

# OPPOSE

## **LD 365 – An Act to Define “Contaminant” in the Laws Governing Toxic Chemicals in Children’s Products**

**Sponsor:** Senator HAMPER of Oxford.

**Co-Sponsors:** Representatives SANDERSON of Chelsea, AYOTTE of Caswell, and HARLOW of Portland, and Senators CUSHING of Penobscot and THIBODEAU of Waldo.

**Summary:** The bill amends the laws governing toxic chemicals in children's products to define the term "contaminant" as used in those laws.

**Explanation:** NRCM opposes this bill, which would create a definition in Maine law under the Kid-safe Product Act that would create a giant new loophole. Maine’s Kid-safe Product Act (KSPA) was enacted in 2007 to protect children from toxic chemicals in household products. Under KSPA, companies that manufacture everyday household products that contain chemicals that are “contaminants” are exempt from regulation by the state. It is a legitimate and necessary task to distinguish chemical “contaminants” in products from those that are intentionally added, but NRCM does not support LD 365’s proposed definition of this term. A true contaminant would be a chemical that was present in a manufactured item because, for example, it was present in airborne dust in the factory or in the municipal water used in producing the product. But that is not the narrow definition provided by LD 365.

The definition of “contaminant” in LD 365 has been promoted by the chemical and toy manufacturing industries because it creates a much broader definition than what normally would be considered a contaminant. For example, this bill would allow “incompletely reacted chemical mixtures” to meet the definition a contaminant. The chemical industry has exploited a similar definition in Washington State in order to bypass reporting requirements for products that do contain chemicals that the Washington law was designed to address.

For example, bisphenol-A (BPA) is a chemical monomer that manufacturers intentionally mix with other chemical monomers to create a chemical polymer called epoxy resin. This polymer serves as the plastic coating that lines the inside of metal cans. Two-thirds of the weight of the epoxy resin is BPA. Much of this BPA later leaches out of the plastic and exposes consumers to its harmful health effects. If this bill was to pass, manufacturers of metal cans could claim that the BPA present in their product was a contaminant, since the BPA that leaches out of the can lining is an “incompletely reacted chemical mixture.”

LD 365 also would hinder the state’s ability to protect Maine people from exposure from other toxic chemicals. For example, it would enable manufacturers of products containing known endocrine disruptors such as phthalates and parabens, and known carcinogens such as formaldehyde and vinyl chloride, to avoid reporting the presence of these chemicals in their products, and would thus allow them to avoid regulation under KSPA. It is even possible that, if adopted, LD 365 could enable the chemical industry to contest the existing bans in Maine on reusable food and beverage containers containing BPA.

**NRCM Opposes LD 365.**