



Rep. Elaine Nekritz

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LRB096 11192 JDS 23890 a

1 AMENDMENT TO HOUSE BILL 2485

2 AMENDMENT NO. _____. Amend House Bill 2485 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 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

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 "Agency" means the Illinois Environmental Protection
14 Agency.

15 "Manufacturer" means a person who manufactured a final
16 product or whose brand name is affixed to a product. In the
17 case of a product that was imported into the United States,
18 "manufacturer" includes the importer or domestic distributor
19 of the product if the person who manufactured or assembled the
20 product or whose brand name is affixed to it does not have a
21 presence in the United States.

22 "Metal can" means a single-walled container that is (i)
23 manufactured from a metal substrate equal to or thinner than
24 0.0149 inches, (ii) designed to hold or pack any food or
25 beverage, and (iii) sealed by can ends manufactured from metal

1 substrate that is equal to or thinner than 0.0149 inches.

2 "Person" means any individual, partnership,
3 co-partnership, firm, company, limited liability company,
4 corporation, association, joint stock company, trust, estate,
5 political subdivision, state agency, or any other legal entity,
6 or his, her, or its legal representative, agent, or assigns.

7 Section 15. Bisphenol A ban.

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

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

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

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

20 Section 20. Interstate clearinghouse. The Illinois
21 Environmental Protection Agency and Illinois Department of
22 Public Health are authorized to participate in an interstate
23 clearinghouse to promote safer chemicals in consumer products
24 in cooperation with other states and governmental entities. The

1 Agency and Department may cooperate with the interstate
2 clearinghouse to organize and manage available data on
3 chemicals, including information on uses, hazards,
4 environmental concerns, safer alternatives, and model policies
5 and programs; to provide technical assistance to businesses,
6 consumers, and policy makers related to safer chemicals; and to
7 undertake other activities in support of State programs to
8 promote safer chemicals.

9 Section 25. Implementation and exemption.

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

18 (b) A retailer who unknowingly sells a product that is
19 restricted from sale under this Act is not liable under this
20 Act.

21 Section 30. Enforcement and penalties.

22 (a) The Attorney General is responsible for administering
23 and ensuring compliance with this Act, including the
24 development and adoption of any rules, if necessary, for the

1 implementation and enforcement of this Act.

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

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

8 (i) require the filing of a statement or report or answer
9 interrogatories in writing as to all information relevant to
10 the alleged violations; (ii) examine under oath any person who
11 possesses knowledge or information directly related to the
12 alleged violations; and (iii) examine any record, book,
13 document, account, or paper necessary to investigate the
14 alleged violation.

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

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

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

25 (e) In lieu of a civil action, the individual or entity
26 alleged to have engaged in a pattern or practice deemed

1 violative of this Act may enter into an Assurance of Voluntary
2 Compliance with respect to the alleged pattern or practice
3 violation.

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

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

18 (h) Relief that may be granted.

19 (1) In any civil action brought pursuant to subsection
20 (f) of this Section, the Attorney General may obtain as a
21 remedy, equitable relief (including any permanent or
22 preliminary injunction, temporary restraining order, or
23 other order, including an order enjoining the defendant
24 from engaging in a violation or ordering any action as may
25 be appropriate). In addition, the Attorney General may
26 request and the Court may impose a civil penalty in an

1 amount not to exceed \$50,000 for each violation. For
2 purposes of this subsection, each item and each standard
3 constitutes a separate violation.

4 (2) A civil penalty imposed or a settlement or other
5 payment made pursuant to this Act shall be made payable to
6 the Attorney General's State Projects and Court Ordered
7 Distribution Fund, which is created as a special fund in
8 the State Treasury. Moneys in the Fund shall be used,
9 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
12 of any law of this State, product testing, and conducting
13 public education programs.

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

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

22 Section 90. The State Finance Act is amended by adding
23 Section 5.719 as follows:

24 (30 ILCS 105/5.719 new)

1 Sec. 5.719. The Attorney General's State Projects and Court
2 Ordered Distribution Fund."