

2SSB 5515 - S AMD 652

By Senator Regala

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Brominated flame retardant" means any chemical containing the
6 element bromine that may be added to a plastic, foam, or textile to
7 inhibit flame formation. Brominated flame retardant includes, but is
8 not limited to, a chemical or group of chemicals known as
9 polybrominated biphenyls, polybrominated diphenyl ethers,
10 tetrabromobisphenol-A, and hexabromocyclododecane.

11 (2) "Department" means the department of ecology.

12 (3) "Manufacturer" includes any person, firm, association,
13 partnership, corporation, governmental entity, organization, or joint
14 venture that produces a product containing polybrominated diphenyl
15 ethers or an importer or domestic distributor of a noncombustible
16 product containing polybrominated diphenyl ethers.

17 (4) "Polybrominated diphenyl ethers" means chemical forms that
18 consist of diphenyl ethers bound with bromine atoms. Polybrominated
19 diphenyl ethers include, but are not limited to, the three primary
20 forms of the commercial mixtures known as pentabromodiphenylether
21 (penta-bde), octabromodiphenylether (octa-bde), and
22 decabromodiphenylether (deca-bde).

23 (5) "Commercial decabromodiphenylether" means the chemical mixture
24 of decabromodiphenylether, including associated impurities not
25 intentionally added.

26 (6) "Transportation vehicle" means any mechanized vehicle that is
27 used to transport goods or people including, but not limited to,
28 airplanes, automobiles, motorcycles, trucks, buses, trains, boats,
29 ships, streetcars, or monorail cars.

1 (7) "Used product" means any product that has been previously
2 owned, purchased, or sold in commerce. "Used product" does not include
3 any product manufactured after July 1, 2006.

4 NEW SECTION. **Sec. 2.** (1) Except as provided in subsections (3)
5 through (6) of this section, after July 1, 2006, no person may
6 manufacture or knowingly sell, offer for sale, or distribute for sale
7 or distribute for use in this state noncomestible products containing
8 polybrominated diphenyl ethers.

9 (2) A manufacturer of products containing a polybrominated diphenyl
10 ether that has been restricted under this section must, once the
11 restriction takes effect, notify persons that sell the manufacturer's
12 products about the provisions of this section.

13 (3) Subsections (1) and (2) of this section do not apply to:

14 (a) The manufacture, sale, or distribution of noncomestible
15 products containing commercial decabromodiphenylether;

16 (b) The sale or distribution of any used transportation vehicle
17 with component parts containing polybrominated diphenyl ethers;

18 (c) The sale of any used transportation vehicle parts, or new
19 transportation vehicle parts manufactured prior to July 1, 2006, that
20 contain polybrominated diphenyl ethers;

21 (d) The manufacture, sale, repair, distribution, maintenance,
22 refurbishment, or modification of equipment containing polybrominated
23 diphenyl ethers and used primarily for military or federally funded
24 space program applications. This exemption does not cover consumer-
25 based goods with broad applicability; or

26 (e) The sale or distribution by a business, charity, or private
27 party of any used product containing polybrominated diphenyl ethers.

28 (4) A manufacturer or user of safety systems required by the
29 federal aviation administration may apply for an exemption for a
30 specific use of penta-bde or octa-bde by filing a written petition with
31 the department. The exemption may be granted for a term not to exceed
32 eighteen months and may be renewed upon written application if the
33 department finds that the specific use of penta-bde or octa-bde
34 continues to meet the criteria of this section and the manufacturer or
35 other persons comply with the conditions of its original approval. The
36 department may grant an exemption for a specified use of penta-bde or

1 octa-bde with or without conditions upon finding that the petitioner
2 has demonstrated that:

3 (a) A technically feasible alternative to the use of penta-bde or
4 octa-bde is not available at reasonable cost; or

5 (b) The potential harm to public health and the environment
6 directly posed by a technically feasible and available alternative is
7 greater than the potential harm posed by penta-bde or octa-bde.

8 (5) Nothing in this section restricts the ability of a
9 manufacturer, importer, or distributor from transporting products
10 containing polybrominated diphenyl ethers through the state, or storing
11 such products in the state for later distribution outside the state.

12 NEW SECTION. **Sec. 3.** (1) The legislature intends to ban the
13 manufacture, sale, and distribution of all products containing
14 polybromodiphenylethers in Washington state by 2008. Subject to
15 available funding, the department and the department of health shall
16 conduct two separate stakeholder processes. These stakeholder
17 processes shall include:

18 (a) Establishing a plan for implementing a ban by 2008 on the
19 manufacture, sale, and distribution of products containing commercial
20 decabromodiphenylether and an examination of approaches to education
21 under this chapter that would assist retailers in identifying products
22 containing commercial decabromodiphenylethers in their inventory; and

23 (b) An examination of problems related to the reuse and recycling
24 of products containing polybrominated diphenyl ethers and methods of
25 management or disposal that will result in the lowest potential for
26 polybrominated diphenyl ethers entering the environment, the food
27 chain, or a person's body.

28 (2) The department and the department of health shall report the
29 findings and recommendations of the stakeholder process regarding the
30 ban on the use of commercial decabromodiphenylether and the education
31 and assistance for retailers to the appropriate committees of the
32 legislature by December 15, 2005. The department and the department of
33 health shall report the findings and recommendations of the stakeholder
34 process regarding the ban or management of used and recycled products
35 to the appropriate committees of the legislature by June 30, 2006. The
36 preparation of the reports required in this subsection is subject to
37 available funding.

1 (3) The department and the department of health shall conduct a
2 review of the issues and the potential timeline for a requirement to
3 label brominated flame retardants sold in Washington. The review shall
4 include the type of information required on the label, including
5 guidance on proper waste management of the product in accordance with
6 state and federal law. The department and the department of health
7 shall report the findings and recommendations to the appropriate
8 committees of the legislature by December 15, 2006.

9 NEW SECTION. **Sec. 4.** (1) By January 1, 2006, the department of
10 general administration shall:

11 (a) Give priority and preference to the purchase of equipment,
12 supplies, and other products that do not contain polybrominated
13 diphenyl ethers; and

14 (b) Make available for purchase and use by all state agencies only
15 equipment, supplies, and other products that do not contain
16 polybrominated diphenyl ethers.

17 (2) The department of general administration shall, by January 1,
18 2006, revise its rules, policies, and guidelines to implement the
19 purposes of this chapter.

20 NEW SECTION. **Sec. 5.** A manufacturer of products containing
21 polybrominated diphenyl ethers in violation of this chapter is
22 punishable by a civil penalty not to exceed one thousand dollars for
23 each violation in the case of a first offense. Manufacturers who are
24 repeat violators are liable for a civil penalty not to exceed five
25 thousand dollars for each repeat offense. Penalties collected under
26 this section must be deposited in the state toxics control account
27 created in RCW 70.105D.070.

28 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
29 a new chapter in Title 70 RCW."

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1 On page 1, line 1 of the title, after "retardants;" strike the
2 remainder of the title and insert "adding a new chapter to Title 70
3 RCW; and prescribing penalties."

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