

SCR 209

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON ENERGY AND ENVIRONMENT

SCR 209 / SR 107, Supporting the Phase Out of Production and Importation of Decabromodiphenyl Ether (DECABDE) and All Other Polybrominated Diphenyl Ethers (PBDEs) in the United States

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 25, 2010
3:20 P.M.

1 **Department's Position:** Support

2 **Fiscal Implications:** None

3 **Purpose and Justification:** The resolution supports the phase out of production and importation of
4 decabromodiphenyl ether (deca-BDE) and other polybrominated diphenyl ethers and encourages the
5 Environmental Protection Agency (EPA) to work with minor importers of deca-BDE to end their
6 importation of this product into the United States. On December 17, 2009, the EPA reached an
7 agreement with the two U.S. producers and the largest importer to phase out deca-BDE in the U.S.
8 Hawaii previously enacted legislation to ban the manufacture, processing or distribution of products that
9 contain penta-BDE or octa-BDE and they are no longer produced in the United States.

10 The Department agrees with the need to keep these persistent and potentially toxic compounds
11 out of the environment. In 2008, the Department prepared a report to the Twenty-Fifth Legislature on
12 deca-BDE
13 (<http://oeqc.doh.hawaii.gov/sites/LegRpt/20091/DECA%20Leg%20Report%20Nov%2020%202008%20FINAL.pdf>). The Department noted that based on animal studies, deca-BDE exposure can result in
14

1 potential health effects and that safer cost effective alternatives to deca-BDE are now available. The
2 Department supports efforts at the federal level to phase out production and importation of deca-BDE in
3 the United States.

4 Thank you for the opportunity to testify.



CAPITOL CONSULTANTS OF HAWAII, LLP
222 South Vineyard Street Suite 401, Honolulu, Hawaii 96813
Office: 808/531-4551 Fax: 808/533-4601
Website: www.capitolconsultantsofhawaii.com

March 23, 2010

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair
Committee on Energy and Environment
Hawaii State Capitol, Room 225
Honolulu, HI 96813

RE: SCR209/SR107 SUPPORTING THE PHASE OUT OF PRODUCTION AND IMPORTATION OF DECABROMODIPHENYL ETHER (DECA BDE) AND ALL OTHER POLYBROMINATED DIPHENYL ETHERS (PBDES) IN THE UNITED STATES.

Dear Chair Gabbard, Vice Chair English and Members of the Committee:

We are respectfully asking for an amendment to SCR209/SR107 to soften the statements in the resolution because this is a case of the industry coming forward, on its own, and phasing these chemicals out. It is the industry itself that is calling for an end to the production of both DECA and PDBES.

The use of these chemicals in electronics, wire and cable insulation, textiles, automobiles, trains, airplanes, and in other devices, was once thought to be entirely positive. These fire retardants saved millions of lives. However, a few years ago, it was discovered that in the event that a fire occurs anyway, if the fire causes a high enough temperature, (about 1150 degrees Fahrenheit) the retardants can then emit chemicals into the air that may cause cancer. For years there was no reasonable alternative to DECA, and there needed to be a tradeoff between the possibility of a fire, and the possibility of getting cancer from that fire, if it occurred, and if the fire was hot enough.

But better solutions are now available, and the industry and the Federal government have agreed that the production, importation and sales of most Deca products will be phased out by the end of 2012 and all uses of these products will end in the United States by the end of 2013.

In the meantime the two U.S. producers of Deca, Albermarle Corporation and Chemtura Corporation, and the largest U.S. importer, ICL Industrial Products have led the efforts to end production and use while at the same time having been vilified in some quarters for not ending such use faster.

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Therefore, on behalf of our client, the Citizens for Fire Safety Institute, on behalf in turn of the fire retardant industry, we respectfully request that a new second Whereas be inserted into the Resolution as

WHEREAS, major producers of fire retardants have committed to producing effective life saving fire retardants that have a minimal impact on the environment; and

and that the third, fourth, and fifth whereas be eliminated. Attached is a copy of a draft that reflects the amendment.

Inasmuch as the Institute itself is requesting the Resolution, it just seems fair that the industry not be excoriated for having come forward in the first place.

Thank you for the opportunity to submit written comments.

Sincerely,

John H. Radcliffe
Vice President

S.C.R.209/S.R.107

Proposed S.D.1

SUPPORTING THE PHASE OUT OF PRODUCTION AND IMPORTATION OF DECABROMODIPHENYL ETHER (DECABDE) AND ALL OTHER POLYBROMINATED DIPHENYL ETHERS (PBDES) IN THE UNITED STATES.

