
SENATE BILL 5515

State of Washington

59th Legislature

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By Senators Regala, Esser, Kline, Poulsen, Rockefeller, Brandland, Fraser, Kohl-Welles, Brown, Keiser, Pridemore and Shin

Read first time 01/26/2005. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to brominated flame retardants; adding a new
2 chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Brominated flame retardant" means any chemical containing the
7 element bromine that may be added to a plastic, foam, or textile to
8 inhibit flame formation. Brominated flame retardant includes, but is
9 not limited to, a chemical or group of chemicals known as
10 polybrominated biphenyls, polybrominated diphenyl ethers,
11 tetrabromobisphenol-A, and hexabromocyclododecane.

12 (2) "Department" means the department of ecology.

13 (3) "Manufacturer" includes any person, firm, association,
14 partnership, corporation, governmental entity, organization, or joint
15 venture that produces a product containing polybrominated diphenyl
16 ethers or an importer or domestic distributor of a product containing
17 polybrominated diphenyl ethers.

18 (4) "Polybrominated diphenyl ethers" means chemical forms that
19 consist of diphenyl ethers bound with bromine atoms. Polybrominated

1 diphenyl ethers include, but are not limited to, the three primary
2 forms of the commercial mixtures known as pentabromodiphenylether
3 (penta-bde), octabromodiphenylether (octa-bde), and
4 decabromodiphenylether (deca-bde).

5 (5) "Transportation vehicle" means any mechanized vehicle that is
6 used to transport goods or people including, but not limited to,
7 airplanes, automobiles, motorcycles, trucks, buses, trains, boats,
8 ships, streetcars, or monorail cars.

9 (6) "Used product" means any product that has been previously
10 owned, purchased, or sold in retail commerce. "Used product" does not
11 include any product manufactured after July 1, 2006.

12 NEW SECTION. **Sec. 2.** (1) Except as provided in subsections (3)
13 and (4) of this section, after July 1, 2006, no person may manufacture,
14 sell, offer for sale, or distribute for sale or use in this state
15 products containing polybrominated diphenyl ethers.

16 (2) Except as provided in subsections (3) and (4) of this section,
17 after January 1, 2006, a manufacturer of products containing
18 polybrominated diphenyl ethers must notify persons that sell the
19 manufacturer's products about the provisions of this section and how to
20 properly dispose of any remaining inventory.

21 (3) Subsections (1) and (2) of this section do not apply to:

22 (a) The manufacture, sale, or distribution of any transportation
23 vehicle with component parts containing decabromodiphenylether;

24 (b) The sale by a business, charity, or private party of any used
25 product containing polybrominated diphenyl ethers; or

26 (c) The manufacture, sale, or distribution of any new product or
27 product component consisting of recycled or used materials containing
28 decabromodiphenylether. Products containing any new polybrominated
29 diphenyl ethers do not qualify for this exemption.

30 (4) A manufacturer or user of a decabromodiphenylether product may
31 apply for an exemption for a specific use of decabromodiphenylether by
32 filing a written petition with the department. An exemption may be
33 granted for a term not to exceed three years and may be renewed upon
34 written application if the department finds that the specific use of
35 decabromodiphenylether continues to meet the criteria of this section
36 and the manufacturer or other persons comply with the conditions of its

1 original approval. The department may grant an exemption for a
2 specified use of decabromodiphenylether with or without conditions upon
3 finding that the petitioner has demonstrated that:

4 (a) A technically feasible alternative to the use of
5 decabromodiphenylether is not available at reasonable cost; or

6 (b) The potential harm to public health and the environment
7 directly posed by a technically feasible and available alternative is
8 greater than the potential harm posed by decabromodiphenylether.

9 (5) Nothing in this section restricts the ability of a
10 manufacturer, importer, or distributor from transporting products
11 containing polybrominated diphenyl ethers through the state, or storing
12 such products in the state for later distribution outside the state.

13 NEW SECTION. **Sec. 3.** (1) Subject to available funding, the
14 department and the department of health shall conduct a stakeholder
15 process to develop a proposal for a ban on the use of
16 decabromodiphenylether in transportation vehicles, and a proposal for
17 the ban or management of used and recycled products containing
18 polybrominated diphenyl ethers. The stakeholder process shall include:

19 (a) Establishing a timeline for a ban on the use of
20 decabromodiphenylether in transportation vehicles based on an
21 evaluation of the availability of safer alternatives;

22 (b) An examination of problems related to the reuse and recycling
23 of products containing polybrominated diphenyl ethers and methods of
24 management or disposal that will result in the lowest potential for
25 polybrominated diphenyl ethers entering the environment, the food
26 chain, or a person's body; and

27 (c) An examination of the issues and potential timeline for a
28 requirement to label brominated flame retardants sold in Washington.
29 The review shall include the type of information required on the label,
30 including guidance on proper waste management of the product in
31 accordance with state and federal law.

32 (2) The department and the department of health shall report the
33 findings and recommendations of the stakeholder process to the
34 appropriate committees of the legislature by December 15, 2005. The
35 preparation of the reports required in this subsection is subject to
36 available funding.

1 NEW SECTION. **Sec. 4.** (1) By January 1, 2006, the department of
2 general administration shall:

3 (a) Give priority and preference to the purchase of equipment,
4 supplies, and other products that do not contain polybrominated
5 diphenyl ethers; and

6 (b) Make available for purchase and use by all state agencies only
7 equipment, supplies, and other products that do not contain
8 polybrominated diphenyl ethers.

9 (2) The department of general administration shall, by January 1,
10 2006, revise its rules, policies, and guidelines to implement the
11 purposes of this chapter.

12 NEW SECTION. **Sec. 5.** A violation of this chapter is punishable by
13 a civil penalty not to exceed one thousand dollars for each violation
14 in the case of a first offense. Repeat violators are liable for a
15 civil penalty not to exceed five thousand dollars for each repeat
16 offense. Penalties collected under this section must be deposited in
17 the state toxics control account created in RCW 70.105D.070.

18 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
19 a new chapter in Title 70 RCW.

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