

Testimony of Michael Belliveau
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in SUPPORT of LD 1181, An Act to Further Strengthen the Protection of Pregnant Women
and Children from Toxic Chemicals

before the Joint Standing Committee on Environment and Natural Resources
11 April 2013

Senator Boyle, Representative Welsh, Ranking Member Ayotte, Members of the Committee, thank you for this opportunity to support LD 1181 to take further action to protect pregnant women and children from unnecessary toxic chemicals in everyday products.

LD 1181 simply answers the question “What’s next?” under Maine’s Kid Safe Products Act. If you don’t answer that question, no more actions will likely be taken. Among the provisions of LD 1181, three stand out as the most important and logical next steps:

- Expands reporting by manufacturers of which chemicals are in their products, from 2 Priority Chemicals to 49 Chemicals of High Concern, following the lead of other states;
- Closes a loophole long advocated by the chemical industry coalition by clearly defining “contaminant” to include dust and make-up water, but *not* chemicals in plastics; and
- Repeals the food packaging exemption, with its arbitrary age limit, so that at some future date the Board and Legislature could decide to restrict BPA in canned foods.

Without LD 1181, no more action is likely under Maine’s Kid Safe Products Act

The attached fact sheet shows what’s been accomplished since the law passed five years ago, and how no further actions are pending or proposed (except for pending legislative approval of LD 902 to authorize final adoption of the rule to prohibit sale and infant formula and baby food packaging containing BPA).

The 2011 legislation (LD 1129) has been fully and successfully implemented

The Department of Environmental Protection has effectively completed all of the mandates from the 2011 legislative compromise (LD 1129) and has met every deadline on time:

- The list of Chemicals of Concern was reduced and revised in December 2011
- The new list of 49 Chemicals of High Concern was adopted in June 2012
- The Chap. 880 rule was amended to implement LD 1129 changes in July 2012

No more regulatory action is required by the statute or has been proposed by the Department. All of the authority to act under the law remains discretionary.

LD 1181 proposes logical next steps to implement the Kid Safe Products Act

What LD 1181 Would Do	Why Policy Change is Needed
<p>1. “Contaminant.” Clearly defines “contaminant,” without creating a loophole for chemicals from plastics. (Sec. 1)</p>	<p>Industry has advocated a “contaminant” loophole for two years, hoping to exempt BPA, vinyl chloride and styrene in plastics</p>
<p>2. Authoritative Agency. Adds “state” authoritative agencies to definition of “credible scientific evidence.” (Sec. 2)</p>	<p>This corrects a gap that prevented naming of additional Chemicals of High Concern based on science leadership of other states</p>
<p>3. Priority Chemicals. Requires DEP to designate two priority chemicals by January 1, 2014 and annually thereafter. (Sec. 3)</p>	<p>Only 2 priority chemicals have been designated in 5 years, and none since 2010. Only priority chemicals can be regulated.</p>
<p>4. Chemical Use Reporting. Requires manufacturers to disclose which Chemicals of High Concern are in products. (Sec. 4) (1)</p>	<p>Current law requires reporting for 2 priority chemicals. Washington state requires reporting for 66 chemicals of high concern.</p>
<p>5. Alternatives Assessments. Requires manufacturers to evaluate safer alternatives to priority chemicals. (Sec. 4) (2)</p>	<p>Under current law, this duty is discretionary rather than mandatory. This information is needed to justify any future restrictions.</p>
<p>6. Labeling. Allows the Board to require labeling of products with priority chemicals if safer alternatives aren’t available. (Sec. 5)</p>	<p>Under current law, the Board can only prohibit product sales, if alternatives are available. The bill adds another tool.</p>
<p>6. Presumptions. Requires the Board to consider presumptions in law regarding the availability of safer alternatives. (Sec. 6)</p>	<p>Under current law, this duty is discretionary rather than mandatory. In the BPA rule, the presumptions should have been reviewed.</p>
<p>7. Food Packaging. Repeals exemption to allow restrictions on chemicals in packaging for older kids and pregnant women. (Sec. 7)</p>	<p>The current exemption of packaging except for kids under age 3 is not science-based, and prevents action on BPA in canned foods.</p>
<p>8. Current Rules. Requires next steps on the two existing priority chemicals – evaluate alternatives for NPEs, and report on chemical use for BPA in cans. (Sec. 8)</p>	<p>No further action will be taken on Maine’s priority chemicals unless policy direction is provided by the Legislature. These are the logical next steps on NPEs and BPA.</p>

We urge your strong support for taking further action under the law. Thank you.