WHEREAS, polybrominated diphenyl ethers (PBDE) have been used extensively as *life saving* fire retardants in many common household products for the past thirty years; and

WHEREAS, major producers of fire retardants have committed to producing effective life saving fire retardants that have a minimal impact on the environment; and

~~— WHEREAS, studies on animals show that PBDEs can affect behavior and learning after birth and into adulthood, making exposure to fetuses and children a particular concern; and~~

~~— WHEREAS, PBDEs have the potential to disrupt thyroid hormone balance and contribute to a variety of developmental learning disabilities, and may also have the potential to cause cancer; and~~

~~— WHEREAS, substantial efforts to eliminate PBDEs from consumer products have been made throughout the world in both the private and public sectors, and these efforts have produced numerous safe alternatives that meet stringent fire code standards; and~~

WHEREAS, on December 17, 2009, as the result of negotiations with the United States Environmental Protection Agency, the two U.S. producers of the PBDE decabromodiphenyl ether (decaBDE), Albemarle Corporation and Chemtura Corporation, and the largest U.S. importer,

S.C.R. 209/S.R.107

Proposed S.D.1

ICL Industrial Products, Inc., announced commitments to phase out decaBDE in the United States; and

WHEREAS, decaBDE is a flame retardant which has been used in electronics, wire and cable insulation, textiles, automobiles and airplanes, and other applications; and

WHEREAS, these companies have committed to end production, importation, and sales of decaBDE for most uses in the United States by December 31, 2012, and to end all uses by the end of 2013; and

WHEREAS, the Environmental Protection Agency has also announced its intent to encourage the other minor importers of decaBDE to join this initiative; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, the Senate concurring, that the Legislature supports this phase out of production and importation of decaBDE and all other PBDEs in the United States; and

BE IT FURTHER RESOLVED that the Legislature encourages the Environmental Protection Agency to continue its efforts to encourage the remaining minor importers of decaBDE to end their importation of decaBDE into the United States; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Administrator of the United States Environmental Protection Agency and to Hawaii's congressional delegation.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cnoh@goodsill.com

MEMORANDUM

TO: Senator Mike Gabbard
Chair, Committee on Energy and Environment
Via Email: ENETestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin / Anne T. Horiuchi

DATE: March 24, 2010

RE: **SCR 209 / SR 107 - Supporting the Phase Out of Production and Importation of Decabromodiphenyl [sic] Ether (DecaBDE) and All Other Polybrominated Diphenyl Ethers (PBDEs) in the United States**
Hearing: Thursday, March 25, 2010 at 3:20 p.m., Room 225

Dear Chair Gabbard and Members of the Committee:

I am Gary Slovin, testifying on behalf of the Alliance of Automobile Manufacturers (“Alliance”). The Alliance is a trade association representing eleven car and light truck manufacturers, including: BMW, Chrysler, Ford, GM, Jaguar Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Porsche, Toyota, and Volkswagen.

SCR 209/SR 107 support the phase-out of the production and importation of decabromodiphenyl ether (decaBDE) and all other polybrominated diphenyl ethers (PBDEs) in the United States and encourage the Environmental Protection Agency to continue its efforts to encourage the remaining minor importers of decaBDEs to end their importation of decaBDEs into the United States. **The Alliance has concerns regarding SCR 209/SR 107.**

It is our understanding that the decaBDE manufacturers have agreed to a phase-out deadline of December 31, 2013 for transportation and military uses, with an exemption for service replacement parts. However, this does not mean that there will not be enough of a stockpile that the auto industry will immediately stop manufacturing with decaBDE. Thus, for the auto industry, it anticipates having components with decaBDE for the entire 2013 model year and it will begin the 2014 model year without decaBDE

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components. The Alliance further notes that for at least one of its members,¹ it will be difficult for that member to completely phase out decaBDE components by December 31, 2014.

Suitable alternatives to decaBDE and other PBDEs are still being developed. In the meantime, however, auto manufacturers must still comply with federal safety standards regarding the flammability of interior materials. *See* 49 C.F.R. § 571.302. Thus, SCR 209/SR 107 could be problematic for the Alliance, to the extent that they may conflict with such federal regulations. Should these resolutions move forward, the Alliance requests that automobiles be clearly exempted, so that such potential conflict may be avoided.

Thank you for the opportunity to provide testimony on this measure.

¹ The member is based in Europe. The EU has exempted decaBDE as a flame retardant – it is not banned.