



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 3750

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3750 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 BPA-Free Kids Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds that:

8 (a) The incidence of some diseases and disorders that have  
9 been linked to chemical exposures is on the rise.

10 (b) The metabolism, physiology, and exposure patterns of  
11 developing fetuses, infants, and children to toxic chemicals  
12 differ from those of adults, which makes children more  
13 vulnerable than adults to the harmful effects of exposure to  
14 some synthetic chemicals.

15 (c) Unlike pharmaceuticals and pesticides, manufacturers  
16 of most chemical substances are not required under current law

1 to supply human or environmental toxicity information before  
2 selling their products to the public. Consequently, the vast  
3 majority of chemicals used in consumer products have never had  
4 any federal or state government review to evaluate potential  
5 toxicity to the environment, infants, children, developing  
6 fetuses, or adults.

7 (d) To protect children's health, it is important to reduce  
8 or eliminate exposures to certain chemicals that are present in  
9 children's products or that may be reasonably anticipated to  
10 result in children's exposure or be placed in the mouths of  
11 children.

12 Section 10. Definitions.

13 "Agency" means the Illinois Environmental Protection  
14 Agency.

15 "Baby food" means a prepared solid food consisting of a  
16 soft paste or an easily chewed food that is intended for  
17 consumption by children 2 years of age or younger and is  
18 commercially available.

19 "Department" means the Illinois Department of Public  
20 Health.

21 "Infant formula" means a milk-based or soy-based powder,  
22 concentrated liquid, or ready-to-feed substitute for human  
23 breast milk, which is intended for infant consumption and is  
24 commercially available.

25 "Manufacturer" means a person who manufactured a final

1 product or whose brand name is affixed to a product. In the  
2 case of a product that was imported into the United States,  
3 "manufacturer" includes the importer or domestic distributor  
4 of the product if the person who manufactured or assembled the  
5 product or whose brand name is affixed to it does not have a  
6 presence in the United States.

7 "Person" means any individual, partnership,  
8 co-partnership, firm, company, limited liability company,  
9 corporation, association, joint stock company, trust, estate,  
10 political subdivision, state agency, or any other legal entity,  
11 or his, her, or its legal representative, agent, or assigns.

12 Section 15. Bisphenol-A ban; exemption.

13 (a) Beginning June 1, 2011, no person shall sell, offer to  
14 sell, distribute, or offer to distribute any reusable  
15 children's food or beverage container, including any baby  
16 bottle or sippy cup, that contains bisphenol-A if that  
17 container (i) is designed, intended, or marketed to be filled  
18 with any food or beverage primarily for consumption by children  
19 3 years of age or younger and (ii) is sold or distributed at  
20 retail without containing any liquid, food, or beverage.

21 (b) Beginning June 1, 2015, no person shall sell, offer to  
22 sell, distribute, or offer to distribute any infant formula or  
23 baby food that is stored in a can, jar, or plastic container  
24 that contains bisphenol-A.

25 (c) The manufacturer of an infant formula or baby food may

1 obtain an exemption from subsection (b) for a particular type  
2 of infant formula or baby baby food in a calendar year if (i)  
3 there is no bisphenol-a free can, jar, plastic container, or  
4 other alternative packaging compatible with that particular  
5 type of infant formula or baby food that complies with  
6 applicable federal Food and Drug Administration regulations,  
7 if any, and (ii) the manufacturer files a notification to that  
8 effect with the Illinois Attorney General prior to January 1 of  
9 that year. The notification should explain why alternative  
10 packaging is not compatible with the product or violates Food  
11 and Drug Administration regulations. Manufacturers must submit  
12 separate notifications for each particular type of infant  
13 formula or baby food for which they seek an exemption.

14 Section 20. Interstate clearinghouse. The Agency and the  
15 Department are authorized to participate, along with other  
16 states and governmental entities, in an interstate  
17 clearinghouse to promote safer chemicals in consumer products.  
18 The Agency and Department may cooperate with the interstate  
19 clearinghouse to (i) organize and manage available data on  
20 chemicals, including information on uses, hazards,  
21 environmental concerns, safer alternatives, and model policies  
22 and programs, (ii) provide technical assistance regarding  
23 chemical safety to businesses, consumers, and policy makers,  
24 and (iii) undertake other activities in support of State  
25 programs to promote chemical safety.

