

1 S.260

2 Introduced by Senator Lyons of Chittenden District

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; clothing; flame retardants

6 Statement of purpose: This bill proposes to ban the manufacture, sale,  
7 distribution, or use of products containing certain flame retardants.

8 AN ACT RELATING TO THE SALE OR DISTRIBUTION OF  
9 BROMINATED FLAME RETARDANTS

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 10 V.S.A. chapter 165 is added to read:

12 CHAPTER 165. FLAME RETARDANTS

13 § 7201. DEFINITIONS

14 As used in this chapter:

15 (1) “Brominated flame retardant” means any chemical containing the  
16 element bromine that is added to plastic, foam, or textile to inhibit flame  
17 formation.

18 (2) “DecaBDE” means decabrominated diphenyl ether.

19 (3) “Flame retardant” means any chemical that is added to a plastic,  
20 foam, or textile to inhibit flame formation.

8  
9  
1 (4) "Manufacturer" means any person who manufactures a final product  
2 containing a regulated brominated flame retardant or any person whose brand  
3 name is affixed to a product containing a regulated brominated flame retardant.

4 (5) "OctaBDE" means octabrominated diphenyl ether.

5 (6) "PentaBDE" means pentabrominated diphenyl ether.

6 § 7202. PROHIBITION ON SALE OR DISTRIBUTION OF BROMINATED  
7 FLAME RETARDANTS

8 (a) As of July 1, 2009, a person may not sell, offer for sale, distribute for  
9 sale, or distribute for promotional purposes a product containing more than 0.1  
10 percent of OctaBDE or PentaBDE.

11 (b) As of July 1, 2009, a person may not manufacture, sell, offer for sale,  
12 distribute for sale, or use either of the following products containing  
13 DecaBDE:

14 (1) A mattress or mattress pad;

15 (2) Upholstered furniture intended for indoor use in a home or other  
16 residential occupancy.

17 (c) As of July 1, 2011, a person may not manufacture, sell, offer for sale,  
18 distribute for sale, or use a television or computer with a plastic housing  
19 containing DecaBDE.

13  
14

1 (d) This section does not apply to the sale of used products. The following  
2 products that contain DecaBDE are exempt from the requirements of  
3 subsections (b) and (c) of this section:

4 (1) Motor vehicles or products or parts for use in motor vehicles or  
5 transportation equipment;

6 (2) Products or equipment used in industrial or manufacturing processes;  
7 or

8 (3) Electronic wiring and cable used for power transmission.

9 (e) As of July 1, 2009, a manufacturer of a product containing DecaBDE,  
10 OctaBDE, or PentaBDE shall notify persons that sell the manufacturer's  
11 product of the requirements of this section.

12 § 7203. OUTREACH AND EDUCATION; MULTISTATE

13 CLEARINGHOUSE

14 (a) The secretary of natural resources shall develop a program to inform  
15 and educate retailers regarding the requirements of this section and methods  
16 for identifying products that contain DecaBDE, OctaBDE, or PentaBDE.

17 (b) The secretary of natural resources may participate in the establishment  
18 and implementation of a regional, multistate clearinghouse to: assist in the  
19 implementation of the requirements of this section; help coordinate education  
20 and outreach activities; review risk assessments; review alternatives to

18  
19  
1 DecaBDE, OctaBDE, or PentaBDE; and implement other activities related to  
2 the administration of this chapter.

3 § 7204. REVIEW OF BROMINATED FLAME RETARDANTS; REPORT  
4 TO GENERAL ASSEMBLY

5 The secretary of natural resources, in consultation with the commissioner of  
6 health, shall review the risk assessments and hazard information regarding and  
7 proposed alternatives to the use of brominated flame retardants. Beginning  
8 January 15, 2010 and every two years thereafter, the secretary of natural  
9 resources shall report to the general assembly regarding the regulation of  
10 brominated flame retardants in the state, in other states, and nationally. The  
11 report shall include recommended additional actions to protect the public  
12 health and the environment from brominated flame retardants.

13 § 7205. CERTIFICATE OF COMPLIANCE

14 If the secretary of natural resources reasonably suspects that a product  
15 containing a regulated brominated flame retardant is being sold, offered for  
16 sale, or distributed for sale in violation of this chapter, the secretary may  
17 request the manufacturer of the product to provide the secretary with a  
18 certificate of compliance. Within 10 days of receipt of the request for a  
19 certificate of compliance, the manufacturer shall:

20 (1) Provide the secretary with a certificate declaring that the product  
21 complies with the requirements of this chapter; or



28  
29

1 title and rulemaking, under the following authorities and under the rules

2 adopted under those authorities:

3 (1) The following provisions of this title:

4 \* \* \*

5 (N) chapter 159 (waste management).

6 (O) chapter 165 (flame retardants).

7 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).