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[Pages S7940-S7942]

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The San Francisco Giants

Mrs. FEINSTEIN. Mr. President, I rise to speak on the bill before us. But before I do, one thing I was remiss in not doing, listening to Senator Durbin speak about Stan Musial, is pointing out what has happened in San Francisco, and that is that the San Francisco Giants have won the World Series with a team that was just amazing. To see a team, I think, that were essentially outcasts--and some would say misfits--come together, play with teamwork, develop a world-class pitching staff, a defense where double and triple plays would happen, is really quite amazing. I had the pleasure of going to the playoff games during the recess, as well as the World Series games, and it was a very special treat. I wish to offer my commendation to that great team. It was quite wonderful.

Now down to business.

Mr. President, it appears that I will be blocked from offering an amendment on bisphenol A, to the food safety bill. So I come to the floor to express my disappointment and my very serious concern about the continued use of this chemical in children's products.

There is mounting scientific evidence that shows that BPA is linked to harmful health effects. Over 200 scientific studies show that even at low doses, BPA is linked to serious health problems, including cancer, diabetes, heart disease, early puberty, behavioral problems, and obesity. I know there is not yet consensus on the science and there is still research to be done. But I also know this chemical is so widespread--it has been found in 93 percent of Americans. I know BPA is thought to alter the way the body chemistry works. Babies and children are particularly at risk because when they are developing, any small

change can cause dramatic consequences.

To put it simply, the fact that so many adverse health effects are linked to this chemical, the fact that this chemical is so present in our bodies, and the fact that babies are more at risk from its harmful effects leads me to believe there is no good reason to expose our children to this chemical.

My great concern for its continued use, particularly in children's products, is the reason Senator Schumer, my cosponsor, and I, who introduced a bill a year and a half ago--why he and I have been willing to compromise, to be flexible, and to try to work out an agreement to move this forward. For 7 months, we have been negotiating with Senator Enzi, the distinguished ranking member handling this bill on the floor, hoping for a compromise that would enable this amendment on BPA to be placed in the food safety bill. It looks as if there will not be amendments; therefore, I have no opportunity to offer an amendment.

But last evening at about 6:15, Senator Enzi and I reached an agreement which would ban the use of BPA in baby bottles and sippy cups within 6 months of the enactment of this legislation. It would require that the FDA, the U.S. Food and Drug Administration, to issue a revised safety assessment on BPA by December 1, 2012--this is important because it would make certain the date that the FDA has to assess the safety of BPA. And third, it would include a savings clause to allow States to enact their own legislation.

I wish to thank the ranking member for his agreement. It meant a great deal to me. I thought, aha, we are really close to making a beginning step on this problem. Unfortunately, today it became clear that the American Chemistry Council has blocked and obstructed this agreement from being added to the food safety bill. Therefore, language cannot be in the bill. I regret that the chemical lobby puts a higher priority on selling chemicals than it does on the health of infants. I am stunned by this.

This agreement was but a small step forward, a simple movement to ban

BPA in baby bottles and sippy cups, a simple move to protect children.

All it did was ban BPA in baby bottles and sippy cups until the FDA's safety assessment could be revised. The

[[Page S7941]]

chemical lobby came in at the 11th hour opposing this ban, which is something my colleagues on the other side of the aisle had agreed to.

Now, because of this, my colleagues on the other side of the aisle are pulling their support. My goodness. This is so simple. How can anybody put a priority on selling chemicals above the health of infants? Major manufacturers and retailers are already phasing out BPA from their food and beverage products for children. So why should this be stopped?

The products used to give food and drink to children all have safe alternative BPA packaging available. At least 14 manufacturers have already taken action against BPA. Here they are: Avent, Born Free, Disney First Years, Evenflo, Gerber, Dr. Brown's, Green to Grow, Klean Kanteen, Medala, Nuby Sippy Cups, Munchkin, Playtex, Thinkbaby, Weil Baby. All these manufacturers are taking BPA voluntarily out of their baby bottles and sippy cups, but we cannot get it into a simple bill.

