

# Dildo or Dildon't - A Plug for Sex Toy Regulation in the U.S.

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## Abstract

Despite the fact that most sex toys are intended to be used on some of the most vulnerable parts of the body, the sex toy industry continues to operate with no oversight or safety regulation, which puts sex toy consumers at significant risk for both acute and chronic injuries. Therefore, it is necessary to regulate the quality and safety of sex toys by first reclassifying them and then establishing a ban or threshold on the use of various materials while also implementing testing procedures. This is particularly important given that sex toys are used by more than half of the adult population, including higher use by the LGBTQIA+ community which already faces greater health risks.<sup>i</sup> Without intervention from the Consumer Product Safety Commission, those who use sex toys in their sexual activities will continue to suffer negative health effects that could otherwise be avoided through effective oversight.

## Who Should Be Concerned

Most consumers are unaware that there is a lack of regulation and quality control of sex toys in the United States. Sex toys are devices used for sexual stimulation and to enhance the sexual pleasure of the user.<sup>i</sup> These can include dildos, vibrators, butt plugs, anal beads, cock rings, masturbation sleeves, and other similar devices.<sup>ii</sup> Sex toys are often mis-classified as “novelty items” or “massagers” by the Consumer Product Safety Commission (CPSC), but items classified as such are exempt from regulation in the U.S.<sup>iii</sup> As a result, sex toy safety and quality is left entirely to the manufacturers, resulting in unsafe practices such as not providing warnings or instructions, a lack of quality assurance testing, and a systematic lack of health studies on common materials used in sex toy construction.

With half of the overall adult population having used sex toys, and particularly a majority of gay and bisexual men (78.5%), lesbian women (70.6%), and bisexual women (79.7%) having done so, it is critical to correct this lack of regulation and associated health concerns.<sup>iv v vi</sup> This must be done to keep all users safe, especially the LGBTQIA+ community, whose members already face health disparities due to societal stigma, discrimination, and denial of their civil and human rights, and for whom additional negative health concerns are therefore particularly concerning.<sup>vii</sup>

## Health Concerns Expanded

Health concerns come from potential exposure to a variety of harmful chemicals, most concerning phthalates.<sup>viii ix</sup> Phthalates are used in sex toys and other plastics because they help soften the plastic material and make the end product more flexible. These can be harmful, however, because phthalates off-gas, meaning that they break down over time and leak chemicals, plastics, and other materials.<sup>x xi xii xiii</sup> Various studies have shown that exposure to large amounts of phthalates are linked to breast cancer, developmental issues, decreased fertility, birth defects, change in hormone levels, obesity, and asthma.<sup>xiv xv</sup>

Phthalates are so dangerous that Congress has already banned them in children's toys at a concentration of above 0.1%. Children's toys have these regulations because they are often placed near mucous membranes in the mouth.<sup>xvi xvii</sup> However, many sex toys still contain phthalates ranging from a 24% to 70% concentration.<sup>xviii</sup> With phthalates being exposed to mucous membranes in the mouth, anus, and vaginal canal through sex toy usage, similar precautions need to be considered for sex toys.

When looking at personal injury through the lens of chemical exposure and user error, the Federal Hazardous Substance Act (FHSA), which requires precautionary labeling on household products, states that “a product is toxic if it can produce personal injury or illness to humans when it is inhaled, swallowed, or absorbed through the skin.” It also states, “a product is toxic if it can cause long-term chronic effects like cancer, birth defects, or neurotoxicity”.<sup>xix</sup> Given that the FHSA falls under the CPSC and should apply to sex toys, sex toy companies that are aware that their toys are unhealthy for users should need to follow several guidelines, including keeping instructions with each toy, listing their ingredients, and including safety information prominently on the packaging.<sup>xx</sup> However, because sex toys are listed as “novelty items” or “massagers”, they are excluded from these requirements.<sup>xxi xxii</sup>

There is also concern over injuries that are caused by the use of sex toys. According to the CPSC's National Electronic Injury Surveillance System (NEISS) Product Code 1610, which covers massagers and vibrators, recorded injuries from sex toys have steadily increased over the past two decades.<sup>xxiii xxiv</sup> These include losing dildos in the rectum, having a piece of a vibrator break off in the vagina, having a penis pump get stuck on a penis, and having thin vibrating tubes get stuck in someone's urethra.<sup>xxv</sup> These injuries are completely preventable through body safe materials being used in these sex toys, instructions being included in toy packaging, and having flared bases on toys that are meant for anal penetration.<sup>xxvi</sup> Given the trends in the data, these injuries are likely to increase.

