

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6335



Introduced by **Rep. ANGELO MARCOS BARBA**
2nd District, Ilocos Norte

EXPLANATORY NOTE

Hazardous chemicals in children's products are of significant concern. Last year, the Food and Drug Administration (FDA) issued a circular banning Bisphenol A (BPA) from infant feeding bottles and sippy cups as child care article products because it affects the development of the nervous, immune and reproductive system. It is also considered as an endocrine disruptor which can alter the hormonal system of the human body.¹ In 2018, the FDA found unacceptable levels of lead, cadmium, and mercury in some school supply products, such as pencils, crayons, and fabric paint pens².

According to the US Consumer Product Safety Commission (CPSC), lead exposure in children may have long-lasting or permanent consequences, such as neurological damage, delayed mental and physical development, attention and learning deficiencies, impairment of cognitive functions of the brain, and hearing problems.³

The World Health Organization and the Department of Health have time and again warned the public of the effects of hazardous chemicals in children's products. The Department of Trade and Industry, on the other hand, has reminded the public to check the labels of children's products before purchasing.

While the government has responded through regulatory measures to increase restrictions on the use of certain toxic chemicals and demanded accountability from importers, manufacturers, distributors, and sellers, it is still not enough. It is high time stricter measures are put in place by outrightly banning the importation, manufacture, distribution, and sale of children's products containing hazardous chemicals in the Philippines and providing stiffer penalties for the violation thereof.

¹ FDA Circular No. 2019-04

² Press Release (June 6, 2019), DOH WARNS PARENTS VS. BUYING TOXIC SCHOOL SUPPLIES. Department of Health. Retrieved from <https://www.doh.gov.ph/node/17433> on February 18, 2020.

³ Press Release (June 6, 2019), DOH WARNS PARENTS VS. BUYING TOXIC SCHOOL SUPPLIES. Department of Health. Retrieved from <https://www.doh.gov.ph/node/17433> on February 18, 2020.

This measure will therefore enable the State to further protect and promote the physical, mental, and social well-being of our children.

In view of the foregoing, immediate passage of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'Angelo Marcos Barba', written in a cursive style.

ANGELO MARCOS BARBA

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Introduced by **Rep. ANGELO MARCOS BARBA**
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**AN ACT PROHIBITING THE IMPORTATION, MANUFACTURE,
DISTRIBUTION AND SALE OF CHILDREN'S PRODUCTS
CONTAINING HAZARDOUS CHEMICALS, AND PROVIDING
PENALTIES FOR VIOLATION THEREOF**

*Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:*

SECTION 1. Short Title. – This Act shall be known as the “Safe and
Non-Hazardous Children’s Products Act”.

SECTION 2. Declaration of Policy. – It is hereby declared the policy of
the State to protect and promote the physical, mental, and social well-being of
children. Toward this end, the State shall prohibit the importation,
manufacture, distribution and sale of children’s products containing
hazardous chemicals.

SECTION 3. Definition of Terms. – As used in this Act:

- a. *Children* – refer to persons under eighteen (18) years of age or those
over but are unable to fully take care of themselves or protect
themselves from abuse, neglect, cruelty, exploitation or discrimination
because of physical or mental disability or condition;
- b. *Children’s products* – refer to any product or material, whether or not
likely to be put by children inside their mouths. These include
children’s toys, educational kits, school supplies and childcare articles
defined under Republic Act No. 9711 of the Food and Drug
Administration Act of 2009; non-conventional toys such as electronic
gadgets, mobile phones tables and pocket game consoles; mechanized
or electronic toys such as the hover board; furnishings and fixtures,
like cribs, tables, chairs, shelves, walkers or strollers, decorative items
for children’s use; indoor and outdoor playground equipment;
children’s books, reference materials and children’s accessories;
- c. *Distribution or Sale* – refers to an act made by a manufacturer or
seller, or the respective representative or agent to make available
consumer products, services or credit to consumers under a consumer

sale transaction. It shall not include sampling or any other form of distribution which are not for sale;

