



Sen. Dan Kotowski

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1 AMENDMENT TO SENATE BILL 944

2 AMENDMENT NO. _____. Amend Senate Bill 944 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Child-Safe Chemicals Act.

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

8 (a) The incidence of some diseases and disorders that have
9 been linked to chemical exposures are 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 "Manufacturer" means the person who manufactured a final
14 product or whose brand name is affixed to a product. In the
15 case of a product that was imported into the United States,
16 "manufacturer" includes the importer or domestic distributor
17 of the product if the person who manufactured or assembled it
18 or whose brand name is affixed to it does not have a presence
19 in the United States.

20 "Person" means any individual, partnership,
21 co-partnership, firm, company, limited liability company,
22 corporation, association, joint stock company, trust, estate,
23 political subdivision, state agency, or any other legal entity,
24 or his, her, or its legal representative, agent, or assigns.

1 Section 15. Bisphenol A ban. Beginning July 1, 2009, no
2 person shall sell, offer for sale, distribute, or offer to
3 distribute any product intended for a child under 3 years of
4 age that is used to contain food or liquid if the product
5 contains bisphenol A.

6 Section 20. Children's Advisory Panel.

7 (a) The Children's Health Advisory Panel is established and
8 shall consist of the Illinois Director of Public Health or his
9 or her designee, the Director of the Illinois Environmental
10 Protection Agency or his or her designee, the Illinois Attorney
11 General or his or her designee, and 5 members appointed jointly
12 by the Directors of Public Health and the Environmental
13 Protection Agency. Appointed members must possess knowledge
14 and expertise in fields relevant to children's health and
15 chemical exposure. The members of the Advisory Panel may
16 organize themselves as they deem necessary and shall serve
17 without compensation.

18 (b) No later than January 1, 2010, the Advisory Panel shall
19 recommend to the Governor and the General Assembly policy
20 options for addressing chemicals that pose a threat to
21 children's health based on potential exposure to children from
22 consumer products. At a minimum, the recommendations shall
23 include policy options for the following:

24 (1) Identifying chemicals that pose a threat to
25 children's health.

1 (2) Establishing limits for such chemicals in consumer
2 products.

3 (3) Identifying safer alternatives to such chemicals
4 and requiring or creating incentives for the development or
5 use of such alternatives.

6 (4) Ensuring appropriate access to all information
7 related to the effects of a chemical substance on human
8 health and the environment.

9 (5) Informing consumers about chemicals that pose a
10 threat to children's health.

11 (6) Funding for the State resources needed to carry out
12 the policy recommendations.

13 Section 25. Interstate clearinghouse. The Illinois
14 Environmental Protection Agency and Illinois Department of
15 Public Health are authorized to participate in an interstate
16 clearinghouse to promote safer chemicals in consumer products
17 in cooperation with other states and governmental entities. The
18 Agency and Department may cooperate with the interstate
19 clearinghouse to organize and manage available data on
20 chemicals, including information on uses, hazards,
21 environmental concerns, safer alternatives, and model policies
22 and programs; to provide technical assistance to businesses,
23 consumers, and policy makers related to safer chemicals; and to
24 undertake other activities in support of State programs to
25 promote safer chemicals.

1 Section 30. Implementation and exemption.

2 (a) A manufacturer of products that are restricted under
3 this Act must notify persons that sell the manufacturer's
4 products in this State about the provisions of this Act no less
5 than 90 days before the effective date of the restrictions. A
6 manufacturer that sells or distributes a product prohibited
7 from sale or distribution under this Act shall recall the
8 product and reimburse the retailer or any other purchaser for
9 the product.

10 (b) A retailer who unknowingly sells a product that is
11 restricted from sale under this Act is not liable under this
12 Act.

13 Section 35. Enforcement and penalties.

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

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

21 (c) The Attorney General may conduct any investigation
22 deemed necessary regarding possible violations of this Act
23 including, without limitation, the issuance of subpoenas to:
24 (i) require the filing of a statement or report or answer

1 interrogatories in writing as to all information relevant to
2 the alleged violations; (ii) examine under oath any person who
3 possesses knowledge or information directly related to the
4 alleged violations; and (iii) examine any record, book,
5 document, account, or paper necessary to investigate the
6 alleged violation.

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

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

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

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

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

1 violates this Act.

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

10 (h) Relief that may be granted.

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

22 (2) A civil penalty imposed or a settlement or other
23 payment made pursuant to this Act shall be made payable to
24 the Attorney General's State Projects and Court Ordered
25 Distribution Fund, which is created as a special fund in
26 the State Treasury. Moneys in the Fund shall be used,

1 subject to appropriation, for the performance of any
2 function pertaining to the exercise of the duties of the
3 Attorney General including but not limited to enforcement
4 of any law of this State, product testing, and conducting
5 public education programs.

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

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

14 Section 90. The State Finance Act is amended by adding
15 Section 5.708 as follows:

16 (30 ILCS 105/5.708 new)

17 Sec. 5.708. The Attorney General's State Projects and Court
18 Ordered Distribution Fund."