Retailers are taking actions not to sell these products with BPA in them: CVS, Kmart, Kroger, Rite Aid, Safeway, Sears, Toys ``R'' Us and Babies ``R'' Us, Walmart, Wegmans, and Whole Foods have already taken this action.

I ask unanimous consent that the list be printed following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. At this point, seven States have moved to enact laws banning BPA from children's products: Connecticut, Maryland, Minnesota, New York, Vermont, Washington, Wisconsin. The city of Chicago also has a ban. These entities have already taken action. California is just a

few votes short of taking this action and I hope will come back this next legislative session and take it.

Bills are also pending in Illinois, Maine, Massachusetts, Missouri, Pennsylvania, and Washington, DC, and numerous companies are marketing BPA-free products. Other countries are moving forward. Canada declared BPA toxic and banned it from all baby bottles and sippy cups. Denmark and France also have national bans on BPA in certain products.

So here is the point. The problem has been recognized, and steps are being taken by countries, States, companies, and retailers. Yet the chemical lobby in this country is keeping this amendment out of the food safety bill. Why? Only one reason. Because the chemical companies want to make money to the longest point they can by selling a chemical which is linked to all these harmful health effects.

Their resistance to accept this very small proposal is astounding. We have compromised in the negotiations with Senator Enzi. The bill Senator Schumer and I introduced was much more comprehensive. But we are down to just the three things I mentioned earlier. This is a food safety issue, and it profoundly affects children's health.

But some in the industry are fighting tooth and nail to make sure BPA remains a staple in the American diet and even for children. Because of this opposition, it appears I have no option to move this amendment forward. Again, I tried for a year and a half, 7 months of negotiations. I can put a hold on the bill, stop it, and make a fuss, as some others have done over other issues, or I can wait to fight another day by allowing this food safety bill to go forward while continuing to build the case against BPA. That latter is what I intend to do beginning now.

This battle may be lost, but, rest assured, I do not intend to quit. I have a deep abiding concern regarding the presence of toxins and chemicals with no testing in all kinds of products and all kinds of solutions that build up in our bodies. There is no precautionary standard in this country when it comes to chemicals.

You have to prove that a chemical is harmful before that chemical can be banned. But the evidence against BPA is mounting and especially its harmful effects on babies and children who are still developing.

Here is the argument. Here is what BPA is. It is synthetic estrogen. It is a hormone disruptor. It interferes with how the hormones work in the body, and this chemical is used in thousands of consumer products. It is used to harden plastics, line tin cans, and even make CDs. It is even used to coat airline tickets and grocery store receipts. It is one of the most pervasive chemicals in modern life.

As with so many other chemicals in consumer products, BPA has been added to our products without knowing whether it is safe. Alternatives exist because concern has been growing about the harmful impact. The chemical industry has tried to quiet criticism by reassuring consumers that BPA is safe and that more research still needs to be done.

Well, that argument simply does not hold water. Over 200 studies show that exposure to BPA, particularly during prenatal development and early infancy, are linked to a wide range of adverse health effects in later life. Because of their smaller size and stage of development, babies and children are particularly at risk from these harmful impacts.

What do these include? Increased risk of breast and prostate cancer, genital abnormalities in males, infertility in men, sexual dysfunction, early puberty in girls, metabolic disorders such as insulin-resistant type 2 diabetes and obesity and behavioral problems such as attention deficit hyperactivity disorder, ADHD.

Industry continues to insist that BPA is not harmful. But one study shows us why we should be skeptical about research funded by the chemical industry. In 2006, the journal *Environmental Research* published an article comparing the results of government-funded studies on BPA to BPA studies funded by industry. The difference is stark. Ninety-two percent of the government-funded studies found that exposure to BPA caused health problems. Overwhelmingly, government studies found harm.

None of the industry studies identified health problems as a result of BPA exposure--not one. That is 92 percent of the government studies and not one of the industry studies. So I ask: How can this be? Clearly, questions are raised about the validity of the chemical industry's studies.

The results also illustrate why our Nation's regulatory agencies should not and cannot rely solely on chemical companies to conduct research into their own products. Consumers are worried about BPA. They are pushing in States for restrictions and bans. Over 75 organizations that represent almost 40 million Americans, support getting BPA out of food packaging for children.

