



# Senate

General Assembly

**File No. 793**

January Session, 2005

Substitute Senate Bill No. 785

*Senate, May 24, 2005*

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE BAN OF CERTAIN POLYBROMINATED DIPHENYL ETHERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) No person shall sell or  
2 offer to sell, or distribute for promotional purposes, a product  
3 containing more than one per cent of the penta or octa mixtures of  
4 polybrominated diphenyl ethers.

5 (b) For the purposes of enforcement of this section, officers or  
6 employees duly designated by the Commissioner of Consumer  
7 Protection, upon presenting appropriate credentials to the owner,  
8 operator or agent in charge, are authorized (1) to enter, at reasonable  
9 times, any factory, warehouse, establishment or store in which  
10 products containing more than one per cent of the penta or octa  
11 mixtures of polybrominated diphenyl ethers are manufactured,  
12 processed, packed, sold or held for introduction into commerce or are  
13 held after such introduction, or to enter any vehicle being used to

14 transport or hold such products in commerce; (2) to inspect, at  
 15 reasonable times and within reasonable limits and in a reasonable  
 16 manner, such factory, warehouse, establishment, vehicle or store and  
 17 all pertinent equipment, finished and unfinished materials, and  
 18 labeling therein; and (3) to obtain samples of such materials or  
 19 packages thereof, or of such labeling. If the officer or employee obtains  
 20 any sample, prior to leaving the premises, the office or employee shall  
 21 pay or offer to pay the owner, operator or agent in charge for such  
 22 sample and give a receipt describing the samples obtained.

23 (c) Any person who violates the provisions of subsection (a) of this  
 24 section shall be fined not more than one hundred dollars per product  
 25 sold, offered for sale or distributed for promotional purposes.

26 Sec. 2. (*Effective from passage*) The Commissioner of Environmental  
 27 Protection, in consultation with the Commissioner of Public Health,  
 28 shall review relevant risk assessments in connection with the deca  
 29 mixtures of polybrominated diphenyl ethers and the relevant findings  
 30 and rulings by the United States Environmental Protection Agency and  
 31 the European Union. Such review shall be performed within available  
 32 appropriations. Not later than January 1, 2006, the Commissioner of  
 33 Environmental Protection shall report, in accordance with the  
 34 provisions of section 11-4a of the general statutes, its findings and  
 35 recommendations regarding the regulation of such mixtures to the  
 36 joint standing committee of the General Assembly having cognizance  
 37 of matters relating to the environment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>from passage</i>	New section

**APP**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Consumer Protection, Dept.	GF - Cost	56,954	54,454
Consumer Protection, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	12,986	26,220
Department of Environmental Protection	GF - Cost	See Below	See Below
Public Health, Dept.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill authorizes the Commissioner of the Department of Consumer Protection (DCP) to designate officers or employees to enter and inspect factories, stores, or vehicles, in which products containing more than 1% of penta- or octa-polybrominated diphenyl ether (PBDE) are manufactured, processed, sold, or held. In order to implement the inspection provisions of the bill, DCP will incur costs of \$49,472 in FY 06 and FY 07 for one Inspector and \$4,982 for other expenses and equipment.<sup>1</sup> Furthermore, in FY 06, DCP will incur one-time start-up costs of \$2,500.

The bill also imposes a fine of not more than \$100 per product, on anyone who sells or distributes products containing the banned

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated fringe benefit reimbursement rate as a percentage of payroll is 53.91%, effective July 1, 2004. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 22.65%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

chemicals. This could result in a minimal revenue gain.

The bill requires that the Department of Environmental Protection (DEP) review relevant risk assessments of polybrominated diphenyl ether within available appropriations. This review is anticipated to increase costs to the Department by a minimum of \$30,000. Performance of a basic assessment for each individual chemical costs approximately \$10,000. The exact impact would depend upon the number of chemical mixtures reviewed and how many were looked at by the U. S. Environmental Protection Agency and the European Union and is unknown at this time. Under current statute, the DEP is not the agency responsible for undertaking risk assessments. Since no funding is provided to conduct the risk assessments, the requirement that the assessments be undertaken within available appropriations will likely result in one of four outcomes: (1) DEP will delay the reviews pending the approval of additional appropriations to meet this mandate in future fiscal years; (2) DEP will shift resources from other department priorities, thereby impacting existing departmental programs; (3) DEP will not undertake these additional duties or (4) DEP will proceed with the reviews, and will require a deficiency appropriation during FY 06.