Separate from the CPSC, the Food and Drug Administration (FDA) regulates three sex toys, all of which are classified as medical devices. These regulated sex toys are only accessible to people with prescriptions and are meant for sexual rehabilitation.<sup>xxvii</sup> Since these are listed as medical devices, they require federal regulation and testing of materials. Unfortunately, this kind of regulation does not exist on the consumer side.

### **What Needs to be Done, and What to Expect**

Ultimately the CPSC should create a new category for sex toys so that they are no longer lumped in with “novelty items” and “massagers.” This would create the opportunity for sex toys to be regulated for the consumer and make it safer for adults to engage in sexual pleasure. Not doing so allows those who use sex toys to expose themselves to toxins, harmful chemicals, and carcinogens.

There is further the need to consider a ban or threshold on phthalates and other harmful chemicals as well as proper testing of the products before consumer consumption. Support for this issue shows the greater population that this is a matter that is worth standing up for and that it is important to protect the health and safety of the LGBTQIA+ community and the sexually active adult population.<sup>xxviii</sup>

With new regulations, many products will have a changed texture and density feel to them due to the lack of phthalates and other plastic softeners. Many toys will also need to be taken off the market entirely due to the chemicals they currently use. Regulations would also likely lead to an increase in research and development costs for toy companies to create softer

toys with body safe materials. While this is a concern, it is not insurmountable. Funkit Toys, for instance, has created a new phthalate free line, NoFrillDo, without raising any cost to the consumer.<sup>xxix</sup>

Still, several companies will likely oppose regulations. Businesses such as Doc Johnson, Pipedream, and Dons Wands, who dominate the sex toy industry, notoriously make products that are unsafe for the consumer.<sup>xxx</sup> By creating regulations, these companies will have to completely change how they make their toys, change their company structure, and increase the testing of their products.<sup>xxxi</sup> Moreover, new regulations will make a majority of, if not all, the toys they have produced thus far illegal for purchase due to the current lack of safety standards. Phthalate production companies such as Arkema, BASF, Deza, Evonik Oxeno, ExxonMobil Chemical, Oxea, Oxochimie, and Perstorp are also likely to be against this action, since regulation would eliminate or greatly limit the usage of their product in sex toys across the U.S.<sup>xxxii</sup>

However, organizations such as the National Association for the Advancement of Science and Art in Sexuality (NAASAS), the Center for Sexual Pleasure and Health (CSPH), and Dangerous Lilly are all in favor of regulating sex toy materials. The NAASAS is an academic coalition for aspiring and established professionals in the field of sexuality, and they believe that these chemicals can adversely affect our health even at low doses and that health risks to consumers are something all ethical businesses must address.<sup>xxxiii</sup> The NAASAS has also created a Safe Sexual Products Campaign surrounding this issue and a Sexual Product Certification for manufacturers.<sup>xxxiv</sup> The CSPH provides culturally inclusive, medically accurate, and pleasure informed sexuality education, therapy, and professional trainings and is also committed to the safety and health of sexually active adults. Building on their *Guide to Lube* and consistent messaging on the lack of regulation of sex toys, CSPH would be a prominent organization to help support this issue.<sup>xxxv xxxvi</sup> Dangerous Lilly is a blog educating and informing the public on the topic of sex toys and the toxic and unhealthy materials that go in them. Therefore, Dangerous Lilly has the ability to influence and connect to individuals concerned about their health and the materials their bodies are exposed to through their prominent platform.

The organizations listed above, health advocates, and consumers need to come together and organize updating guidelines within the CPSC. Recategorizing sex toys to fall under a newly created category, rather than “novelty items” or “massagers”, would allow for correct and accurate safety measures to be put in place. This change would reduce or completely eliminate the use of phthalates and other chemicals that could harm the health of users as well as create opportunities for better user education and reduce personal injuries.