Support comes from national groups such as the BlueGreen Alliance, Consumers Union, Breast Cancer Fund, National WIC, and United Steelworkers of America. State groups such as Alaska Community Action on Toxics, California Environmental Rights Alliance, Environment Illinois, the Tennessee Environmental Council, and the Massachusetts Breast Cancer Coalition back this amendment.

The broad coalition of environmental and consumer advocates know BPA cannot be good for our babies. I wish to underscore the importance and the urgency of withdrawing BPA from baby products.

Well-known and respected organizations and Federal agencies have expressed concern about BPA. The President's Cancer Panel Annual Report released in April of this year concluded that there is growing evidence of a link between BPA and several diseases such as cancer. The panel recommended using BPA-free containers to limit chemical exposure.

A 2008 study by the American Medical Association suggested links between exposure to BPA and diabetes, heart disease, and liver problems in humans. The National Health and Nutrition Examination Survey, NHANES, linked BPA in high concentrations to cardiovascular disease and type 2 diabetes.

In addition to the over 200 scientific studies showing exposure to BPA is linked to adverse health effects, there are a number of studies

that link BPA and other environmental toxins to early onset puberty and other hormonal changes. This is serious. This emphasizes how detrimental this chemical can be during development.

I would like to discuss three of these studies. The Endocrine Society, comprised of over 14,000 members from more than 100 countries, published a scientific statement in 2009, expressing

[[Page S7942]]

concern for the adverse health impacts of endocrine-disrupting chemicals such as BPA. The adverse health impacts included infertility, thyroid problems, obesity, and cancer. A study published in Environmental Health Perspectives studied 715 men, ages 20 to 74 years old, and found that men who had high levels of BPA in their bodies also had higher levels of testosterone. This study demonstrates that higher BPA levels in the body are associated with altered hormone levels.

A study in the Journal of Pediatrics in September 2010 demonstrated that puberty in girls is occurring even earlier, by ages 7 and 8. The researchers studied 1,239 girls in 2004 and 2008, so there was followup, in Cincinnati, East Harlem, and San Francisco. They found that at age 8, 18 percent of Caucasian girls, 43 percent of African-American girls, and 31 percent of Hispanic girls had signs of puberty. That is at 8 years old.

The researchers suspected that environmental chemicals such as BPA could influence the onset of puberty. Early puberty can cause a host of problems later on in life, such as increased rates of breast cancer, lower self-esteem, eating disorders, and certainly depression.

Given these conclusions, it is critical we act to protect just the most vulnerable, our infants and toddlers, from this chemical.

How are children benefitted by having a baby bottle or a cup that they sip from that is coated with BPA? How is that bottle any better? How is that cup any better? Fact: It isn't. Yet the American Chemistry Council puts their need to sell these chemicals above all of the

existing studies, above all the science that is emerging, and would not even say: Just in case this is true, yes; we agree with you. We should protect our young and our youngest. They would not do even that.

Our original bill was much broader. BPA is not just in plastic bottles, it is also used in the epoxy resin that lines tin cans. I no longer buy tin cans because of it. My family, I have asked them not to buy things in tin cans. Buy them in glass. Then we don't have to worry about the BPA that is in the lining of the can.

This amendment doesn't ban BPA in the lining of cans. It doesn't ban BPA in all containers. It just bans BPA in baby bottles and sippy cups, just for infants, just for toddlers. The chemical industry says no. And I guess the other side of the aisle bows.

I am amazed. BPA has been linked to developmental disorders, cancer, cardiovascular complications, and diabetes by credible scientific bodies. The evidence that BPA is unacceptably dangerous is mounting. Yet it remains in thousands of household and food products. In an effort to reach a bipartisan compromise, which we did do last night, the amendment I wanted only restricted the use of BPA in baby bottles and sippy cups because, as the science shows, babies and young children are the most susceptible to the harmful effects of this toxic chemical. This amendment would have ensured that all babies, in whatever State they happen to be or wherever they buy their baby bottles, are safe. We can't even do this in a food safety bill.

