

SUBSTITUTE
ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life, health, safety and the welfare of its citizens; and

WHEREAS, the children of Chicago are our City's future; and

WHEREAS, it is the charge of this municipal, legislative body to protect our most valuable resource, our children, the legacy of our City; and

WHEREAS, human fetuses, infants and developing children are acutely sensitive to hormonal and chemical exposures; and

WHEREAS, Bisphenol A (commonly known as BPA) is a chemical that has been linked to several medical problems when tested on laboratory animals, including neurological disorders, breast and prostate cancer; and

WHEREAS, according to a recent article in the *Milwaukee Journal Sentinel*, Bisphenol A was developed as a synthetic estrogen in 1891 and became widely used when scientists discovered that it could be used to make polycarbonate plastic in the 1950's; and

WHEREAS, Bisphenol A is a high-volume, industrial chemical used to make resins and polycarbonate plastics, including baby bottles and the linings of metal food and baby formula cans, from which it is known to leach and result in human exposure; and

WHEREAS, Bisphenol A has been detected in human breast milk, serum, saliva, urine, amniotic fluid and fetal cord blood; the Centers for Disease Control and Prevention has detected Bisphenol A in the bodies of over 90 percent of children and adults tested in the United States; and

WHEREAS, there are over one-hundred published studies in which low doses of Bisphenol A were administered to animals, approximately 85 percent of which have reported significant adverse effects, including permanent changes in the prostate, breast, mammary glands, body size, brain structure and chemistry; and

WHEREAS, these studies link Bisphenol A to increased incidences of human diseases and disorders including genital abnormalities in male babies, early onset puberty in girls, declining semen quality in men, prostate and breast cancer, type II diabetes, obesity and neurobehavioral problems such as Attention Deficit Hyper Activity Disorder; and

WHEREAS, the National Toxicology Program (NTP) recently released a draft report on Bisphenol A, in which it claims to have “some concern for neural and behavioral effects in fetuses, infants, and children at current exposures;” and

WHEREAS, the NTP also expresses some concern for “Bisphenol A exposure in these populations based on effects in the prostate gland, mammary gland and an earlier age for puberty in females;” and

WHEREAS, the draft report by NTP issued also states, “the possibility that Bisphenol A may alter human development cannot be dismissed;” and

WHEREAS, on April 18, 2008, Canada classified Bisphenol A as a toxin and is currently establishing regulations to prohibit the use of the chemical in baby bottles; and

WHEREAS, several retailers, including Toys R’ Us, Wal-Mart and Nalgene, recently pledged to eliminate the use of Bisphenol A in their products; and

WHEREAS, United States Senators Charles Schumer and Diane Feinstein introduced Senate Bill 593, the “Ban Poisonous Additives Act of 2009,” which seeks to ban any detectable amount of Bisphenol A from being used in food and beverage containers; and

WHEREAS, on February 11, 2009, this municipal legislative body passed a resolution urging the United States Food and Drug Administration to expedite its current review of the safety of Bisphenol A in products that contact food and take appropriate action based on its findings; and

WHEREAS, the FDA has failed to take the appropriate action; and

WHEREAS, now is the time for the City Council of the City of Chicago to enact legislation in order to safeguard our children from Bisphenol A; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 7-28 of the Municipal Code of Chicago is hereby amended by adding a new Section 7-28-637, as follows:

(a) Definitions.

For purposes of this section:

“Bisphenol A” shall mean the chemical produced in large quantities for use primarily in the production of polycarbonate plastic and epoxy resins with the chemical structure of $C_{15}H_{16}O_2$.

“Container” shall mean any empty bottle or cup that is specifically designed to be filled with food or liquid to be used primarily by a child under the age of three (3).

(b) Limitations on Bisphenol A content.

It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale, give or furnish any container that is composed of Bisphenol A that is sold or distributed without containing any liquid, food, or beverage; and

(c) Notice – required.

Any retailer shall post a sign in the store that clearly and conspicuously notifies customers that containers offered for sale in the store are not composed of Bisphenol A. The department of business affairs and consumer protection shall promulgate rules and regulations in order to enforce this subsection.

(d) Violation.

Any person violating any of the provisions of this section shall be fined not less than \$100.00 nor more than \$300.00 for the first offense, and not less than \$300.00 nor more than \$500.00 for the second and each subsequent offense. Each day that a violation continues shall constitute a separate and distinct offense. In addition to such fines, the permit, license or certificate of operation of such person may be suspended or revoked in accordance with the provisions of this Code.

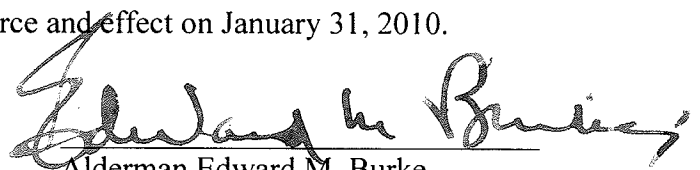
(e) Enforcement.

The department of business affairs and consumer protection shall enforce this section. The department is also authorized to adopt rules and regulations for the proper administration and enforcement of the provisions of this section. The department of environment and the department of public health also have the authority to enforce this section.

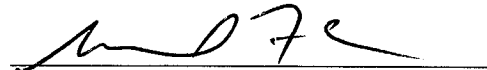
(f) Severability.

If any provision, clause, sentence, paragraph, section or part of this chapter or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof already involved in the controversy in which such judgment has been rendered and to the person and circumstances affected thereby.

SECTION 3. This ordinance shall be in full force and effect on January 31, 2010.



Alderman Edward M. Burke
14th Ward



Alderman Manuel Flores
1st Ward



Alderman Eugene C. Schuler
47th Ward



Alderman Ariel E. Reboyras
30th Ward

Document No. S02009- 2417

PASSED by the City Council of the City of
Chicago and deposited in the office of the
City Clerk of said City.

MAY 13 2009

Miguel del Valle
City Clerk City of Chicago