The Department of Public Health can consult with the DEP within their normal duties and current budgetary resources.

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**OLR Bill Analysis**

sSB 785

**AN ACT CONCERNING THE BAN OF CERTAIN  
POLYBROMINATED DIPHENYL ETHERS****SUMMARY:**

This bill restricts the sale or distribution of two types, and requires the evaluation of a third type, of polybrominated diphenyl ether (PBDE), a chemical used as a flame retardant in household products. It authorizes the Department of Consumer Protection (DCP) commissioner to inspect (1) facilities that manufacture, process, pack, sell, or store, and (2) vehicles that transport or store, products containing the banned variants of PBDE, and to obtain samples of the products. It imposes a fine on anyone who sells or distributes products containing the banned chemicals.

EFFECTIVE DATE: October 1, 2005, except for the requirement to study deca-PBDE, which takes effect upon passage.

***PBDE Ban and Inspection of Facilities and Vehicles***

The bill prohibits anyone from selling, offering to sell, or distributing for promotional purposes any product containing more than 1% of penta- or octa-PBDE.

It authorizes the DCP commissioner to designate officers or employees to enter and inspect factories, warehouses, establishments, or stores in which products containing more than 1% of penta- or octa-PBDE are manufactured, processed, packed, sold, or held for introduction into commerce, or are held after introduction. The designated DCP inspectors also may enter any vehicle used to transport or hold such products in commerce. The inspectors must present appropriate credentials to the owner, operator, or agent in charge of the facility and must conduct inspections at reasonable times, within reasonable limits, and in a reasonable manner.

The inspectors may examine and obtain samples of all pertinent equipment, finished and unfinished material, labeling, and packages. The DCP inspectors must pay, give, or offer to pay, the owner,

operator or agent for any sample, and him a receipt describing the product before leaving the premises.

Anyone who sells, offers to sell, or distributes a product containing more than 1% of penta- or octa-PBDE is subject to a fine of up to \$100 per product sold, offered for sale, or distributed. It is not clear if the fine is levied on each item or on each product line.

### ***Review of Deca-PBDE***

The bill requires the DCP commissioner, in consultation with the public health commissioner, to review relevant risk assessments of deca-PBDE, and the relevant findings and rulings of the U.S. Environmental Protection Agency (EPA) and the European Union. She must conduct the review using available appropriations and report her findings and recommendations on the regulation of deca-PBDE to the Environment Committee by January 1, 2006.

## **BACKGROUND**

### ***PBDE***

Penta-, octa-, and deca-PBDE are three mixtures of a chemical used as a flame retardant in such products as furniture foam, TV cabinets, computer casings, consumer electronics, small appliances, drapes, and carpets. PBDEs slow ignition time and rate of fire growth, allowing people more time to escape from a fire. However, there is growing evidence that PBDEs persist in the environment and accumulate in people's bodies, possibly causing harm to the liver, thyroid, and nervous system. The EPA is working with chemical manufacturers to find safer alternatives to PBDE.

### ***Legislative History***

On April 15, May 4, and May 11 the Senate referred the bill (File 157) to the General Law, Public Health and Appropriations committees respectively. The General Law and Public Health committees reported it favorably on April 27 and May 9 respectively. On May 16, the Appropriations Committee favorably reported a substitute bill, requiring the DEP commissioner's study of deca-PBDE to be made within available appropriations.

## **COMMITTEE ACTION**

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Environment Committee

Joint Favorable Report  
Yea 26 Nay 0

General Law Committee

Joint Favorable Report  
Yea 14 Nay 0

Public Health Committee

Joint Favorable Report  
Yea 25 Nay 0

Appropriations Committee

Joint Favorable Substitute  
Yea 43 Nay 0