

SENATE, No. 2722

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

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 prohibit the sale, lease,
37 and distribution of products containing the flame retardant
38 decabromodiphenyl ether, and to prohibit 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 decabromodiphenyl
7 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, manufacture a product containing
16 decabromodiphenyl ether, or manufacture a product using recycled
17 content or other reusable or recoverable materials containing
18 decabromodiphenyl ether.

19

20 5. Sections 3 and 4 of this act shall not apply to products or
21 components of products used for military purposes or transportation
22 purposes.

23

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

28

29 7. This act shall take effect immediately.

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STATEMENT

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

37 After December 31, 2013, no person could sell, offer for sale,
38 lease, or distribute any product containing decaBDE, unless it's a
39 product or component of a product used for the military or
40 transportation purposes. Under the bill, "transportation purposes" is
41 defined as the use of any motorized vehicle or motorized equipment
42 to transport people, goods or materials, including but not limited to
43 aircraft, ships, freight and passenger trains, mass transit buses, and
44 cranes.

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

1 Also, after December 31, 2013, no person could manufacture
2 decaBDE or manufacture a product with decabromodiphenyl ether.
3 The bill would further prohibit a person from manufacturing a
4 product using recycled content or other reusable or recoverable
5 materials containing decaBDE.

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

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