



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1421

Introduced 2/21/2007, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

410 ILCS 48/1
410 ILCS 48/5
410 ILCS 48/10
410 ILCS 48/15
410 ILCS 48/16 new
410 ILCS 48/17 new
410 ILCS 48/19 new
410 ILCS 48/33 new

Amends the Brominated Fire Retardant Prevention Act. Changes the short title of the Act to the Persistent Bioaccumulative Toxic Prevention Act. Defines "brominated flame retardant" and "Agency". Beginning January 1, 2008, prohibits a person from manufacturing, processing, selling, offering for sale, distributing for sale, or distributing for use a mattress, mattress pad, an article of furniture, or any other product intended for indoor residential use if the product has a textile component containing decaBDE. Provides that, beginning January 1, 2010, a person may distribute for not manufacture, process, sell, offer for sale, sale, or distribute for use a television, computer, or other electronic device if the exterior casing of the devices contains decaBDE. Sets out responsibilities of the Environmental Protection Agency and the manufacturers. Requires the Agency to report the listed information to the General Assembly and the Governor, no later than January 4, 2008, concerning brominated flame retardants. Effective immediately.

LRB095 09000 LCT 31693 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Brominated Fire Retardant Prevention Act is
5 amended by changing Sections 1, 5, 10, and 15 and by adding
6 Sections 16, 17, 19, and 33 as follows:

7 (410 ILCS 48/1)

8 Sec. 1. Short title. This Act may be cited as the
9 Persistent Bioaccumulative Toxic ~~Brominated Fire Retardant~~
10 Prevention Act.

11 (Source: P.A. 94-100, eff. 7-1-05.)

12 (410 ILCS 48/5)

13 Sec. 5. Legislative findings.

14 (a) Chemicals known as brominated flame retardants (BFR's)
15 are widely used in the United States. To meet stringent fire
16 standards, manufacturers add BFR's to a multitude of products,
17 including plastic housing of electronics and computers,
18 circuit boards, and the foam and textiles used in furniture.

19 (b) Polybrominated diphenyl ether (PBDE), which is a
20 subcategory of BFR's, has increased forty-fold in human breast
21 milk since the 1970s.

22 (c) PBDE has the potential to disrupt thyroid hormone

1 balance and contribute to a variety of developmental deficits,
2 including low intelligence and learning disabilities. PBDE may
3 also have the potential to cause cancer.

4 (d) Substantial efforts to eliminate BFR's from products
5 have been made throughout the world, including private and
6 public sectors. These efforts have made available numerous
7 alternatives safe to human health while meeting stringent fire
8 standards. To meet market demand, it is in the interest of
9 State manufacturers to eliminate the use of BFR's.

10 (e) In order to protect the public health and the
11 environment, the General Assembly believes it is necessary for
12 the State to develop a precautionary approach regarding the
13 production, use, storage, and disposal of products containing
14 brominated fire retardants.

15 (f) DecaBDE undergoes global transport, is found in animals
16 around the world, and bioconcentrates in food webs. It is
17 degraded in the environment and metabolized in animals and
18 humans to toxic congeners. Administration of decaBDE to intact
19 animals results in toxic effects. DecaBDE therefore meets the
20 definition of a persistent bioaccumulative toxic.

21 (g) It is important that the use of persistent
22 bioaccumulative toxics be eliminated and replaced only with
23 safer substitutes.

24 (Source: P.A. 94-100, eff. 7-1-05.)

1 Sec. 10. Definitions. In this Act:

2 "Agency" means the Illinois Environmental Protection
3 Agency.

4 "Brominated flame retardant" and "BFR" mean any chemical
5 containing the element bromine that may be added to a plastic,
6 foam, or textile to inhibit flame formation.

7 "DecaBDE" means decabromodiphenyl ether.

8 "OctaBDE" means octabromodiphenyl ether.

9 "PBDE" means polybrominated diphenyl ether.

10 "PentaBDE" means pentabromodiphenyl ether.

11 (Source: P.A. 94-100, eff. 7-1-05.)

12 (410 ILCS 48/15)

13 Sec. 15. Regulation of brominated flame retardant.

14 (a) Effective January 1, 2006, a person may not
15 manufacture, process, or distribute in commerce a product or a
16 flame-retarded part of a product containing more than one-tenth
17 of 1% of pentaBDE or octaBDE.

18 (b) Subsection (a) of this Section does not apply to the
19 following:

20 (1) The sale by a business, charity, or private party
21 of any used product containing PBDE.

22 (2) The distribution in commerce of original equipment
23 manufacturer replacement service parts manufactured prior
24 to the effective date of this Act.

25 (3) The processing of recycled material containing

1 pentaBDE or octaBDE in compliance with applicable State and
2 federal laws.

3 (c) Beginning January 1, 2008, a person may not
4 manufacture, process, sell, offer for sale, distribute for
5 sale, or distribute for use a mattress, mattress pad, an
6 article of furniture, or any other product intended for indoor
7 residential use if the product has a textile component
8 containing decaBDE.

