

SHB 2545 - H AMD 696

By Representative Van De Wege

ADOPTED 02/15/2016

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
5 otherwise.

6 (1) "Additive TBBPA" means the chemical tetrabromobisphenol A,
7 chemical abstracts service number 79-94-7, as of the effective date
8 of this section, in a form that has not undergone a reactive process
9 and is not covalently bonded to a polymer in a product or product
10 component.

11 (2) "Children's product" has the same meaning as defined in RCW
12 70.240.010.

13 (3) "Decabromodiphenyl ether" means the chemical
14 decabromodiphenyl ether, chemical abstracts service number 1163-19-5,
15 as of the effective date of this section.

16 (4) "HBCD" means the chemical hexabromocyclododecane, chemical
17 abstracts service number 25637-99-4, as of the effective date of this
18 section.

19 (5) "IPTPP" means the chemical isopropylated triphenyl phosphate,
20 chemical abstracts service number 68937-41-7, as of the effective
21 date of this section.

22 (6) "Manufacturer" has the same meaning as defined in RCW
23 70.240.010 and also includes a manufacturer of residential
24 upholstered furniture.

25 (7) "Residential upholstered furniture" has the same meaning as
26 defined in RCW 70.76.010.

27 (8) "TBB" means the chemical (2-ethylhexyl)-2,3,4,5-
28 tetrabromobenzoate, chemical abstracts service number 183658-27-7, as
29 of the effective date of this section.

30 (9) "TBPH" means the chemical bis (2-ethylhexyl)-2,3,4,5-
31 tetrabromophthalate, chemical abstracts service number 26040-51-7, as
32 of the effective date of this section.

1 (10) "TCEP" means the chemical (tris (2-chloroethyl) phosphate),
2 chemical abstracts service number 115-96-8, as of the effective date
3 of this section.

4 (11) "TCPP" means tris (1,2-dichloro-2-propyl) phosphate, the
5 chemical abstracts service number 13674-84-5, as of the effective
6 date of this section.

7 (12) "TDCPP" means the chemical (tris (1,3-dichloro-2-propyl)
8 phosphate), chemical abstracts service number 13674-87-8, as of the
9 effective date of this section.

10 (13) "TPP" means the chemical triphenyl phosphate, chemical
11 abstracts service number 115-86-6, as of the effective date of this
12 section.

13 (14) "V6" means the chemical bis(chloromethyl)propane-1,3-
14 diyltetraakis (2-chloroethyl) bisphosphate, chemical abstracts service
15 number 385051-10-4, as of the effective date of this section.

16 NEW SECTION. **Sec. 2.** Beginning July 1, 2017, no manufacturer,
17 wholesaler, or retailer may manufacture, knowingly sell, offer for
18 sale, distribute for sale, or distribute for use in this state
19 children's products or residential upholstered furniture containing
20 any of the following flame retardants in amounts greater than one
21 thousand parts per million in any product component:

- 22 (1) TDCPP;
- 23 (2) TCEP;
- 24 (3) Decabromodiphenyl ether;
- 25 (4) HBCD; or
- 26 (5) Additive TBBPA.

27 NEW SECTION. **Sec. 3.** (1) By rule, the secretary of the
28 department of health may prohibit the manufacture, sale, distribution
29 for sale, or distribution for use in this state of residential
30 upholstered furniture or children's products containing any of the
31 following chemicals used as a flame retardant in any product
32 component in amounts greater than one thousand parts per million:

- 33 (a) IPTPP;
- 34 (b) TBB;
- 35 (c) TBPH;
- 36 (d) TCPP;
- 37 (e) TPP; and
- 38 (f) V6.

1 (2) The department of health must create an external advisory
2 committee for the rule development under subsection (1) of this
3 section to provide early stakeholder input, expertise, and additional
4 information. All advisory meetings must be open to the public. The
5 advisory committee membership must include, but not be limited to,
6 representatives from: Large and small business sectors; community,
7 environmental, and public health advocacy groups; local governments;
8 affected and interested businesses; groups representing firefighters;
9 and public health agencies. State agencies and technical experts may
10 be requested to participate.

