
SENATE BILL 5977

State of Washington

61st Legislature

2009 Regular Session

By Senators Delvin and Schoesler

Read first time 02/11/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to testing the chemical content of products sold at
2 retail; amending RCW 70.76.030; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) According to the state fire marshal's 2007 report there is one
6 structure fire reported every one hour six minutes in the state of
7 Washington, the financial loss reported as a result of fire is over six
8 hundred thirteen thousand dollars per day, and structure fires
9 accounted for twenty-nine percent of all fires reported;

10 (b) Operating equipment remains the leading known heat source for
11 fires, accounting for twenty-eight percent of the total fire incidents
12 and twenty-six percent of the reported dollar loss. Operating
13 equipment acts as a heat source for fires in a variety of ways:
14 Sparks, embers, or flames; radiated or conducted heat; and electrical
15 arcing and heat;

16 (c) Over the past five years, seventy-three percent of the fire
17 fatalities in Washington state occurred in residential properties such
18 as one and two-family dwellings, multifamily dwellings, board and care
19 facilities, hotels and motels, and college housing, barracks, and

1 dormitories. While the number of fires at residential properties
2 decreased seven percent compared to the previous year, the reported
3 dollar loss decreased by eleven percent;

4 (d) Fires caused by electrical appliances and electricity
5 distribution, on a five-year average, are the second leading cause of
6 fires, resulting in nearly fourteen percent of the total. Many
7 electrical-related fires are caused by misuse or poor maintenance of
8 electrical appliances, improperly installed wiring, circuits being
9 overloaded, or the use of extension cords in place of permanent wiring;
10 and

11 (e) While it asked the state department of ecology and the
12 department of health to review risk assessments, scientific studies,
13 and other relevant findings regarding alternatives to the use of
14 commercial deca-bde in residential upholstered furniture, televisions,
15 and computers, there still exists among retailers uncertainty as to
16 whether or not products that are deca-bde free that provide the same
17 level of fire safety will be readily and commercially available and if
18 testing methods exist to properly ensure compliance with the law.

19 (2) It is the intent of the legislature to promote fire safety and
20 environmental health, in a balanced manner backed with sound science.

21 NEW SECTION. **Sec. 2.** The legislature directs the joint
22 legislative audit and review committee to review commercially available
23 testing methods for the detection of deca-bde in proposed banned
24 products and a reasonable time frame for the full integration of such
25 testing by retailers.

26 **Sec. 3.** RCW 70.76.030 and 2007 c 65 s 4 are each amended to read
27 as follows:

28 (1) Except as provided in RCW 70.76.090, no person may manufacture,
29 knowingly sell, offer for sale, distribute for sale, or distribute for
30 use in this state mattresses containing commercial deca-bde after
31 January 1, 2008.

32 (2) Except as provided in RCW 70.76.090, no person may manufacture,
33 knowingly sell, offer for sale, distribute for sale, or distribute for
34 use in this state residential upholstered furniture that contains
35 commercial deca-bde, or any television or computer that has an
36 electronic enclosure that contains commercial deca-bde after the

1 effective date established in subsection (3) of this section. This
2 prohibition may not take effect until the department and the department
3 of health identify that a safer and technically feasible alternative is
4 available, and the fire safety committee, created in RCW 70.76.040,
5 determines that the identified alternative meets applicable fire safety
6 standards. The effective date of the prohibition must be established
7 according to the following process:

8 (a) The department and the department of health shall review risk
9 assessments, scientific studies, and other relevant findings regarding
10 alternatives to the use of commercial deca-bde in residential
11 upholstered furniture, televisions, and computers.

12 (b) If the department and the department of health jointly find
13 that safer and technically feasible alternatives are available for any
14 of these uses, the department shall convene the fire safety committee
15 created in RCW 70.76.040 to determine whether the identified
16 alternatives meet applicable fire safety standards.

17 (c) By majority vote, the fire safety committee created in RCW
18 70.76.040 shall make a finding whether an alternative identified under
19 (b) of this subsection meets applicable fire safety standards. The
20 fire safety committee shall report their finding to the state fire
21 marshal. After reviewing the finding of the fire safety committee, the
22 state fire marshal shall determine whether an alternative identified
23 under (b) of this subsection meets applicable fire safety standards.
24 The determination of the fire marshal must be based upon the finding of
25 the fire safety committee. The state fire marshal shall report the
26 determination to the department.

27 (d) The department shall seek public input on their findings, the
28 findings of the fire safety committee, and the determination by the
29 state fire marshal. The department shall publish these findings in the
30 Washington State Register, and submit them in a report to the
31 appropriate committees of the legislature. The department shall
32 initially report these findings by December 31, 2008.

33 (3) The effective date of the prohibition is as follows:

34 (a) If the December 31, 2008, report required in subsection (2)(d)
35 of this section finds that a safer and technically feasible alternative
36 that meets applicable fire safety standards is available, the
37 prohibition takes effect January 1, (~~2011~~) 2013;

1 (b) If the December 31, 2008, report required in subsection (2)(d)
2 of this section does not find that a safer and technically feasible
3 alternative that meets applicable fire safety standards is available,
4 the prohibition does not take effect January 1, (~~2011~~) 2013.
5 Beginning in 2009, by December 31st of each year, the department shall
6 review and report on alternatives as described in subsection (2) of
7 this section. The prohibition in subsection (2) of this section takes
8 effect two years after a report submitted to the legislature required
9 under subsection (2)(d) of this section finds that a safer and
10 technically feasible alternative that meets applicable fire safety
11 standards is available.

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