known as diethylhexyl phthalate or DEHP, is  
26 classified by the United States Environmental Protection Agency as  
27 a Group B2 probable human carcinogen; that in 2005 the  
28 Environmental Protection Agency added diisononyl phthalate  
29 (DINP) to the list of toxic chemicals subject to reporting  
30 requirements of section 313 of the federal “Emergency Planning  
31 and Community Right-to-Know Act of 1986,” 42 U.S.C. s.11023,  
32 and section 6607 of the federal “Pollution Prevention Act of 1990,”  
33 42 U.S.C. s.13106, based upon the carcinogenicity of DINP and  
34 liver, kidney, and developmental toxicity; and that further research  
35 indicates some phthalates may cause harmful reproductive effects.

36 The Legislature therefore determines that bisphenol A and  
37 phthalates are hazardous substances and it is in the public interest to  
38 prohibit the sale, distribution, and manufacturing of toys and child  
39 care articles containing bisphenol A and phthalates.

40  
41 3. As used in this act:

42 “Child care article” means a product designed or intended by the  
43 manufacturer to facilitate sleep, relaxation, or the feeding of a child  
44 or to help a child with sucking or teething, including baby bottles,  
45 and shall include the packaging for any such article.

46 “Phthalates” includes diethylhexyl phthalate (DEHP), dibutyl  
47 phthalate (DBP), butyl benzyl phthalate (BBP), diisononyl phthalate  
48 (DINP), diisodecyl phthalate (DIDP), di-n-octyl phthalate (DNOP)

1 or DnOP), and any other phthalate, as determined by the Division of  
2 Consumer Affairs in the Department of Law and Public Safety in  
3 consultation with the Department of Environmental Protection and  
4 the Department of Health and Senior Services.

5 “Toy” means a product designed or intended by the manufacturer  
6 to be used by a child when the child plays, and shall include the  
7 packaging for any such toy.

8  
9 4. a. On or after January 1, 2010, it shall be an unlawful  
10 practice for a person to sell, distribute, or manufacture any toy or  
11 child care article, intended for use by a child of any age, containing  
12 a total level of phthalates in a concentration exceeding 0.1% or  
13 made with or containing bisphenol A.

14 b. A person shall use the least toxic alternative when replacing  
15 bisphenol A and phthalates in toys and child care articles for the  
16 purposes of subsection a. of this section and shall not replace  
17 bisphenol A or phthalates with (1) carcinogens rated by the United  
18 States Environmental Protection Agency as Group A, B, or C  
19 carcinogens, or (2) reproductive toxicants that cause birth defects,  
20 reproductive harm, or developmental harm, as identified by the  
21 United States Environmental Protection Agency.

22  
23 5. The Division of Consumer Affairs in the Department of Law  
24 and Public Safety, in consultation with the Department of  
25 Environmental Protection and the Department of Health and Senior  
26 Services, shall adopt, pursuant to the “Administrative Procedure  
27 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as  
28 are necessary to effectuate the purposes of this act.

29  
30 6. This act shall take effect immediately.

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32  
33 STATEMENT

34  
35 This bill would enact the “Toxic-free Children’s Products Act”  
36 and would make the sale, distribution, or manufacturing of any toy  
37 or child care article, intended for use by a child of any age, an  
38 unlawful practice under the consumer fraud act if it contains a total  
39 level of phthalates in a concentration exceeding 0.1% or contains  
40 bisphenol A (BPA).

41 Under this bill, toys and child care articles sold in the State must  
42 be made with the least toxic alternative in place of phthalates and  
43 BPA, and phthalates and BPA could not be replaced with (1)  
44 carcinogens rated by the United States Environmental Protection  
45 Agency (EPA) as Group A, B, or C carcinogens, or (2) reproductive  
46 toxicants that cause birth defects, reproductive harm, or  
47 developmental harm as identified by the EPA.

**S1428 WEINBERG, RUIZ**

1       A person violating this bill would be subject to the New Jersey  
2 consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), and liable for  
3 a penalty of up \$10,000 for the first offense and up to \$20,000 for  
4 the second offense and each subsequent offense.

5       Similar legislation banning the sale, distribution, and  
6 manufacturing of toys and child care articles containing phthalates  
7 and BPA is being considered in a number of other states. Since  
8 1999, the European Union (EU) has banned toys containing certain  
9 phthalates and in 2005 extended the ban permanently to include  
10 child care articles placed in the mouth of babies and young children  
11 because the EU found the amount of phthalates absorbed exceeded  
12 the maximum daily dose and would impact long-term health.

13       The Center for the Evaluation of Risks to Human Reproduction,  
14 in the National Institute of Environmental Health Sciences in the  
15 United States Department of Health and Human Services, evaluated  
16 seven phthalate esters and expressed “serious concern” about  
17 diethylhexyl phthalate (DEHP), especially with regard to uses in  
18 medical devices for feeding and medicating critically ill newborn  
19 infants and assisting in their breathing. The EPA currently  
20 classifies bis (2-ethylhexyl) phthalate, also known as diethylhexyl  
21 phthalate or DEHP, as a Group B2 probable human carcinogen.