

By: Senator(s) Jackson (32nd)

To: Public Health and Welfare

SENATE BILL NO. 2113

1 AN ACT TO REGULATE THE USE OF CERTAIN CHEMICALS IN FOOD
2 PRODUCTS AND FOOD PACKAGING; TO RESTRICT THE USE OF BISPHENOL A
3 (BPA) IN FOOD PACKAGING; TO REQUIRE LABELING OF PRODUCTS WITH
4 BISPHENOL A; TO PROVIDE APPROPRIATE INFORMATION TO CONSUMERS ABOUT
5 POTENTIALLY HARMFUL TOXICANTS IN FOODS; TO PROVIDE A CIVIL PENALTY
6 FOR VIOLATIONS; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** (1) The Legislature finds that:

9 (a) In the course of their daily lives, people are
10 exposed to and ingest thousands of chemicals currently added to
11 foods and food packaging. Many of these chemicals have not been
12 specifically reviewed, tested and approved by the United States
13 Food and Drug Administration;

14 (b) While the State of Mississippi regulates the
15 exposure rate of many toxic, carcinogenic, or otherwise harmful
16 chemicals that are also present in food additives and food
17 packaging, people may be exposed to these same chemicals by direct
18 ingestion of food additives and via food packaging at
19 significantly higher rates than through environmental exposure
20 alone;



21 (c) Recent scientific studies have detected bisphenol A
22 (BPA), listed as a chemical of high concern to children by the
23 State Department of Health, in the vast majority of American
24 children and adults;

25 (d) Many phthalates are hormone-disrupting chemicals
26 that can cause a variety of negative health impacts. The United
27 States National Toxicology Program concluded that five (5)
28 commonly used phthalates are reproductive or developmental
29 toxicants and, in 2008, Congress directed the consumer product
30 safety commission to ban or provisionally ban the use of six
31 phthalates in children's toys. In addition, in 2002 the United
32 States Food and Drug Administration issued a safety alert
33 recommending that health care providers limit the exposure of
34 newborn males to the phthalate DEHP in medical procedures; and

35 (e) Exposure to BPA, phthalates and other chemicals
36 that have not been tested for ingestion exposure risks pose a
37 public health threat similar to, or even greater than, the risks
38 posed by exposures to those chemicals from environmental sources.

39 (2) It is therefore the intent of the Legislature to reduce
40 the ingestion of phthalates, BPA and other chemicals by children
41 and adults, and to provide appropriate information about the
42 presence of potentially harmful toxicants in food, food packaging,
43 and food containers.

44 **SECTION 2.** (1) Beginning July 1, 2019, no manufacturer,
45 wholesaler, or retailer may manufacture, knowingly sell, offer for



46 sale, distribute for sale, or distribute for use in this state,
47 any bottle, cup or other container, except a metal can, that
48 contains bisphenol A if that container is designed or intended to
49 be filled with any liquid, food or beverage primarily for
50 consumption from that container by children three (3) years of age
51 or younger and is sold or distributed at retail without containing
52 any liquid, food or beverage.

53 (2) Beginning July 1, 2020, no manufacturer, wholesaler or
54 retailer may manufacture, knowingly sell, offer for sale,
55 distribute for sale or distribute for use in this state, sports
56 bottles that contain bisphenol A.

57 (3) No manufacturer, wholesaler or retailer may manufacture,
58 knowingly sell, offer for sale, distribute for sale, or distribute
59 for use in this state, any bottle, cup or reusable food and
60 beverage container that contains phthalates individually or in
61 combination at more than ten one-hundredths percent (0.10%) by
62 weight or one thousand (1,000) parts per million or bisphenol A.

63 **SECTION 3.** (1) No person or entity may manufacture, sell or
64 distribute in commerce in this state any food intended for or
65 marketed to youth that contains or is stored in food packaging
66 that contains phthalates individually or in combination at more
67 than ten one-hundredths percent (0.10%) by weight or one thousand
68 (1,000) parts per million or bisphenol A.

69 (2) Manufacturers may not replace bisphenol A or phthalates
70 with the chemicals listed in subsection (3) of this section in



71 order to comply with the requirements of subsection (1) of this
72 section.

73 (3) The Department of Environmental Quality shall compile a
74 list of prohibited alternatives to bisphenol A or phthalates
75 composed of the following chemicals:

76 (a) (i) Chemicals rated by the United States
77 Environmental Protection Agency as carcinogenic to humans, likely
78 to be carcinogenic to humans, or suggestive evidence of
79 carcinogenic potential as of January 1, 2015, under the 2005
80 guidelines for carcinogen risk assessment published pursuant to 42
81 USC Section 7412(o) (7).

