1 2 3 4 1	BILL AS INTRODUCED 2008 S.260 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 9	AN ACT RELATING TO THE SALE OR DISTRIBUTION OF 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.

6 7 8 9 1	BILL AS INTRODUCED 2008 S.260 Page 2 (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.

11 12 13	BILL AS INTRODUCED S.260 2008 Page 3
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	<u>or</u>
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	<u>CLEARINGHOUSE</u>
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

16 17 18 19	BILL AS INTRODUCED 2008 S.260 Page 4
19	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

21 22 23 24	BILL AS INTRODUCED 2008 S.260 Page 5 (2) Notify persons that sell the manufacturer's product in the state that
2	the sale of the product is prohibited and shall submit to the secretary a list of
3	the names and addresses of those notified.
4	§ 7206. RULEMAKING
5	(a) The secretary may adopt rules to implement this chapter.
6	(b) The secretary may adopt rules regulating the manufacture, use, sale, or
7	distribution of an additional brominated flame retardant if the secretary
8	determines that the brominated flame retardant is harmful to public health and
9	the environment
10	Sec. 2. 10 V.S.A. § 8003(a) is amended to read:
11	(a) The secretary may take action under this chapter to enforce the
12	following statutes:
13	* * *
14	(17) 10 V.S.A. § 2625, relating to heavy cutting of timber; and
15	(18) 10 V.S.A. chapter 164, relating to comprehensive mercury
16	management; and
17	(19) 10 V.S.A. chapter 165, relating to flame retardants.
18	Sec. 3. 10 V.S.A. § 8503(a) is amended to read:
19	(a) This chapter shall govern all appeals of an act or decision of the
20	secretary, excluding enforcement actions under chapters 201 and 211 of this

26	BILL AS INTRODUCED	S.260
27	2008	Page 6
28 29		
1	title and rulemaking, under the following authorities and under the rules	3
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).	