



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2950

Introduced 2/1/2012, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

New Act

Creates the Toxin-Free Toddler Act. Provides that, beginning January 1, 2013, no manufacturer or wholesaler may sell or offer for sale in this State a children's food or beverage container that contains bisphenol A (BPA). Provides that, beginning January 1, 2014, no retailer may sell or offer for sale in this State a children's food or beverage container that contains bisphenol A (BPA). Provides for enforcement by the Attorney General. Authorizes the imposition of a \$200 civil penalty for violations of the Act. Defines "child", "children's food or beverage container", "manufacturer", "retailer", and "wholesaler". Effective immediately.

LRB097 15454 JDS 60554 b

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 Toxin-Free Toddler Act.

6 Section 5. Definitions.

7 "Child" means any person who is less than 3 years of age.

8 "Children's food or beverage container" means an empty
9 bottle or cup to be filled with food or liquid that is designed
10 or intended by a manufacturer to be used by a child.

11 "Manufacturer" means any person who makes and places a
12 children's food or beverage container into the stream of
13 commerce.

14 "Retailer" means any person other than a manufacturer,
15 distributor, or wholesaler who sells at retail children's food
16 or beverage containers. "Sell at retail" has the same meaning
17 as provided under Section 1 of the Retailers' Occupation Tax
18 Act.

19 "Wholesaler" means any person, other than a manufacturer or
20 retailer, who sells or resells or otherwise places a children's
21 food or beverage container into the stream of commerce.

22 Section 10. Prohibit Bisphenol A in children's food or

1 beverage containers.

2 (a) Beginning January 1, 2013, no manufacturer or
3 wholesaler may sell or offer for sale in this State a
4 children's food or beverage container that contains bisphenol
5 A.

6 (b) Beginning January 1, 2014, no retailer may sell or
7 offer for sale in this State a children's food or beverage
8 container that contains bisphenol A.

9 (c) This Section does not apply to the sale of a used
10 children's food or beverage container.

11 Section 15. Enforcement.

12 (a) The Attorney General may bring an action in the name of
13 the People of the State of Illinois to enforce the provisions
14 of this Act in the circuit court of any county in which a
15 violation occurs.

16 (b) When (i) it appears to the Attorney General that a
17 manufacturer, wholesaler, or retailer has engaged in or is
18 engaging in any practice declared to be in violation of this
19 Act, or (ii) the Attorney General receives a written complaint
20 from a consumer of the commission of a practice declared to be
21 in violation of this Act, or (iii) the Attorney General
22 believes it to be in the public interest that an investigation
23 should be made to ascertain whether a person in fact has
24 engaged in or is engaging in any practice declared to be in
25 violation of this Act, the Attorney General may:

1 (1) Require that person to file, on terms that the
2 Attorney General prescribes, a statement or report in
3 writing under oath or otherwise, as to all information the
4 Attorney General considers necessary.

5 (2) Examine under oath any person in connection with
6 the conduct of any trade or commerce.

7 (3) Examine any merchandise or sample thereof, record,
8 book, document, account, or paper the Attorney General
9 considers necessary.

10 (4) Pursuant to an order of the circuit court, impound
11 any record, book, document, account, paper, or sample of a
12 children's food or beverage container, and retain it in the
13 Attorney General's possession until the completion of all
14 proceedings in connection with which it is produced.

15 (c) In the administration of this Act, the Attorney General
16 may accept an assurance of voluntary compliance with respect to
17 any practice deemed to be a violation of this Act from any
18 manufacturer, wholesaler, or retailer who has engaged in or is
19 engaging in that practice. Evidence of the violation of an
20 assurance of voluntary compliance shall be prima facie evidence
21 of a violation of this Act in any subsequent proceeding brought
22 by the Attorney General against the alleged violator with
23 regard to the specific violation or violations addressed in the
24 assurance of voluntary compliance.

25 (d) Whenever the Attorney General has reason to believe
26 that any manufacturer, wholesaler, or retailer has engaged in

1 or is engaging in any practice in violation of this Act and
2 that proceedings would be in the public interest, he or she may
3 bring an action in the name of the People of the State against
4 that manufacturer, wholesaler, or retailer to restrain by
5 preliminary or permanent injunction the use of that practice.

6 (e) Civil penalties paid under Section 20 shall be
7 deposited into the Attorney General Court Ordered and Voluntary
8 Compliance Payment Projects Fund. Moneys in the Fund shall be
9 used, subject to appropriation, for the performance of any
10 function pertaining to the exercise of the duties of the
11 Attorney General, including, but not limited to, enforcement of
12 any law of this State and conducting public education programs.
13 Any moneys in the Fund that are required by the court or by an
14 agreement to be used for a particular purpose must be used for
15 that purpose, however.

16 Section 20. Penalties. A manufacturer, retailer, or
17 wholesaler who violates this Act is subject to a civil penalty
18 in an amount not to exceed \$200 for each day that the violation
19 continues.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.