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<sup>i</sup> Healthy People 2020. 2020. “Lesbian, Gay, Bisexual, and Transgender Health.” Healthy People. [www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health](http://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health).

<sup>ii</sup> Lexico and Oxford Dictionary. 2020. “sex toy.” sex toy. [https://www.lexico.com/definition/sex\\_toy](https://www.lexico.com/definition/sex_toy).

<sup>iii</sup> United States Consumer Product Safety Commission. 2020. “Federal Hazardous Substances Act (FHSA) Requirements.” United States Consumer Product Safety Commission. <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/FHSA-Requirements>.

<sup>iv</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).

<sup>v</sup> Rosenberger, Joshua G., Vanessa Schick, Debby Herbenick, David S. Novak, and Michael Reece. 2012. “Sex Toy Use by Gay and Bisexual Men in the United States.” *Springer Link* 41:449-458. <https://link.springer.com/article/10.1007/s10508-010-9716-y>.

<sup>vi</sup> Herbenick, Debra, Michael Reece, Stephanie A. Sanders, Brian Dodge, Annahita Ghassemi, and J. D. Fortenberry. 2010. “Women's Vibrator Use in Sexual Partnerships: Results From a Nationally Representative Survey in the United States.” *Journal of Sex and Marital Therapy* 36 (1). <https://www.tandfonline.com/doi/abs/10.1080/00926230903375677>.

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- <sup>vii</sup> Healthy People 2020. 2020. “Lesbian, Gay, Bisexual, and Transgender Health.” Healthy People. [www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health](http://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health).
- <sup>viii</sup> Denning, Burke. 2016. “What on earth are sex toys made of, and are they body safe? Burke Denning writes about the science of sex toy health and safety.” Viberry. <https://www.viberry.me/safety-dance-sex-toy-safety-new-generation/>.
- <sup>ix</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).
- <sup>x</sup> Denning, Burke. 2016. “What on earth are sex toys made of, and are they body safe? Burke Denning writes about the science of sex toy health and safety.” Viberry. <https://www.viberry.me/safety-dance-sex-toy-safety-new-generation/>.
- <sup>xi</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).
- <sup>xii</sup> Dangerous Lilly. n.d. “Toxic Toys – The Definite Guide to Toxic Sex Toy Awareness.” Dangerous Lilly. <http://dangerouslilly.com/toxictoys/>.
- <sup>xiii</sup> Tief, Tracey, Esha Jain, and Sheena Jain. 2016. “Plastic Sex Toys & Safer Alternatives.” Women's Healthy Environments Network. <https://cassie-barker-ab9g.squarespace.com/blog1/plastic-sex-toys-safer-alternatives>.
- <sup>xiv</sup> Murphy, Caitlin. 2013. “The Trouble With Toxic Sex Toys.” *Bitch Media*, November 20, 2013. <https://www.bitchmedia.org/post/the-trouble-with-toxic-sex-toys>.
- <sup>xv</sup> Breast Cancer Prevention Partners. 2020. “Phthalates At A Glance.” Breast Cancer Prevention Partners. <https://www.bcpp.org/resource/phthalates/>.
- <sup>xvi</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).
- <sup>xvii</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).
- <sup>xviii</sup> Stabile, Emily. 2013. “Getting the Government in Bed: Regulating the Sex Toy Industry.” *SSRN* 28, no. 161 (February): 24. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2222079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2222079).
- <sup>xix</sup> United States Consumer Product Safety Commission. 2020. “Federal Hazardous Substances Act (FHSA) Requirements.” United States Consumer Product Safety Commission. <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/FHSA-Requirements>.
- <sup>xx</sup> United States Consumer Product Safety Commission. 2020. “Federal Hazardous Substances Act (FHSA) Requirements.” United States Consumer Product Safety Commission. <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/FHSA-Requirements>.
- <sup>xxi</sup> United States Consumer Product Safety Commission. 2020. “Federal Hazardous Substances Act (FHSA) Requirements.” United States Consumer Product Safety Commission. <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/FHSA-Requirements>.
- <sup>xxii</sup> Authenticated U.S. Government Information. n.d. “Subchapter C - Federal Hazardous Substances Act Regulations.” Subchapter C - Federal Hazardous Substances Act Regulations. <https://www.govinfo.gov/content/pkg/CFR-2015-title16-vol2/pdf/CFR-2015-title16-vol2-chapII-subchapC.pdf>.
- <sup>xxiii</sup> United States Consumer Product Safety Commission. 2020. “Welcome to the National Electronic Injury Surveillance System.” National Electronic Injury Surveillance System (NEISS). <https://www.cpsc.gov/Research--Statistics/NEISS-Injury-Data/&sa=D&ust=1519436589732000&usq=AFQjCNH2x6h9Ez8mjn75zjpioVCHnnNmuQ>.
- <sup>xxiv</sup> Ingraham, Christopher. 2015. “Sex toy injuries surged after ‘Fifty Shades of Grey’ was published.” *The Washington Post*, February 15, 2015. [https://www.washingtonpost.com/news/wonk/wp/2015/02/10/sex-toy-injuries-surged-after-fifty-shades-of-grey-was-published/?utm\\_term=.19979f0dbd6a](https://www.washingtonpost.com/news/wonk/wp/2015/02/10/sex-toy-injuries-surged-after-fifty-shades-of-grey-was-published/?utm_term=.19979f0dbd6a).
- <sup>xxv</sup> “United States Consumer Product Safety Commission. 2020. “Federal Hazardous Substances Act (FHSA) Requirements.” United States Consumer Product Safety Commission. <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/FHSA-Requirements>.
- <sup>xxvi</sup> Hillin, Taryn. 2015. “This is what happens when sex toys go wrong.” *Splinter News*, February 20, 2015. <https://splinternews.com/this-is-what-happens-when-sex-toys-go-wrong-1793845199>.
- <sup>xxvii</sup> United States Food and Drug Administration. 2019. “CFR - Code of Federal Regulations Title 21.” United States Food and Drug Administration. <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=884.5960>.
- <sup>xxviii</sup> Healthy People 2020. 2020. “Lesbian, Gay, Bisexual, and Transgender Health.” Healthy People. [www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health](http://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health).
- <sup>xxix</sup> Funkit Toys. n.d. “NoFrillDo.” Funkit Toys Modular Experiments. <https://www.funkit toys.com/nofrilldo>.

