

ASSEMBLY, No. 3915

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 5, 2011

Sponsored by:

Assemblyman PETER J. BARNES, III

District 18 (Middlesex)

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District 27 (Essex)

SYNOPSIS

Limits sale and manufacture of flame retardant chemical decabromodiphenyl ether.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the flame retardant chemical
2 decabromodiphenyl ether and supplementing P.L.1960, c.39
3 (C.56:8-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. The Legislature finds and declares that:

9 a. According to the United States Environmental Protection
10 Agency, polybrominated diphenylethers (PBDEs) are a class of
11 flame retardant chemicals commonly found in a large number of
12 household products, such as plastics, foams, fabrics, and other
13 materials, and decabromodiphenyl ether (decaBDE), a type of
14 PBDE, is a major component of commercial formulations used as a
15 flame retardant in plastics for television cabinets, consumer
16 electronics, shipping pallets, and wire insulation, and as back
17 coatings for draperies and upholstery;

18 b. When plastics and other products containing decaBDE burn,
19 they emit hydrogen bromide and other toxic gases, and studies
20 indicate that the presence of these highly toxic materials during
21 post-fire operations can be absorbed into the body through the skin
22 or inhalation;

23 c. Hydrogen bromide, a highly toxic and corrosive gas, can
24 penetrate the protective breathing apparatus used by firefighters,
25 and poses a significant public safety threat to firefighters and
26 citizens in general;

27 d. DecaBDE can enter the environment in many different ways,
28 including during the chemical manufacturing process when
29 decaBDE is made or when it is added to consumer products as a
30 flame retardant, through normal wear and tear of products that
31 contain decaBDE, and when products that contain decaBDE are
32 disposed of;

33 e. People can also be exposed to decaBDE dust in the
34 workplace and in the home, and it may enter the body by breathing
35 or swallowing indoor dust that contains decaBDE; and

36 f. It is therefore in the public interest to limit the sale, lease,
37 and distribution of products containing the flame retardant
38 decabromodiphenyl ether, and to limit the manufacture of
39 decabromodiphenyl ether or products made with it.
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41 2. As used in this act:

42 "Decabromodiphenyl ether" means the chemical mixture
43 predominately composed of decabromodiphenyl ether (decaBDE),
44 and including associated polybrominated diphenylether impurities
45 not intentionally added.

46 "Transportation purposes" means the use of any motorized
47 vehicle or motorized equipment to transport people, goods or

1 materials, including but not limited to aircraft, ships, freight and
2 passenger trains, mass transit buses, and cranes.

3

4 3. a. Except as otherwise provided in subsection b. of this
5 section, after December 31, 2013, no person may sell, offer for sale,
6 lease, or distribute any product containing more than 0.1%
7 decabromodiphenyl ether.

8 b. Notwithstanding the provisions of subsection a. of this
9 section to the contrary, any retailer in possession of a product that is
10 banned from retail sale, lease, or distribution pursuant thereto may
11 exhaust existing stock through sales to the public through December
12 31, 2014.

13

14 4. After December 31, 2013, no person may manufacture
15 decabromodiphenyl ether, or manufacture a product containing
16 more than 0.1% decabromodiphenyl ether.

17

18 5. Sections 3 and 4 of this act shall not apply to:

19 a. products or components of products used for military
20 purposes or transportation purposes; or

21 b. decabromodiphenyl ether content that is (1) solely derived
22 from the use of recycled materials, and (2) exclusively used in
23 electronic equipment.

24

25 6. A violation of subsection a. of section 3 of this act or section
26 4 of this act shall be an unlawful practice pursuant to P.L.1960, c.39
27 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties
28 available pursuant to P.L.1960, c.39.

29

30 7. This act shall take effect immediately.

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STATEMENT

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35 This bill would prohibit the sale, lease, distribution, and
36 manufacture of products containing decabromodiphenyl ether
37 (decaBDE), a flame retardant chemical.

38 After December 31, 2013, no person would be authorized to sell,
39 offer for sale, lease, or distribute any product containing more than
40 0.1% decaBDE, unless it's (1) a product or component of a product
41 used for military or transportation purposes, or (2) decaBDE
42 content is solely derived from the use of recycled materials and
43 exclusively used in electronic equipment. Under the bill,
44 "transportation purposes" is defined as the use of any motorized
45 vehicle or motorized equipment to transport people, goods or
46 materials, including but not limited to aircraft, ships, freight and
47 passenger trains, mass transit buses, and cranes.

1 The bill would allow a retailer in possession of products
2 containing decaBDE to exhaust existing stock through sales to the
3 public through December 31, 2014.

4 Also, after December 31, 2013, no person would be authorized to
5 manufacture decaBDE or manufacture a product with more than
6 0.1% decaBDE.

7 Under the bill, it would be an unlawful practice subject to the
8 penalties under the State's consumer fraud act, P.L.1960, c.39
9 (C.56:8-1 et seq.), for any person to, after December 31, 2013: (1)
10 manufacture decaBDE or a product containing more than 0.1%
11 decaBDE, or (2) sell, offer for sale, lease, or distribute any product
12 containing more than 0.1% decaBDE, unless exhausting existing
13 stock through sales to the public up to one year after the ban takes
14 effect. Violations under the consumer fraud act are punishable by a
15 monetary penalty of up to \$10,000 for a first offense and up to
16 \$20,000 for any subsequent offense.

17 DecaBDE, a type of polybrominated diphenylether (PBDE), is a
18 major component of commercial formulations used as a flame
19 retardant in plastics for television cabinets, consumer electronics,
20 shipping pallets, and wire insulation, and as back coatings for
21 draperies and upholstery. Recently, a number of states have
22 enacted or are considering legislation to ban or restrict the sale,
23 manufacture, and use of products containing certain PBDEs,
24 including decaBDE, and support the use of less toxic non-
25 brominated flame retardant alternatives.