

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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 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  
17 to supply human or environmental toxicity information before  
18 selling their products to the public. Consequently, the vast  
19 majority of chemicals used in consumer products have never had  
20 any federal or state government review to evaluate potential  
21 toxicity to the environment, infants, children, developing  
22 fetuses, or adults.

23 (d) To protect children's health, it is important to reduce

1 or eliminate exposures to certain chemicals that are present in  
2 children's products or that may be reasonably anticipated to  
3 result in children's exposure or be placed in the mouths of  
4 children.

5 Section 10. Definitions.

6 "Agency" means the Illinois Environmental Protection  
7 Agency.

8 "Manufacturer" means a person who manufactured a final  
9 product or whose brand name is affixed to a product. In the  
10 case of a product that was imported into the United States,  
11 "manufacturer" includes the importer or domestic distributor  
12 of the product if the person who manufactured or assembled the  
13 product or whose brand name is affixed to it does not have a  
14 presence in the United States.

15 "Metal can" means a single-walled container that is (i)  
16 manufactured from a metal substrate equal to or thinner than  
17 0.0149 inches, (ii) designed to hold or pack any food or  
18 beverage, and (iii) sealed by can ends manufactured from metal  
19 substrate that is equal to or thinner than 0.0149 inches.

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.

2 (a) Beginning July 1, 2010, no person shall sell, offer to  
3 sell, distribute, or offer to distribute any of the following:

4 (1) Any children's food container, including any baby  
5 bottle or sippy cup, that contains bisphenol A if that  
6 container (i) is designed, intended, or marketed to be  
7 filled with any food or beverage primarily for consumption  
8 by children 3 years of age or younger and (ii) is sold or  
9 distributed at retail without containing any liquid, food,  
10 or beverage.

11 (2) Any sports water bottle that contains bisphenol A.

12 (b) This Section does not apply to the sale, offer to sell,  
13 distribution, or offer to distribute metal cans.

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

1 promote safer chemicals.

2 Section 25. Implementation and exemption.

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

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

14 Section 30. Enforcement and penalties.

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

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

22 (c) The Attorney General may conduct any investigation  
23 deemed necessary regarding possible violations of this Act  
24 including, without limitation, the issuance of subpoenas to:

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

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

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

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

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

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

1 injunctive relief for any act, policy, or practice that  
2 violates this Act.

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

11 (h) Relief that may be granted.

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

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

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

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

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

15 Section 90. The State Finance Act is amended by adding  
16 Section 5.719 as follows:

17 (30 ILCS 105/5.719 new)

18 Sec. 5.719. The Attorney General's State Projects and Court  
19 Ordered Distribution Fund.