

JAN 25 2006

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 office, 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 our bodies, where they can cause serious
9 health problems, especially for fetuses and young children.
10 Exposure has been known to cause impaired learning and memory,
11 delayed onset of puberty, male and female reproductive effects,
12 cancer, and impaired immune system functions.

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

16 Today, decabromodiphenylether is the only polybrominated
17 diphenyl ether remaining on the market. This chemical poses the
18 same public health dangers as its banned counterparts. It



1 continues to leach out into our homes and environment,
2 accumulating in dust, food, and our bodies, as shown in samples
3 of blood and breast milk. Decabromodiphenylether also breaks
4 down, either by natural environmental processes or when
5 metabolized, into polybrominated diphenyl ether congeners that
6 are predominately found in the now prohibited pentaBDE and
7 octaBDE.

8 The purpose of this Act is to protect the public health by
9 banning the manufacture, sale, and distribution of commercial
10 decabromodiphenylether.

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

14 "§332D- Commercial decabromodiphenylether; restriction
15 on manufacture and distribution. (a) Except as provided in
16 subsection (b), after July 1, 2007, no person may manufacture,
17 knowingly sell, offer for sale, distribute for sale, or
18 distribute for use in this State any of the following products:

19 (1) A television or computer that has an electronic
20 enclosure that contains commercial
21 decabromodiphenylether;



1 (2) Upholstered furniture intended for indoor use in a
2 home or other residential occupancy that contains
3 commercial decabromodiphenylether; and

4 (3) Mattresses and mattress pads that contain commercial
5 decabromodiphenylether.

6 (b) The following are exempt from subsection (a):

7 (1) The manufacture, sale, repair, distribution,
8 maintenance, refurbishment, or modification of any raw
9 material or component part used in a transportation
10 vehicle or any new transportation vehicle with
11 component parts, including original parts and spare
12 parts, containing commercial decabromodiphenylether;

13 (2) The use of commercial decabromodiphenylether in the
14 maintenance, refurbishment, or modification of
15 transportation equipment; and

16 (3) The manufacture, sale, or distribution of any new
17 product or product component consisting of recycled or
18 used materials containing commercial
19 decabromodiphenylether.

20 (c) If the department of health finds that a safer
21 technically feasible alternative to the use of commercial
22 decabromodiphenylether is not available at reasonable cost, the



1 department, by rule, may grant an exemption to allow for the
2 manufacture, sale, and distribution of products prohibited by
3 subsection (a) between July 1, 2007, and July 1, 2009. The
4 exemption may be renewed for a period of two years if the
5 department finds that a safer, technically feasible alternative
6 to the use of commercial decabromodiphenylether is not available
7 at reasonable cost.

8 (d) For purposes of this section:

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

16 "Electronic enclosure" means the plastic housing that
17 encloses the components of electronic products, including but
18 not limited to televisions and computers.

19 "Manufacturer" includes any person, firm, association,
20 partnership, corporation, governmental entity, organization, or
21 joint venture that produces a product containing
22 decabromodiphenylether.



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

9 "Technically feasible alternative that is available at a

10 reasonable cost" means an alternative that is available at a

11 cost and in sufficient quantity to permit the manufacturer or

12 user to maintain an economically viable product.

13 "Transportation vehicle" means any mechanized vehicle that

14 is used to transport goods or people including, but not limited

15 to, airplanes, automobiles, motorcycles, trucks, buses, trains,

16 boats, ships, streetcars, and monorail cars."

17 SECTION 3. The department of health shall report on the

18 availability of safer, technically feasible alternatives for

19 those products prohibited from the manufacture, sale, or

20 distribution under section 2 of this Act and any additional

21 evidence of the potential harm posed by commercial

22 decabromodiphenylether. The department also shall review



1 additional uses of commercial decabromodiphenylether and make
 2 recommendations to the legislature on any recommended additional
 3 bans, restrictions, or both, to reduce and phase out the
 4 manufacture, sale, or distribution of nonedible products
 5 containing commercial decabromodiphenylether. The department
 6 shall submit its findings and recommendations, including
 7 proposed legislation, if any, to the legislature twenty days
 8 prior to the convening of 2007 regular session.

9 SECTION 4. New statutory material is underscored.

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

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SB. NO. 3193

Report Title:

Commercial Decabromodiphenylether

Description:

Prohibits the manufacture, sale, and distribution of televisions, computers, furniture, mattresses, and mattress pads containing commercial decabromodiphenylether.

