

As Introduced

**129th General Assembly
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S. B. No. 361

Senator Tavares

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A B I L L

To amend section 3715.52 of the Revised Code to 1
prohibit the sale or manufacture of certain 2
products containing bisphenol-A. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3715.52 of the Revised Code be 4
amended to read as follows: 5

Sec. 3715.52. (A) The following acts and causing them are 6
prohibited: 7

(1) The manufacture, sale, or delivery, holding or offering 8
for sale of any food, drug, device, or cosmetic that is 9
adulterated or misbranded; 10

(2) The adulteration or misbranding of any food, drug, 11
device, or cosmetic; 12

(3) The receipt in commerce of any food, drug, device, or 13
cosmetic that is adulterated or misbranded, and the delivery or 14
proffered delivery thereof for pay or otherwise; 15

(4) The sale, delivery for sale, holding for sale, or 16
offering for sale of any article in violation of section 3715.61 17
or 3715.65 of the Revised Code; 18

(5) The dissemination of any false advertisement; 19

(6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 3715.70 of the Revised Code; 20
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(7) The giving of a guaranty or undertaking that is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom the person received in good faith the food, drug, device, or cosmetic; 23
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(8) The removal or disposal of a detained or embargoed article in violation of section 3715.55 or 3715.551 of the Revised Code; 28
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(9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being misbranded; 31
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(10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted pursuant to sections 3715.52 to 3715.72 of the Revised Code; 36
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(11) The using, on the labeling of any drug or in any advertisement relating to a drug, of any representation or suggestion that any application with respect to the drug is effective under section 3715.65 of the Revised Code or that the drug complies with the provisions of that section; 41
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(12) The using by any person to the person's own advantage, or revealing, other than to the director of agriculture or to the courts when relevant in any judicial proceeding under sections 3715.52 to 3715.72 of the Revised Code, any information acquired under authority of sections 3715.01 and 3715.52 to 3715.72 of the 46
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Revised Code, concerning any information that as a trade secret is 51
entitled to protection; 52

(13) The issuance by the manufacturer, packer, or distributor 53
of a dangerous drug of any advertisements, catalogues, or price 54
lists, except those lists specifically designed for disseminating 55
price change information, that do not contain in clearly legible 56
form the name and place of business of the manufacturer who mixed 57
the final ingredients and, if different, the manufacturer who 58
produced the drug in its finished dosage form and, if different, 59
the packer or distributor. 60

(B)(1) No person at a flea market shall sell, offer for sale, 61
or knowingly permit the sale of any of the following products: 62

(a) Baby food, infant formula, or similar products; 63

(b) Any drug, cosmetic, or device; 64

(c) Any product on which is printed or stamped an expiration 65
date or a date recommended by the manufacturer as either the last 66
day on which the product should be offered for sale or the last 67
day on which the product should be used. 68

(2) Division (B)(1) of this section does not apply to a 69
person who keeps available for public inspection an identification 70
card identifying the person as an authorized representative of the 71
manufacturer or distributor of any drug, cosmetic, or device, as 72
long as the card is not false, fraudulent, or fraudulently 73
obtained. 74

(3) Division (B)(1)(c) of this section does not apply to a 75
person or governmental entity that is licensed as a retail food 76
establishment or food service operation under Chapter 3717. of the 77
Revised Code or is listed in division (B)(9) or (12) of section 78
3717.42 of the Revised Code. 79

(4) As used in division (B)(1) of this section, "flea market" 80

means any location, other than a permanent retail store, at which 81
space is rented or otherwise made available to others for the 82
conduct of business as transient vendors as defined in section 83
5739.17 of the Revised Code. 84

(C)(1) No person shall recklessly sell or manufacture for 85
sale either of the following: 86

(a) Any food or beverage container that contains the chemical 87
bisphenol-A; 88

(b) Any item intended to be used in the mouth of a child 89
under three years old, including pacifiers and teethers. 90

(2) As used in this division, "food or beverage container" 91
means any container intended to hold food or drink for human 92
consumption, and includes both reusable and disposable containers. 93

Section 2. That existing section 3715.52 of the Revised Code 94
is hereby repealed. 95