It would have ensured that parents no longer have to wonder whether the products they buy for their babies will harm them now or later in life. I have on my Blackberry a picture of a new grandchild born earlier today, a little boy by the name of Benjamin. So even if one is a grandparent like me, this is so relevant. If we can't take care of our babies, what can we take care of in this country?

Despite the loss of this amendment, the American people can still vote with their pocketbooks by refusing to buy products made with BPA. Ask the question in your grocery store. Go where they are not sold. Buy

the products that do not use BPA. Public knowledge and awareness is important.

In 2008, as part of the Consumer Product Safety Improvement Act, Congress accepted my proposal to ban phthalates, and President Bush signed it. It banned phthalates, a plasticizing chemical, from children's toys. Like BPA, phthalates are linked to a variety of health problems in young children. I was proud to lead that fight and protect children from these chemicals.

I truly believe the unrestricted use of chemicals in products, whether it be makeup for women, lotions that go on bodies, coatings in cans, coverings of plastic, softeners and hardeners, chemicals that leach into food, are a problem. When we do a food safety bill, we ought to consider this. Well, not even this baby step to protect babies is going to be taken.

I very much regret it, but the battle is joined. Once I start, I do not stop. We will fight another day.

I thank the Chair and yield the floor.

Exhibit 1

Leading Retailers & Manufacturers Phasing Out Bisphenol A (BPA)

In response to growing scientific and public concern, over the past few years, leading U.S. retailers, baby bottle and water bottle manufacturers pledged to phase out bisphenol A (BPA) in favor of safer cost-effective alternatives. These include the following companies.

U.S. Retailers Phasing Out Bisphenol A Baby Bottles

CVS, Kmart, Kroger, Rite Aid, Safeway, Sears, Toys ``R'' Us and Babies ``R'' Us, Wal-Mart, Wegmans Foods, Whole Foods.

baby bottle & sippy cup manufacturers phasing out or bpa free

Avent--offering some BPA-free alternatives, Born Free, Disney First Years, Dr. Brown's, Evenflo--offering some BPA-free alternatives, Gerber, Green to Grow, Klean Kanteen, Medela, Munchkin, Nuby Sippy cups, Playtex, Think Baby, Weil Baby.

Water Bottle Companies Phasing Out BPA

ALADDIN/Pacific Market International, CamelBak, Klean Kanteen, Nalgene, Polar Bottle, Sigg.

Food Packaging Companies Exploring BPA-Free alternatives

In 1999, the health foods company Eden Foods phased out the use of BPA in some of their canned foods. The company has eliminated BPA in cans for products such as beans, however they are still searching for alternatives for cans that hold tomatoes.

Gerber and Nestle Nutrition have publicly stated they are committed to making all food and formula packaging BPA-free as soon as possible. In 2009, Abbott Labs announced that it achieved ``BPA free'' status in all of its

Similac' brand powdered infant formula products

and 91% of their total product line is BPA free. Nestle-

Gerber announced similarly in 2008 that there is no BPA in

cans used to package the Nestle GOOD START'

Supreme Milk and Soy based powdered infant formulas, which account for more than 80 percent of the type of infant formula they sell.

In 2010, General Mills Muir Glen brand announced that they would be introducing a BPA-free metal can for their organic tomatoes.

Hain Celestial and Heinz are researching and testing alternatives to BPA and plan to phase out BPA in some products. Heinz is already using a substitute to BPA in some of its can linings. In June 2010, Heinz Australia said that they expect BPA-free cans for baby food to be available within 12 months with metal closures on glass jars to follow.

Trader Joes offers BPA-free cans for their seafood (tuna, salmon, herring, sardines, etc.), chicken, turkey & beef, beans and corn.

Vital Choice transitioned to BPA-free containers for its canned seafood in 2009.

Tupperware Brand's reusable containers are 90% non-polycarbonate plastic; containers for children are all BPA-free.

Canadian Retailers Phasing Out BPA

Home Depot Canada, Members of the Canadian Council of Grocery Distributors, Mountain Equipment Co-op, Rexall Pharmacies, Sears Canada, Wal-Mart Canada.

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for

the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.