

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: Senate Bill 573 (First Edition)

SHORT TITLE: Restrict Products Containing BPA.

SPONSOR(S): Senators Mansfield and Robinson

FISCAL IMPACT					
	Yes ( )	No ( )	No Estimate Available (X)		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES	N/A	0	0	0	0
EXPENDITURES	N/A	0	0	0	0
POSITIONS (cumulative):	0				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Environment and Natural Resources					
<b>EFFECTIVE DATE:</b> January 1, 2013					

**BILL SUMMARY:**

Senate Bill 573 enacts a new Article 19C in G.S. 130A to prohibit the manufacture, sale or distribution of reusable food or beverage container products containing bisphenol A (BPA). The bill requires a manufacturer to comply with the Article by substituting another chemical to use the least toxic alternative. Manufacturers are prohibited from replacing bisphenol A with (1) specified carcinogens or substances listed as known or likely carcinogens, or suggestive of being carcinogens, or (2) any substance identified by the EPA as a reproductive toxicant causing birth defects, reproductive harm, or developmental harm. The bill further allows the Commission for Public Health to adopt rules and allows the Secretary of the Department of Environment and Natural Resources to impose an administrative penalty up to \$5,000 for a first offense or \$10,000 for any additional violations in a 12-month period, on a person who knowingly violates the Article or rules adopted under the Article. Effective January 1, 2013.

(Source: Bill Digest 4/12/2011)

## **BACKGROUND:**

BPA is an industrial chemical used to make a hard, clear plastic known as polycarbonate, which has been commonly used since the 1960s in the manufacture of many consumer products, including reusable water bottles, baby bottles, and some epoxy resins used to line metal-based food and beverage cans. In January 2010, the U.S. Food and Drug Administration (FDA) released findings stating concerns about the effects of BPA on the brain, behavior, and prostate gland in fetuses, infants, and young children. Although the FDA has primary responsibility for regulating BPA nationwide, it has not yet restricted its use in consumer products.

According to the National Conference of State Legislatures, many state legislatures have taken up this issue: in 2010, 18 states considered a total of 59 measures to curtail the use of BPA in those states. Seven states—Maryland, Connecticut, Minnesota, New York, Vermont, Washington, and Wisconsin—have enacted BPA restrictions and/or issued public health advisories regarding BPAs since 2009.

## **ASSUMPTIONS AND METHODOLOGY:**

### Expenditures

Senate Bill 573 prohibits the manufacture, sale or distribution of reusable food or beverage container products containing bisphenol A (BPA) and requires manufacturers to substitute the least toxic alternative when substituting other chemicals. The Department of Environment and Natural Resources (Department) has indicated that this bill will not increase its current workload and therefore will have no fiscal impact on its operations.

### Revenues

The bill identifies the Commission for Public Health as the entity that would adopt rules to require the Department or another State agency to administer enforcement and impose penalties on violators. However, the bill does not direct the Department to enforce these penalties, however, and the Department does not currently regulate or monitor the manufacture of products which may contain BPA. Based on these factors, the Department is unable to estimate how much revenue, if any, would be generated by the penalties in Senate Bill 573.

Many manufacturers and retailers are already phasing out the production and sale of products that contain BPA. As a result, violations as outlined in Senate Bill 573 are likely to be minimal, and therefore revenue realized from the bill's penalties will also be minimal. Other states whose legislatures have passed similar legislation containing similar penalty provisions have estimated that little to no revenue would be realized. While it is not possible at this time for Fiscal Research to estimate the revenue that could be generated by the penalties specified in SB 573, the fiscal impact of this revenue is expected to be minimal.

**SOURCES OF DATA:** Department of Environment and Natural Resources; Washington State Legislative Evaluation & Accountability Program Committee; Maryland General Assembly Office of Policy Analysis; National Conference of State Legislatures; U.S. Food and Drug Administration

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** May 5, 2011



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