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- <sup>xxx</sup> Dangerous Lilly. n.d. “Toxic Toys – The Definite Guide to Toxic Sex Toy Awareness.” Dangerous Lilly. <http://dangerouslilly.com/toxictoy/>.
- <sup>xxxi</sup> Christensen, Jen. 2017. “More phthalates banned in children's toys by US government.” *CNN*, October 20, 2017. <https://www.cnn.com/2017/10/20/health/phthalates-banned-in-childrens-toys/index.html>.
- <sup>xxxii</sup> Chemical Watch. 2010. “Phthalate producers consider options under REACH.” Chemical Watch. <https://chemicalwatch.com/3989/phthalate-producers-consider-options-under-reach>.
- <sup>xxxiii</sup> “Safe Sexual Products Campaign: Professionals Working for Safer Sexual Products,” The National Association for the Advancement of Science and Art in Sexuality, <http://naasas.com/safe-sexual-products.htm>.
- <sup>xxxiv</sup> “Safe Sexual Products Campaign: Professionals Working for Safer Sexual Products,” The National Association for the Advancement of Science and Art in Sexuality, <http://naasas.com/safe-sexual-products.htm>.
- <sup>xxxv</sup> The Center for Sexual Pleasure and Health. n.d. “The Center for Sexual Pleasure and Health Guide to Lube.” The Center for Sexual Pleasure and Health. <http://thecsph.us2.list-manage.com/subscribe?u=14eff4d46dd81d711fb29a1c8&id=4435e9e6f7>.
- <sup>xxxvi</sup> The Center for Sexual Pleasure and Health. n.d. “An Intro to Sex Toys.” The Center for Sexual Pleasure and Health. <http://www.thecsph.org/the-csph-resources/web-resources/sex-positive-basics/pleasure/intro-to-sex-toys/>.