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**SB-1266 Product safety: bisphenol.** (2023-2024)

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**Senate Bill No. 1266**

**CHAPTER 790**

An act to amend Sections 108940 and 108941 of, to amend the heading of Chapter 12 (commencing with Section 108940) of Part 3 of Division 104 of, and to add Section 108942 to, the Health and Safety Code, relating to product safety.

[ Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1266, Limón. Product safety: bisphenol.

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. Existing law prohibits the manufacture, sale, or distribution in commerce of any bottle or cup that contains bisphenol A, as specified, if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by children 3 years of age or younger. The prohibition above does not apply to a product subject to a regulatory response by the department as of the date that the department posts a prescribed notice regarding the department's adoption of the regulatory response. Existing law additionally requires manufacturers to use the least toxic alternative when replacing bisphenol A in containers and prohibits manufacturers from replacing bisphenol A with chemicals known to cause cancer or reproductive harm, as specified.

This bill would, on and after January 1, 2026, instead apply the above prohibitions and requirements to any juvenile's feeding product or juvenile's sucking or teething product, as defined, that contains any form of bisphenol, as defined, at a detectable level above the practical quantitation limit, as determined by the department. The bill would authorize the department to establish standards for the juvenile's products above that are more protective of public health, sensitive populations, or the environment than the standards established by the bill, and would authorize the department or the Attorney General to enforce the prohibitions and requirements, as specified. The bill would additionally prohibit manufacturers from replacing any form of bisphenol with any chemical identified by the department as a Candidate Chemical, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The heading of Chapter 12 (commencing with Section 108940) of Part 3 of Division 104 of the Health and Safety Code is amended to read:

**CHAPTER 12. Bisphenol**

**SEC. 2.** Section 108940 of the Health and Safety Code is amended to read:

**108940.** (a) On and after January 1, 2026, no person shall manufacture, sell, or distribute in commerce any juvenile's feeding product or juvenile's sucking or teething product that contains any form of bisphenol above the practical quantitation limit (PQL), to be determined by the Department of Toxic Substances Control.

(b) Subdivision (a) shall not apply to medical devices, as defined in Section 109920, or to food and beverage containers designed or intended primarily to contain liquid, food, or beverages for consumption by the general population.

(c) The Department of Toxic Substances Control may establish standards for any juvenile's feeding product or juvenile's sucking or teething product that are more protective of public health, sensitive populations, or the environment than the standards established pursuant to subdivision (a).

(d) Notwithstanding subdivision (a), if the Department of Toxic Substances Control adopts a regulatory response described in Section 25253 regarding the use of any form of bisphenol in a product that is prohibited by this section, the prohibition of this section shall not apply to that product upon the date that the Department of Toxic Substances Control posts a notice on its internet website that it has adopted the response.

(e) Notwithstanding subdivisions (b) and (c) of Section 25257.1, this section shall not be construed to prohibit or restrict the authority of the Department of Toxic Substances Control to prioritize or take action on any products containing any form of bisphenol in order to limit exposure to or reduce the level of hazard posed by any form of bisphenol.

(f) (1) The Department of Toxic Substances Control or the Attorney General may enforce this chapter.

(2) A violation of this chapter shall be punishable by an administrative or civil penalty not to exceed five thousand dollars (\$5,000) for a first violation, and not to exceed ten thousand dollars (\$10,000) for each subsequent violation.

(3) Penalties may be assessed for each violation or, for continuing violations, for each day that violation continues.

(g) The Department of Toxic Substances Control may adopt regulations to implement, enforce, interpret, or make specific this chapter.

(h) Upon appropriation by the Legislature, funds in the Toxic Substances Control Account may be used by the Department of Toxic Substances Control to implement this chapter.

**SEC. 3.** Section 108941 of the Health and Safety Code is amended to read:

**108941.** (a) Manufacturers shall use the least toxic alternative when replacing any form of bisphenol in a juvenile's feeding product or juvenile's sucking or teething product in accordance with this chapter.

(b) Manufacturers shall not replace any form of bisphenol pursuant to this chapter with chemicals classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(c) Manufacturers shall not replace any form of bisphenol pursuant to this chapter with reproductive toxicants that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(d) Manufacturers shall not replace any form of bisphenol pursuant to this chapter with any chemical identified by the Department of Toxic Substances Control as a Candidate Chemical pursuant to Section 69502.2 of Title 22 of the California Code of Regulations.

**SEC. 4.** Section 108942 is added to the Health and Safety Code, to read:

**108942.** For purposes of this chapter, the following terms have the following meanings:

(a) "Bisphenol" means a chemical with two phenol rings connected by a single linker atom. The linker atom and phenol rings may have additional substituents.

(b) "Juvenile" means an individual or individuals younger than 12 years of age.

(c) "Juvenile's feeding product" means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to juveniles in the State of California that is designed or intended by the manufacturer to be filled with any liquid, food, or beverage intended primarily for consumption from that bottle or cup by a juvenile.

(d) "Juvenile's sucking or teething product" means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to juveniles in the State of California that is designed or intended by the manufacturer to help a juvenile with sucking or teething in order to facilitate sleep or relaxation.