11 (3) After January 1, 2016, a rule that restricts a flame
12 retardant under subsection (1) of this section must be adopted prior
13 to December 1st of any year and the restrictions under subsection (1)
14 of this section do not take effect before the end of the regular
15 legislative session in the next year.

16 (4) Before the secretary of the department of health may adopt a
17 rule to restrict a flame retardant, the department of health must
18 submit a report to the legislature no later than at the time of
19 publication of the notice of a rule-making hearing required under RCW
20 34.05.320. The report to the legislature must contain:

21 (a) A determination by the department of health as to whether
22 children or vulnerable populations are likely to be exposed to the
23 chemical directly or indirectly from its use in products. The
24 determination of the department of health must be made after an
25 evaluation of available information on:

26 (i) Chemical name, properties, manufacturers, and production
27 volumes;

28 (ii) Levels of the flame retardants in consumer products;

29 (iii) Migration of the flame retardants out of products during
30 and after use; and

31 (iv) Levels of the flame retardants in humans and the
32 environment, including but not limited to the home environment;

33 (b) A review of available toxicity data to evaluate the health
34 concerns for children or vulnerable populations; and

35 (c) A determination of whether a safer alternative has been
36 identified to meet applicable fire safety standards for residential
37 furniture and children's products by evaluating existing chemical
38 action plans and assessments of safer alternatives that have been
39 completed for flame retardant chemicals.

1 (5) The department of health must identify the sources of
2 information it relied upon in making the determination required in
3 subsection (4) of this section, including peer-reviewed science.

4 (6) Violations of rules adopted pursuant to this chapter are
5 subject to the penalties provided in RCW 70.240.050.

6 (7) The department of health may adopt rules as necessary for the
7 purpose of implementing, administering, and enforcing this chapter.

8 (8) This section expires July 1, 2022.

9 **Sec. 4.** RCW 70.240.050 and 2008 c 288 s 7 are each amended to
10 read as follows:

11 (1) A manufacturer of products that are restricted under this
12 chapter or chapter 70.--- RCW (the new chapter created in section 5
13 of this act) must notify persons that sell the manufacturer's
14 products in this state about the provisions of this chapter no less
15 than ninety days prior to the effective date of the restrictions.

16 (2) A manufacturer that produces, sells, or distributes a product
17 prohibited from manufacture, sale, or distribution in this state
18 under this chapter or chapter 70.--- RCW (the new chapter created in
19 section 5 of this act) shall recall the product and reimburse the
20 retailer or any other purchaser for the product.

21 (3) A manufacturer of (~~children's~~) products in violation of
22 this chapter or chapter 70.--- RCW (the new chapter created in
23 section 5 of this act) is subject to a civil penalty not to exceed
24 five thousand dollars for each violation in the case of a first
25 offense. Manufacturers who are repeat violators are subject to a
26 civil penalty not to exceed ten thousand dollars for each repeat
27 offense. Penalties collected under this section must be deposited in
28 the state toxics control account created in RCW 70.105D.070.

29 (4) Retailers who unknowingly sell products that are restricted
30 from sale under this chapter or chapter 70.--- RCW (the new chapter
31 created in section 5 of this act) are not liable under this chapter.

32 (5) The sale or purchase of any previously owned products
33 containing a chemical restricted under this chapter or chapter 70.---
34 RCW (the new chapter created in section 5 of this act) made in casual
35 or isolated sales as defined in RCW 82.04.040, or by a nonprofit
36 organization, is exempt from this chapter and chapter 70.--- RCW (the
37 new chapter created in section 5 of this act).

1 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act
2 constitute a new chapter in Title 70 RCW."

3 Correct the title.

EFFECT: Limits the flame retardant chemicals that the department
of health can prohibit by rule to IPTPP, TBB, TCPP, TPP, or V6. Makes
other technical changes.

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