9 (d) Beginning January 1, 2010, a person may not
10 manufacture, process, sell, offer for sale, or distribute for
11 sale, or distribute for use a television, computer, or other
12 electronic device if the exterior casing of the devices
13 contains decaBDE.

14 (e) Subsections (c) and (d) of this Section do not apply to
15 the following:

16 (1) Any sale of any used product that contains decaBDE.

17 (2) The processing of recycled material containing
18 decaBDE in compliance with applicable State and federal
19 laws.

20 (3) Vehicles used for transportation or products or
21 parts used in such vehicles.

22 (Source: P.A. 94-100, eff. 7-1-05.)

23 (410 ILCS 48/16 new)

24 Sec. 16. Agency responsibilities.

25 (a) The Agency must develop a program to assist retailers

1 in identifying potential products containing decaBDE in their
2 inventory.

3 (b) The Agency shall assist State agencies to give priority
4 and preference to the purchase of vehicles, equipment,
5 supplies, and other products that do not contain PBDEs.

6 (410 ILCS 48/17 new)

7 Sec. 17. Manufacturer responsibilities.

8 (a) A manufacturer of a product restricted under subsection
9 (c) of Section 15 of this Act must notify persons that sell or
10 distribute the manufacturer's product of the requirements of
11 this Act no later than 90 days prior to the effective date of
12 the restriction.

13 (b) A manufacturer of a product restricted under subsection
14 (d) of Section 15 of this Act must notify persons that sell or
15 distribute the manufacturer's product of the requirements of
16 this Act no later than January 1, 2008.

17 (c) Effective January 1, 2010, a person who manufactures a
18 product or product component containing any brominated flame
19 retardant must provide written notice to the Agency in
20 accordance with this subsection. A product or a component of a
21 product containing any brominated flame retardant may not be
22 offered for final sale, use, or distribution after the
23 effective date of this subsection unless the notice has been
24 provided to the Agency. A trade association representing
25 manufacturers of products may act to fulfill the

1 responsibilities of individual manufacturers under this
2 subsection. The notice must include the following information
3 on a form provided by the Agency:

4 (1) a brief description of the product or product
5 component;

6 (2) the name and Chemical Abstract Services Number of
7 each brominated flame retardant contained in the product or
8 product component;

9 (3) the amount of each brominated flame retardant in
10 each unit of the product or product component, reported as
11 an exact number, as an average per product or component
12 with an upper or lower limit, or as falling within a range
13 approved by the Agency;

14 (4) the total amount of each brominated flame retardant
15 in all units of the product or product components sold in
16 the United States during the most recent calendar year for
17 which sales figures are available, reported either for the
18 units or components sold by the manufacturer or as
19 aggregated by a manufacturer trade association for all
20 units of the product or components made by the industry;
21 and

22 (5) the name and address of the manufacturer and the
23 name, address, and phone number of a contact person for the
24 manufacturer.

25 (d) With the approval of the Agency, the manufacturer may
26 supply the information required in this Section for a product

1 category rather than an individual product. The manufacturer
2 shall update and revise the information in the notification
3 whenever there is significant change in the information or when
4 requested by the Agency. The information required under item
5 (4) of subsection (c) of this Section must be updated and
6 provided to the Agency every 3 years.

7 (e) Notwithstanding item (3) of subsection (c) of this
8 Section, the manufacturer of a product containing one or more
9 components containing brominated flame retardants is not
10 required to include information on the amount of brominated
11 flame retardant in the component in the notice to the Agency,
12 if the component manufacturer has provided that information to
13 the Agency and the manufacturer of the product that contains
14 the component identifies the component and component
15 manufacturer in the notice.

16 (f) An importer of a product or product component from a
17 foreign country may not sell, use, or distribute the product or
18 product component in the State unless the manufacturer of the
19 product or product component is in compliance with this
20 Section, except that this prohibition does not apply to
21 retailers for whom importing is not a primary business.

22 (410 ILCS 48/19 new)

23 Sec. 19. Interstate clearinghouse. The Agency may
24 participate in the establishment and implementation of a
25 regional, multistate clearinghouse to assist in carrying out

1 the requirements of this Act and to help coordinate education
2 and outreach activities, review hazard and alternatives
3 assessments, and any other activities related to the
4 administration of this Act. The Agency may provide the
5 interstate clearinghouse with product information submitted to
6 the Agency under Section 17 of this Act and the Agency and the
7 interstate clearinghouse may compile or publish analyses or
8 summaries of the information.

9 (410 ILCS 48/33 new)

10 Sec. 33. Report.

11 (a) The Agency shall review the latest hazard, risk, and
12 alternative assessments in connection with brominated flame
13 retardants and relevant findings and rulings by the United
14 States Environmental Protection Agency and the European Union.
15 The Agency shall, no later than January 4, 2008, submit a
16 report regarding brominated flame retardants to the General
17 Assembly and the Governor.

18 (b) The report shall include:

19 (1) an assessment of the availability of safer
20 alternative flame retardants for use in automobiles and
21 other brominated flame retardant applications not
22 restricted under this Act; and

23 (2) recommendations on actions that would further
24 protect public health and the environment from brominated
25 flame retardants.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.