

JAN 19 2007

A BILL FOR AN ACT

RELATING TO DECABROMODIPHENYLETHER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that many of the
2 products in our homes and offices, including television sets,
3 computers, furniture upholstery, and mattresses, are
4 manufactured with added chemical flame retardants known as
5 polybrominated diphenyl ethers.

6 Over the years, public health researchers have sounded the
7 alarm that polybrominated diphenyl ethers are accumulating in
8 our environment and in people's bodies, where they can cause
9 serious health problems, especially for fetuses and young
10 children. Exposure has been known to cause impaired learning
11 and memory, delayed onset of puberty, male and female
12 reproductive effects, cancer, and impaired immune system
13 functions.

14 Recognizing these dangers, the legislature banned the
15 manufacture, process, and distribution of two polybrominated
16 diphenyl ethers - pentaBDE and octaBDE - in 2004.



1 Today, decabromodiphenylether is the only polybrominated
 2 diphenyl ether remaining on the market. This chemical poses the
 3 same public health dangers as its banned counterparts. It
 4 continues to leach out into our homes and environment,
 5 accumulating in dust, food, and people's bodies, as shown in
 6 samples of blood and breast milk. Decabromodiphenylether also
 7 breaks down, either by natural environmental processes or when
 8 metabolized, into polybrominated diphenyl ether congeners that
 9 are predominately found in the now prohibited pentaBDE and
 10 octaBDE.

11 The purpose of this Act is to protect the public health by
 12 banning the manufacture, sale, and distribution of commercial
 13 decabromodiphenylether after June 30, 2010.

14 SECTION 2. Chapter 332D, Hawaii Revised Statutes, is
 15 amended by adding a new section to be appropriately designated
 16 and to read as follows:

17 "§332D- Commercial decabromodiphenylether; restriction
 18 on manufacture and distribution. (a) Except as provided in
 19 subsection (b), after June 30, 2010, no person may manufacture,
 20 knowingly sell, offer for sale, distribute for sale, or
 21 distribute for use in this State any of the following products:

- 1 (1) A television or computer that has an electronic
- 2 enclosure that contains commercial
- 3 decabromodiphenylether;
- 4 (2) Upholstered furniture intended for indoor use in a
- 5 home or other residential occupancy that contains
- 6 commercial decabromodiphenylether; and
- 7 (3) Mattresses and mattress pads that contain commercial
- 8 decabromodiphenylether.
- 9 (b) The following are exempt from subsection (a):
- 10 (1) The manufacture, sale, repair, distribution,
- 11 maintenance, refurbishment, or modification of any raw
- 12 material or component part used in a transportation
- 13 vehicle or any new transportation vehicle with
- 14 component parts, including original parts and spare
- 15 parts, containing commercial decabromodiphenylether;
- 16 (2) The use of commercial decabromodiphenylether in the
- 17 maintenance, refurbishment, or modification of
- 18 transportation equipment; and
- 19 (3) The manufacture, sale, or distribution of any new
- 20 product or product component consisting of recycled or
- 21 used materials containing commercial
- 22 decabromodiphenylether.



1 (c) If the department of health finds that a safer,
2 technically feasible alternative to the use of commercial
3 decabromodiphenylether is not available at reasonable cost, the
4 department, by rule, may grant an exemption to allow for the
5 manufacture, sale, and distribution of products prohibited by
6 subsection (a) between July 1, 2010, and June 30, 2011. The
7 exemption may be renewed for a period of not more than two years
8 if the department finds that a safer, technically feasible
9 alternative to the use of commercial decabromodiphenylether is
10 not available at reasonable cost.

11 (d) For purposes of this section:

12 "Commercial decabromodiphenylether" means the chemical
13 mixture of decabromodiphenylether, including associated
14 polybrominated diphenyl ether impurities not intentionally
15 added. No single polybrominated diphenyl ether impurity shall
16 exceed one per cent by mass of the mixture and the combination
17 of all polybrominated diphenyl ether impurities shall not exceed
18 four per cent by mass of the mixture.

19 "Electronic enclosure" means the plastic housing that
20 encloses the components of electronic products, including but
21 not limited to televisions and computers.



1 "Manufacturer" includes any person, firm, association,
2 partnership, corporation, governmental entity, organization, or
3 joint venture that produces a product containing
4 decabromodiphenylether.

5 "Polybrominated diphenyl ethers":

- 6 (1) Means chemical forms that consist of diphenyl ethers
7 bound with bromine atoms; and
- 8 (2) Include, but are not limited to, the three primary
9 forms of the commercial mixtures known as
10 pentabromodiphenylether (penta-bde),
11 octabromodiphenylether (octa-bde), and
12 decabromodiphenylether (deca-bde).

13 "Technically feasible alternative that is available at a
14 reasonable cost" means an alternative that is available at a
15 cost and in sufficient quantity to permit the manufacturer or
16 user to maintain an economically viable product.

17 "Transportation vehicle" means any mechanized vehicle that
18 is used to transport goods or people including, but not limited
19 to, airplanes, automobiles, motorcycles, trucks, buses, trains,
20 boats, ships, streetcars, and monorail cars."

21 SECTION 3. The department of health shall report on the
22 availability of safer, technically feasible alternatives for



1 those products prohibited from the manufacture, sale, or
 2 distribution under section 2 of this Act and any additional
 3 evidence of the potential harm posed by commercial
 4 decabromodiphenylether. The department also shall review
 5 additional uses of commercial decabromodiphenylether and make
 6 recommendations to the legislature on any recommended additional
 7 bans, restrictions, or both, to reduce and phase out the
 8 manufacture, sale, or distribution of nonedible products
 9 containing commercial decabromodiphenylether. The department
 10 shall submit its findings and recommendations, including
 11 proposed legislation, if any, to the legislature not later than
 12 twenty days prior to the convening of 2008 regular session.

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

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