- d. *Distributor* – refers to any entity to which the children's product is delivered or sold for purposes of distribution in commerce or any entity which repackages children's products under a different trade name or trademark with permission from the original legal distributor: *Provided, That* such term does not include a manufacturer or retailer of such product;
- e. *Hazardous chemical* – refers to any substance or mixture of substances which is a physical or health hazard such as toxic agent, corrosive substance, an irritant, a strong sensitizer, flammable or combustible substances, any substance or chemical that can generate pressure through decomposition, heat or other means; or agents which act on the hematopoietic system, or, which damage the lungs, skin, eyes, or mucous membranes, or cause any substantial injury or illness during or as a proximate result of any customary or reasonably foreseeable ingestion by children. It also includes substances which have been determined to be in one or more of the following categories of the United Nations Globally Harmonized System (GHS) for classification and labeling of chemicals:
 - 1. Flammable liquids and solids: Category 1
 - 2. Explosives: Category 1.1
 - 3. Acute toxicity (oral, dermal, inhalation): Category 1
 - 4. Eye irritation/corrosivity: Category 1
 - 5. Dermal irritation/corrosivity: Category 1
 - 6. Mutagenicity: Category 1 A
 - 7. Carcinogenicity: Category 1 A
 - 8. Reproductive toxicity: Category 1 A
 - 9. Acute/chronic aquatic toxicity: Category 1 A
- f. *Importation* – refers to the entry of a children's product into the Philippines, through seaports or airports of entry, whether already properly cleared through or still remaining under customs control, which is intended for direct consumption, merchandising, warehousing or for further processing;
- g. *Manufacturer* – refers to any establishment that assembles or processes children's products: *Provided, That* if such products are manufactured, assembled or processed for another establishment that attaches its own brand name to the products, the latter shall be deemed the manufacturer. In case of imported products under this Act, the manufacturer, manufacturer's designated representative or, in the absence of one of those parties, the importer shall be deemed the manufacturer; and

SECTION 4. Scope. – This Act shall apply to the importation, manufacture, distribution or sale of children's products containing hazardous

chemicals as defined in Section 3 (b) hereof that are imported, manufactured, distributed or sold in the Philippines.

SECTION 5. *List of Hazardous Chemicals.* – Within three (3) months from the effectivity of this Act, the FDA, in coordination with the Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR), shall prepare a list of hazardous chemicals which are banned or prohibited from being used in the manufacture, production, and preparation of children's products. Maximum levels and limits and reference values for certain chemicals used for this purpose shall also be specifically and clearly identified.

Hazardous chemicals deemed most harmful to children and commonly used in the manufacture and production of children's products shall include the following:

- a. Toxic Metals
 - 1. Antimony
 - 2. Arsenic
 - 3. Cadmium
 - 4. Chromium
 - 5. Cobalt
 - 6. Lead
 - 7. Mercury
 - 8. Nickel
- b. Phthalates – when used in the manufacture and production of products covered under this Act, include:
 - 1. Di (2-Ethylhexyl) Phthalate (DEHP)
 - 2. Dibutyl Phthalate (DBP)
 - 3. Benzyl Butyl Phthalate (BBP)
 - 4. Diisononyl Phthalate (DINP)
 - 5. Diisodecyl Phthalate (DIDP)
 - 6. Di-N-Octyl Phthalate (DNOP)
- c. Bisphenol-A (BPA)

The list of additional hazardous chemicals shall be reviewed and updated at least every two (2) years, or as soon as new chemicals or substances are uncovered to be injurious, dangerous or unsafe to children's health.

SECTION 6. *Prohibited Acts.* – The following acts are prohibited:

- a. Importation, manufacture, distribution and sale of children's products containing more than the allowable level of substances listed in the preceding section;
- b. Intentional misrepresentation or concealment of significant data or information about children's products sought for certification;

- c. Importation, manufacture, distribution, sale, labeling or operation without license or registration;
- d. Non-compliance with the standards and requirements of the DOH on the importation, manufacture, distribution or sale of children's products; and
- e. Refusal to allow required inspections as determined by the DOH.

SECTION 7. Penalties. – Any person who shall commit any of the prohibited acts under Section 6 shall, upon conviction, suffer the penalty of imprisonment ranging from one (1) year but not more than ten (10) years or a fine of not less than Fifty thousand pesos (PhP50,000.00) but not more than Five hundred thousand pesos (PhP500,000.00) or both at the discretion of the court and in accordance with Section 11 of the Food and Drug Administration (FDA) Act of 2009: *Provided, That* if the offender is a manufacturer, importer or distributor of any product covered under this Act, the penalty of at least five (5) years imprisonment but not more than Five million pesos (PhP5,000,000.00) shall be imposed: *Provided further, That* an additional fine of one percent (1%) of the economic value/cost of the violative product or violation, or One thousand pesos (PhP1,000.00), whichever is higher, shall be imposed for each day of continuing violation after reasonable notice of such violation.

Should the offense be committed by a juridical person, the Chairperson of the Board of Directors, the president, general manager or the partners, and/or persons directly responsible therefore shall be penalized.

Should the offense be committed by a foreign national, the person shall, in addition to the penalties prescribed, be deported without further proceedings after service of sentence.

SECTION 8. Separability Clause. – If, for any reason, any section or provision of this Act shall be deemed unconstitutional or invalid, the other sections or provisions hereof shall not be affected and shall remain in force and effect.

SECTION 9. Repealing Clause. – All laws, decrees, executive orders, memorandum circulars inconsistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

SECTION 10. Effectivity. – This act shall take effect fifteen (15) days after its publication in the Official Gazette or a newspaper of general circulation.

Approved,