

Legislative Analysis



PRODUCTS CONTAINING BPA

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House Bill 4522 (Proposed Substitute H-1)
Sponsor: Rep. Mark Meadows
Committee: Great Lakes and Environment

Complete to 4-29-10

A SUMMARY OF HOUSE BILL 4522 (PROPOSED SUBSTITUTE H-1)

The bill would amend the Children's Product Safety Act to prohibit, *beginning October 1, 2012*, any person from manufacturing, selling, offering for sale, or distributing any of the following:

- A reusable food or beverage container containing bisphenol-A (BPA).
- Infant formula or baby food stored in a container that contains BPA.

However, a person could sell or distribute infant formula or baby food stored in a container that contained BPA until *October 1, 2013*, provided that the person had purchased or acquired the infant formula or baby food before *October 1, 2012*, in a quantity comparable to the quantity the person purchased or acquired during the same period of the previous year. (In this act, "person" means "an individual, partnership, corporation, association, governmental entity, or other legal entity.")

Penalty. A violation of the new provision regarding products containing BPA (Section 4) would be classified as a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$100 for each item manufactured, sold, offered for sale, or distributed in violation of Section 4, or both.

Definitions. "**Baby food**" would mean "a prepared solid food that is a soft paste or easily chewed, that is intended for consumption by children 2 years of age or younger, and that is commercially available."

"**Infant formula**" would mean "a milk-based or soy-based powder, concentrated liquid, or ready-to-feed liquid that is intended for infant consumption as a substitute for human breast milk and that is commercially available."

"**Reusable food or beverage container**" would mean "a receptacle for storing food or a beverage, including, but not limited to, a baby bottle, spill-proof cup, sports bottle, or thermos, but not including a container intended for disposal after initial use."

"**Department**" refers to the "**Department of Energy, Labor, and Economic Growth**" (DELEG), rather than the Department of Consumer and Industry Services.

[Note: In this act, "department" should probably mean the "Department of Human Services," (DHS), not DELEG, given that DHS is the state agency responsible for the licensing of child care facilities, and the DHS administers relevant provisions of the act in its rules. See, for example, R 400.1915. In the act, the term "department" is found in provisions that already exist in the act (not in the new provisions regarding products containing BPA that would be added by the bill). Those existing provisions concern children's products that the federal Consumer Products Safety Commission has recalled or warned about or that do not meet federal standards. For example, in the underlying act, the "department" must maintain a list of children's products that are considered unsafe within the meaning of the act, make this list available to the public and to persons who inspect child care facilities, and may revoke or fail to renew the license of a child care facility that does not comply with the act's requirements, including a requirement that the facility post the list of these unsafe products that the department has provided to it, and that the facility must not use any products that are on the "unsafe" list.

Executive Reorganization Order 2003-1, MCL 445.2011, changed all statutory references from the Department of Consumer and Industry Services to the Department of Labor and Economic Growth (now called the Department of Energy, Labor, and Economic Growth), except where inconsistent with that order. Part VII of that order, however, transferred duties with respect to child care organizations and institutions to the Family Independence Agency or FIA. Subsequently, Executive Reorganization Order 2004-4, MCL 400.226, changed the name of FIA to the Department of Human Services or DHS.

We note that the act also contains a reference to the FIA in Section 10(3) that may need to be revised or deleted.]

MCL 722.1075

FISCAL IMPACT:

The bill would have no substantive regulatory cost impact on the State or on local units of government. To the extent that the bill increased the number of misdemeanor convictions, it could increase local costs of jail incarceration or misdemeanor probation, both of which vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.