

# SB2170



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2170

Introduced 2/20/2009, by Sen. Dan Kotowski

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.719 new

Creates the Child-Safe Chemicals Act. Beginning July 1, 2010, prohibits the sale or distribution of products intended for a child under 3 years of age that are used to contain food or liquid if the product contains bisphenol A. Authorizes participation in an interstate clearinghouse. Requires certain notifications and imposes penalties. Provides for enforcement by the Attorney General.

LRB096 11388 JDS 21852 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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

13 "Person" means any individual, partnership,  
14 co-partnership, firm, company, limited liability company,  
15 corporation, association, joint stock company, trust, estate,  
16 political subdivision, state agency, or any other legal entity,  
17 or his, her, or its legal representative, agent, or assigns.

18 Section 15. Bisphenol A ban. Beginning July 1, 2010, no  
19 person shall sell, offer for sale, distribute, or offer to  
20 distribute any product intended for a child under 3 years of  
21 age that is used to contain food or liquid if the product  
22 contains bisphenol A.

23 Section 20. Interstate clearinghouse. The Illinois

1 Environmental Protection Agency and Illinois Department of  
2 Public Health are authorized to participate in an interstate  
3 clearinghouse to promote safer chemicals in consumer products  
4 in cooperation with other states and governmental entities. The  
5 Agency and Department may cooperate with the interstate  
6 clearinghouse to organize and manage available data on  
7 chemicals, including information on uses, hazards,  
8 environmental concerns, safer alternatives, and model policies  
9 and programs; to provide technical assistance to businesses,  
10 consumers, and policy makers related to safer chemicals; and to  
11 undertake other activities in support of State programs to  
12 promote safer chemicals.

13 Section 25. Implementation and exemption.

14 (a) A manufacturer of products restricted under this Act  
15 must notify persons that sell the manufacturer's products in  
16 this State about the provisions of this Act no less than 90  
17 days before the effective date of the restrictions. A  
18 manufacturer that sells or distributes a product prohibited  
19 from sale or distribution under this Act shall recall the  
20 product and reimburse the retailer or any other purchaser for  
21 the product.

22 (b) A retailer who unknowingly sells a product that is  
23 restricted from sale under this Act is not liable under this  
24 Act.

1 Section 30. Enforcement and penalties.

2 (a) The Attorney General is responsible for administering  
3 and ensuring compliance with this Act, including the  
4 development and adoption of any rules, if necessary, for the  
5 implementation and enforcement of this Act.

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

9 (c) The Attorney General may conduct any investigation  
10 deemed necessary regarding possible violations of this Act  
11 including, without limitation, the issuance of subpoenas to:  
12 (i) require the filing of a statement or report or answer  
13 interrogatories in writing as to all information relevant to  
14 the alleged violations; (ii) examine under oath any person who  
15 possesses knowledge or information directly related to the  
16 alleged violations; and (iii) examine any record, book,  
17 document, account, or paper necessary to investigate the  
18 alleged violation.

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

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

26 (2) by mailing by certified mail a duly executed copy

1           thereof to the person to be served at his or her last known  
2           abode or principal place of business within this State.

3           (e) In lieu of a civil action, the individual or entity  
4           alleged to have engaged in a pattern or practice deemed  
5           violative of this Act may enter into an Assurance of Voluntary  
6           Compliance with respect to the alleged pattern or practice  
7           violation.

8           (f) If the Attorney General determines that there is a  
9           reason to believe that a violation of the Act has occurred, the  
10          Attorney General may bring an action in the name of the People  
11          of the State to obtain temporary, preliminary, or permanent  
12          injunctive relief for any act, policy, or practice that  
13          violates this Act.

14          (g) If any person fails or refuses to file any statement or  
15          report, or obey any subpoena, issued pursuant to subsection (c)  
16          of this Section, the Attorney General may proceed to initiate a  
17          civil action pursuant to subsection (f) of this Section, or  
18          file a complaint in the circuit court for the granting of  
19          injunctive relief, including restraining the conduct that is  
20          alleged to violate this Act until the person files the  
21          statement or report, or obeys the subpoena.

22          (h) Relief that may be granted.

23                 (1) In any civil action brought pursuant to subsection  
24                 (f) of this Section, the Attorney General may obtain as a  
25                 remedy, equitable relief (including any permanent or  
26                 preliminary injunction, temporary restraining order, or

1 other order, including an order enjoining the defendant  
2 from engaging in a violation or ordering any action as may  
3 be appropriate). In addition, the Attorney General may  
4 request and the Court may impose a civil penalty in an  
5 amount not to exceed \$50,000 for each violation. For  
6 purposes of this subsection, each item and each standard  
7 constitutes a separate violation.

8 (2) A civil penalty imposed or a settlement or other  
9 payment made pursuant to this Act shall be made payable to  
10 the Attorney General's State Projects and Court Ordered  
11 Distribution Fund, which is created as a special fund in  
12 the State Treasury. Moneys in the Fund shall be used,  
13 subject to appropriation, for the performance of any  
14 function pertaining to the exercise of the duties of the  
15 Attorney General including but not limited to enforcement  
16 of any law of this State, product testing, and conducting  
17 public education programs.

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

21 (i) The penalties and injunctions provided in this Act are  
22 in addition to any penalties, injunctions, or other relief  
23 provided under any other law. Nothing in this Act shall bar a  
24 cause of action by the State for any other penalty, injunction,  
25 or relief provided by any other law.

1           Section 90. The State Finance Act is amended by adding  
2           Section 5.719 as follows:

3           (30 ILCS 105/5.719 new)

4           Sec. 5.719. The Attorney General's State Projects and Court  
5           Ordered Distribution Fund.