To ban the use of ortho-phthalate chemicals as food contact substances.

A BILL

To ban the use of ortho-phthalate chemicals as food contact substances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Preventing Harmful Exposure to Phthalates Act”.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Prenatal exposures to phthalates can do lasting harm to child brain development and increase children’s risks for learning, attention, and behavior disorders.
(2) Pregnant women’s exposures to phthalates, which are known to decrease fetal testosterone, can harm reproductive tract development in male babies which may have lifelong consequences.

(3) Phthalates that are used in food production materials have been shown to leach into food from plastic equipment, such as tubing used in commercial dairy operations, lid gaskets, food preparation gloves, conveyor belts, and food packaging materials.

(4) Exposure to phthalates can come from multiple sources simultaneously, including food and food contact substances and other products. Therefore, assessing risks from individual phthalates may underestimate the health risks from exposure to mixtures of phthalates.

(5) Research shows that women have higher exposure to phthalates found in personal care products than men.

(6) Studies have shown that Black and Latina women have higher exposure to certain phthalates compared with White women.

(7) In a nationally representative sample, Black women had higher exposures to a real-world mixture of hormonally-active phthalates compared to White women.
SEC. 3. PROHIBITION ON USE OF ORTHO-PHTHALATE CHEMICALS AS FOOD CONTACT SUBSTANCES, INCLUDING FOOD PACKAGING MATERIALS.

(a) In General.—Notwithstanding any other provision of law, effective on the date that is 2 years after the date of enactment of this Act—

(1) the use of any ortho-phthalate chemical as a food contact substance shall be deemed to be unsafe for the purposes of the application of clause (2)(C) of section 402(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a));

(2) any regulation previously issued under section 409 of such Act (21 U.S.C. 348) prescribing the conditions under which any ortho-phthalate chemical may be safely used as a food contact substance shall have no force or effect; and

(3) the Secretary of Health and Human Services (referred to in this Act as the “Secretary”) shall object to any notification of an intended use of an ortho-phthalate chemical as a food contact substance submitted under section 409(h)(1) of such Act, and may not issue regulations prescribing any conditions under which any ortho-phthalate chemical may be safely used as a food contact substance.

(b) Alternative Substances.—Notwithstanding any other provision of law, beginning on the date that is
2 years after the date of enactment of this Act, in acting in response to any petition under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) to establish safety with respect to a food contact substance that the Secretary determines to be an alternative to an ortho-phthalate chemical, in addition to the criteria under subsection (c) of such section 409, the Secretary shall consider potential adverse effects of exposure to the substance on vulnerable populations, including pregnant women, infants, children, the elderly, and populations with high exposure, including workers who are exposed through production practices or handling of final products.

SEC. 4. FDA REVIEW OF PRODUCTS.

(a) IN GENERAL.—The Secretary shall—

(1) conduct a review of products other than food that is subject to regulation by the Food and Drug Administration to determine whether such products lead to exposure of the general public to any ortho-phthalate chemical through use of such products; and

(2) not later than 1 year after the date of enactment of this Act, issue a report on the findings of such review, to be made available to the public on the website of the Department of Health and Human Services.
(b) CONSIDERATIONS.—In conducting the review under subsection (a), the Secretary shall consider disproportionate exposure of products containing an ortho-
phthalate chemical to members of communities of color and the health effects of such exposure to members of such communities, including any increased risk of preterm birth, low birth weight, or other risks to children’s health.