



February 20, 2012

The Honorable Larry Liston, Chair
House Economic & Business Development Committee
200 E. Colfax
Denver, CO 80203

RE: BPA Ban – HB 1174

Dear Chairman Liston:

On behalf of the Grocery Manufacturers Association, I am writing in opposition to House Bill 1174 sponsored by Representative Kagan, which would ban bisphenol-A (BPA) in certain products.

GMA is the voice of the leading food, beverage and consumer product companies that sustain and enhance the quality of life for hundreds of millions of people in the United States and around the globe.

Founded in 1908, GMA is an active, vocal advocate for its member companies and a trusted source of information about the industry and the products consumers rely on and enjoy every day. The association and its member companies are committed to meeting the needs of consumers through product innovation, responsible business practices and effective public policy solutions developed through a genuine partnership with policymakers and other stakeholders.

In keeping with its founding principles, GMA helps its members produce safe products through a strong and ongoing commitment to scientific research, testing and evaluation and to providing consumers with the products, tools and information they need to achieve a healthy diet and an active lifestyle.

The food, beverage and consumer packaged goods industry in the United States generates sales of \$2.1 trillion annually and employs 14 million workers.

Product safety and regulatory decisions must be made on the entire body of scientific evidence, which to date does not support the designation of BPA as a hazard. As new science, research and studies are conducted, it is the obligation of our industry and the proper regulatory authorities to review that evidence and make appropriate decisions to ensure the continued safety of our products. Product safety and consumer confidence are the foundation of the food, beverage and consumer packaged goods industry. Without it, nothing else we do is possible. We constantly test and review our products and packaging to ensure their safety. However, this well-meaning piece of legislation jumps ahead of the science and seems based on allegations rather than peer-reviewed study.

GROCERY MANUFACTURERS ASSOCIATION

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BPA is an ingredient used in many rigid plastics (e.g. bottles and cups). While some products may be made without BPA, contrary to what some claim, there is no across-the-board replacement for BPA in all packaging.

The U.S. Food & Drug Administration (FDA) and food regulators around the world (e.g. European Food Safety Authority [EFSA] in EU, Germany, Japan, UK, Canada, Australia-New Zealand), have repeatedly confirmed the safety of BPA and continue to reaffirm the safety of BPA in light of new studies.

California's Developmental and Reproductive Toxicant Identification Committee experts reviewed all the scientific evidence on the safety of BPA and determined that BPA should not be listed as a reproductive or developmental toxicant under Proposition 65.

BPA is one of the most intensively studied manmade chemicals in use today. International food regulators and other experts continue to update their product safety evaluations as new evidence continues to emerge.

In 2008, the Canadian government conducted a "screening" assessment of BPA (not a detailed risk assessment or products safety evaluation) under its Canada Environmental Protection Act, CEPA (not its food safety law), which included consideration of certain "low-dose" research studies. Food safety regulators and experts maintain that such low-dose studies are not adequate for predicting human health risks. These studies' findings are not repeatable by other researchers and are inconsistent with results from animal tests done according to internationally accepted regulatory guidelines. In contrast to comprehensive reviews by food safety and regulatory agencies, CEPA requires the use of "precaution." Although Health Canada's scientific assessment reaffirmed the safety of BPA for children and adults, Canadian officials made a policy decision to add the chemical to the CEPA dangerous chemicals list out of an "abundance of caution." Based on the possibility that infants could be disproportionately exposed to BPA, Canada is banning the use of BPA in polycarbonate baby bottles and is working with industry to reduce infant exposure via formula packaging to "the lowest possible levels."

The Canadian actions, amplified by the Environmental Working Group and a host of non-governmental organizations and activist groups, have sparked a tidal wave of negative news coverage that has been successful in creating consumer confusion and unnecessary alarm and policymaker activity. In the U.S., this unnecessary and inappropriate reaction has caused many retailers to ask suppliers to provide them only with BPA-free baby bottles, "sippy cups" and polycarbonate water/drinking bottles.

In response, the FDA is conducting its own research and BPA safety assessment update. Completion for this assessment is expected by the end of March 2012.

In January 2010, the U.S. Department of Health and Human Services (HHS), FDA and the National Institute of Environmental Health Sciences (NIEHS) held conference calls with the media, stakeholders and industry to provide an update on BPA. HHS and FDA shifted their positions slightly, embracing the National Toxicology Program's (NTP) 2008 classification of the available BPA data as posing "some concern" for potential health effects in infants, but stated "current scientific research cannot yet be fully interpreted for relevance to human health." HHS went on to say that, BPA has not been proven to harm children or adults, but that newer data deserve a closer look and that more research needs to be done. NIEHS is conducting new research on BPA and there will be an interagency task force focusing on children's environmental health.

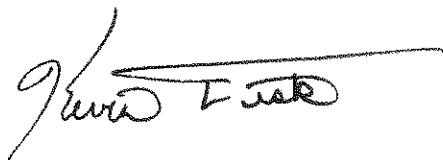
The U.S. Environmental Protection Agency (EPA) announced in March 2010 that it would take steps under the U.S. Toxic Substances Control Act (TSCA) to scrutinize any environmental effects of BPA. EPA noted that most human exposure to BPA is associated with products regulated by FDA, and that FDA, the Centers for Disease Control (CDC) and the National Institute of Environmental Health Sciences (NIEHS) are investing in important new animal and human studies.

EFSA's scientific panel on food contact materials (CEF Panel) issued their findings in September 2010, reaffirming the safety of current exposures to BPA in the diet and from migration to food. A minority recommendation from a single member of the Panel was that the current EFSA safe exposure level should be considered temporary until scientific uncertainties about it are resolved. EFSA had previously confirmed the safety of BPA in contact with food in 2007 and again in 2008. They concluded there was no new evidence that would lead them to revise the current TDI for BPA of 0.05 mg/kg body weight set by EFSA in its 2006 opinion and re-confirmed in its 2008 opinion. The Panel also stated that the data currently available do not provide convincing evidence of neurobehavioral toxicity of BPA. These conclusions were based on a review of the latest studies reflected consultation with national experts from the EU Member States and dialogue with international agencies including FDA, Health Canada, Food Standards Australia-New Zealand, the Food Safety Commission of Japan and the World Health Organization.

GMA supports the FDA's advice to consumers that food and beverages in packages using BPA as a food safety barrier are safe and that packaging that may contain trace amounts of BPA are safe for use with food. We agree with FDA that there is no need for consumers to change their purchasing or consumption patterns.

For these reasons, GMA strongly opposes the proposal in House Bill 1174 that would ban BPA in certain products and asks you to reject this legislation. Thank you for considering GMA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Fisk", with a long horizontal line extending to the right from the end of the signature.

Kevin Fisk
Director, State Affairs

Cc: House Economic & Business Development Committee Members