1 Section 25. Implementation and exemption.

2 (a) Manufacturers and wholesalers of products restricted  
3 under Section 15 of this Act must, no less than 90 days before  
4 the effective date of such a restriction, notify persons to  
5 whom they sell a restricted product about the provisions of  
6 this Act.

7 (b) A retailer who unknowingly sells a product that is  
8 restricted from sale under this Act is not liable under this  
9 Act.

10 Section 30. Enforcement and penalties.

11 (a) The Attorney General is responsible for administering  
12 and ensuring compliance with this Act, including the  
13 development and adoption of any rules, if necessary, for the  
14 implementation and enforcement of this Act.

15 (b) The Attorney General shall develop and implement a  
16 process for receiving and handling complaints from individuals  
17 regarding possible violations of this Act.

18 (c) The Attorney General may conduct any investigation  
19 deemed necessary regarding possible violations of this Act  
20 including, without limitation, the issuance of subpoenas to:  
21 (i) require the filing of a statement or report or answer  
22 interrogatories in writing as to all information relevant to  
23 the alleged violations; (ii) examine under oath any person who  
24 possesses knowledge or information directly related to the

1 alleged violations; and (iii) examine any record, book,  
2 document, account, or paper necessary to investigate the  
3 alleged violation.

4 (d) Service by the Attorney General of any notice requiring  
5 a person to file a statement or report, or of a subpoena upon  
6 any person, shall be made:

7 (1) personally by delivery of a duly executed copy  
8 thereof to the person to be served or, if a person is not a  
9 natural person, in the manner provided in the Code of Civil  
10 Procedure when a complaint is filed; or

11 (2) by mailing by certified mail a duly executed copy  
12 thereof to the person to be served at his or her last known  
13 abode or principal place of business within this State.

14 (e) In lieu of a civil action, the individual or entity  
15 alleged to have engaged in a pattern or practice deemed  
16 violative of this Act may enter into an Assurance of Voluntary  
17 Compliance with respect to the alleged pattern or practice  
18 violation.

19 (f) If the Attorney General determines that there is a  
20 reason to believe that a violation of the Act has occurred, the  
21 Attorney General may bring an action in the name of the People  
22 of the State to obtain temporary, preliminary, or permanent  
23 injunctive relief for any act, policy, or practice that  
24 violates this Act.

25 (g) If any person fails or refuses to file any statement or  
26 report, or obey any subpoena, issued pursuant to subsection (c)

1 of this Section, the Attorney General may proceed to initiate a  
2 civil action pursuant to subsection (f) of this Section, or  
3 file a complaint in the circuit court for the granting of  
4 injunctive relief, including restraining the conduct that is  
5 alleged to violate this Act until the person files the  
6 statement or report, or obeys the subpoena.

7 (h) Relief that may be granted.

8 (1) In any civil action brought pursuant to subsection  
9 (f) of this Section, the Attorney General may obtain as a  
10 remedy, equitable relief (including any permanent or  
11 preliminary injunction, temporary restraining order, or  
12 other order, including an order enjoining the defendant  
13 from engaging in a violation or ordering any action as may  
14 be appropriate). In addition, the Attorney General may  
15 request and the Court may impose a civil penalty in an  
16 amount not to exceed \$50,000 for each violation. For  
17 purposes of this subsection, each item and each standard  
18 constitutes a separate violation.

19 (2) A civil penalty imposed or a settlement or other  
20 payment made pursuant to this Act shall be made payable to  
21 the Attorney General's State Projects and Court Ordered  
22 Distribution Fund, which is created as a special fund in  
23 the State Treasury. Moneys in the Fund shall be used,  
24 subject to appropriation, for the performance of any  
25 function pertaining to the exercise of the duties of the  
26 Attorney General including but not limited to enforcement

1 of any law of this State, product testing, and conducting  
2 public education programs.

3 (3) Any funds collected under this Section in an action  
4 in which the State's Attorney has prevailed shall be  
5 retained by the county in which he or she serves.

6 (i) The penalties and injunctions provided in this Act are  
7 in addition to any penalties, injunctions, or other relief  
8 provided under any other law. Nothing in this Act shall bar a  
9 cause of action by the State for any other penalty, injunction,  
10 or relief provided by any other law.

11 Section 90. The State Finance Act is amended by adding  
12 Section 5.756 as follows:

13 (30 ILCS 105/5.756 new)

14 Sec. 5.756. The Attorney General's State Projects and Court  
15 Ordered Distribution Fund."