82 (ii) Chemicals rated by the United States
83 Environmental Protection Agency as a human carcinogen, probable
84 human carcinogen, or possible human carcinogen under the 1986
85 guidelines for carcinogen risk assessment published in the *Federal*
86 *Register* on September 24, 1986 (51 CFR Section 33992).

87 (b) Reproductive toxicants that the United States
88 Environmental Protection Agency has identified as of January 1,
89 2015, as causing birth defects, reproductive harm, or
90 developmental harm under the guidelines for reproductive toxicity
91 risk assessment published in the *Federal Register* on October 31,
92 1996, (61 CFR Section 56274) or the guidelines for developmental
93 toxicity risk assessment published in the *Federal Register* on
94 December 5, 1991 (56 CFR Section 63798).



95 (c) A chemical identified by the European Commission on
96 the Environment as of January 1, 2015, as a Category I substance
97 for which there is at least one (1) study providing evidence of
98 endocrine disruption in an intact organism in the report dated
99 June 21, 2000, entitled "towards the establishment of a priority
100 list of substances for further evaluation of their role in
101 endocrine disruption: Preparation of a candidate list of
102 substances as a basis for priority setting."

103 (d) A chemical identified by the department as a high
104 priority chemical of high concern for children.

105 (e) A chemical identified by the department for
106 inclusion on the list pursuant to Section 6 of this act.

107 **SECTION 4.** (1) All food packaging that contains bisphenol A
108 must display a label on the front of the package stating "This
109 package contains bisphenol A (a chemical that may harm fetal
110 development) which can leach into the food."

111 (2) All food packaging that contains phthalates individually
112 or in combination at more than ten one-hundredths percent (0.10%)
113 by weight or one thousand (1,000) parts per million must display a
114 label on the front of the package stating "This package contains
115 phthalates (a type of chemical that may harm fetal development)
116 that can leach into the food."

117 (3) All food packaging containing the following chemicals
118 must be labeled on the packaging or at the point of display for
119 retail sale with a notice that the food packaging contains a



120 chemical that, if ingested at levels that may be present in the
121 food, is a potential or known human carcinogen, reproductive
122 toxin, mutagen or hazardous substance that as of January 1, 2015,
123 the United States Environmental Protection Agency has identified
124 under 42 USC Chapter 103, the 2005 guidelines for carcinogen risk
125 assessment published pursuant to 42 USC Section 7412(o)(7), the
126 guidelines for reproductive toxicity risk assessment published in
127 the *Federal Register* on October 31, 1996, (61 CFR Section 56274),
128 or the guidelines for developmental toxicity risk assessment
129 published in the *Federal Register* on December 5, 1991, (56 CFR
130 Section 63798) as a human carcinogen, reproductive toxicant,
131 mutagen, or hazardous substance if ingested at levels that may be
132 present in the food.

133 **SECTION 5.** All food containing the following chemicals must
134 be labeled on the packaging or at the point of display for retail
135 sale with a notice that the food contains a potential or known
136 human carcinogen, reproductive toxin, mutagen or hazardous
137 substance:

138 (a) A food additive that has not been tested and shown
139 to be safe for human consumption by the United States food and
140 drug administration pursuant to 21 USC Chapter 9 as of January 1,
141 2015;

142 (b) A chemical that as of January 1, 2015, the United
143 States Environmental Protection Agency has identified under 42 USC
144 Chapter 103, the 2005 Guidelines for Carcinogen Risk Assessment



145 published pursuant to 42 USC Section 7412(o)(7), the Guidelines
146 for Reproductive Toxicity Risk Assessment published in the *Federal*
147 *Register* on October 31, 1996, (61 CFR Section 56274), or the
148 Guidelines for Developmental Toxicity Risk Assessment published in
149 the *Federal Register* on December 5, 1991, (56 CFR Section 63798)
150 as a human carcinogen, reproductive toxicant, mutagen, or
151 hazardous substance if ingested at levels that may be present in
152 the food.

153 **SECTION 6.** The Department of Environmental Quality may adopt
154 rules as necessary for the purpose of implementing, administering
155 and enforcing this act. The department may amend the rules from
156 time to time to maintain consistency with the lists of chemicals
157 that: (1) the State of Mississippi identifies as known to cause
158 cancer or reproductive toxicity; (2) the United States
159 Environmental Protection Agency identifies as a human carcinogen,
160 reproductive toxicant, mutagen or hazardous substance; or (3) the
161 European commission identifies as a Category One endocrine
162 disruptor.

163 **SECTION 7.** This act shall take effect and be in force from
164 and after July 1, 2018.

