



Senate

General Assembly

File No. 147

January Session, 2009

Substitute Senate Bill No. 919

Senate, March 24, 2009

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PHASING OUT THE USE OF POLYBROMINATED DIPHENYL ETHERS.

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

1 Section 1. Section 22a-463 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 As used in sections 22a-463 to 22a-469, inclusive, and section 2 of
4 this act:

5 [(a)] (1) "Commissioner" means the Commissioner of Environmental
6 Protection.

7 [(b)] (2) "PCB" means the class of organic compounds known as
8 polychlorinated biphenyls or terphenyls and includes any of several
9 compounds produced by replacing two or more hydrogen atoms on
10 the biphenyl or terphenyl molecule with chlorine.

11 [(c)] (3) "Incidental amounts of PCB" means amounts of the
12 compound PCB in an item, product or material which are beyond the

13 control of the person manufacturing, selling for use, or using such
14 item, product or material.

15 (4) "Polybrominated flame retardant" means the class of chemicals
16 containing the element bromine that is added to a plastic, foam or
17 textile to inhibit flame, including the penta, octa and deca mixtures of
18 polybrominated diphenyl ethers.

19 Sec. 2. (NEW) (*Effective July 1, 2009*) (a) (1) On and after July 1, 2011,
20 no person may sell, offer to sell or distribute for promotional purposes
21 a product containing more than fifty parts per million of the penta or
22 octa mixtures of polybrominated diphenyl ethers in this state. (2) On
23 and after January 1, 2012, no person may manufacture, sell, offer for
24 sale, distribute for sale or use the following products that have fibers
25 containing the deca mixture of polybrominated diphenyl ethers in this
26 state: (A) A mattress or mattress pad, (B) upholstered furniture
27 intended for indoor residential or office use, or (C) electronic devices
28 that have a plastic housing.

29 (b) The provisions of subsections (a) and (c) of this section shall not
30 apply to the following products containing the deca mixture of
31 polybrominated diphenyl ethers: (1) (A) Motor vehicles including, but
32 not limited to, vehicles used for transportation, such as cars, buses,
33 trains and airplanes, or (B) any products, equipment or parts for use in
34 such vehicles, (2) products or equipment used in industrial or
35 manufacturing processes, (3) electronic wiring and cable used for
36 power transmission, or (4) products listed in subsection (a) of this
37 section that were manufactured prior to the dates specified in said
38 subsection.

39 (c) Any manufacturer of a product containing polybrominated
40 flame retardants that is sold in this state shall notify its distributors of
41 the requirements of this section.

42 (d) If the commissioner suspects that a product is being offered for
43 sale in violation of subdivision (2) of subsection (a) of this section, the
44 commissioner may request the manufacturer of the product to provide

45 a certificate of compliance. Not later than ten days after the receipt of
 46 such request, the manufacturer shall (1) provide the commissioner
 47 with a certificate attesting that the product complies with the
 48 requirements of this section, or (2) notify all of the persons who sell the
 49 manufacturer's products in this state that the sale of the product is
 50 prohibited and provide the commissioner with a list of the names and
 51 addresses of those notified. The commissioner may, within available
 52 appropriations, enforce the provisions of this section.

53 (e) For the purposes of this section, "manufacturer" means the
 54 person who manufactured the final product or whose brand name is
 55 affixed to the product. "Manufacturer" includes the importer or
 56 domestic distributor in the case of a product that was imported into
 57 the United States if the manufacturer does not have a presence in the
 58 United States.

59 Sec. 3. (NEW) (*Effective October 1, 2009*) If the Commissioner of
 60 Environmental Protection determines (1) that a flame retardant is
 61 harmful to the public health and the environment, (2) that an
 62 alternative to the flame retardant is nationally available, and (3) in
 63 consultation with the State Fire Marshal, that the alternative meets
 64 applicable fire safety standards, the commissioner may adopt
 65 regulations, in accordance with the provisions of chapter 54 of the
 66 general statutes, to prohibit the manufacture, sale or distribution of
 67 products containing such flame retardants in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	22a-463
Sec. 2	<i>July 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	New section

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill phases out the use of polybrominated diphenyl ethers and has no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 919*****AN ACT PHASING OUT THE USE OF POLYBROMINATED
DIPHENYL ETHERS*****SUMMARY:**

This bill phases out the use of polybrominated diphenyl ethers (PBDE) in certain products sold or distributed in the state. It allows the Department of Environmental Protection (DEP) commissioner to ban the manufacture, sale, or distribution of flame retardants that are harmful to public health and the environment if safe alternatives exist.

Under the bill, polybrominated flame retardants are chemicals containing the element bromine that are added to a plastic, foam, or textile to inhibit flame, including the penta-, octa-, and deca- mixtures of PBDE.

EFFECTIVE DATE: July 1, 2009, except for the provision authorizing the commissioner to ban certain flame retardants which is effective October 1, 2009.

PBDE RESTRICTIONS

The bill prohibits, starting July 1, 2011, anyone from selling, offering to sell, or distributing for promotional purposes in the state a product containing more than 50 parts per million of either the penta- or octa-mixture of PBDE.

Starting January 1, 2012, no one may manufacture, sell, offer for sale, or distribute for sale or use (1) a mattress or mattress pad, (2) upholstered furniture intended for indoor home or office use, or (3) electronic devices with a plastic housing, if these products have fibers containing the deca- mixture of PBDE. But the bill allows the sale or distribution of these products if they were manufactured before

January 1, 2012.

Under the bill, a manufacturer is someone who manufactures the final product or whose brand name is on it. It includes an importer or domestic distributor for products imported into the United States if the manufacturer does not have a presence in this country.

Other Exceptions

The ban also does not apply to the following products containing the deca- mixture of PBDE: (1) motor vehicles, including cars, buses, trains, and airplanes, and any products, equipment, or parts used in them; (2) products or equipment used in industrial or manufacturing processes; and (3) electronic wiring and cable used for power transmission.

NOTIFICATION REQUIREMENTS

The bill requires manufacturers of products containing polybrominated flame retardants sold in the state to notify their distributors of the bill's requirements, but does not say by when they must do so. It exempts from its notice requirement products containing the deca- mixture of PBDE that the bill exempts from the ban, including mattresses, mattress pads, upholstered furniture intended for indoor residential or office use, and electronic devices with plastic housings that have fibers containing deca- PBDE if they were manufactured before January 1, 2012.

CERTIFICATE OF COMPLIANCE

If the commissioner suspects that a product containing a deca- mixture of PBDE is being offered for sale in violation of the bill, she may ask the manufacturer to provide her with a certificate of compliance. Within 10 days of receiving such a request, the manufacturer must (1) give the commissioner a certificate attesting that the product complies with the bill or (2) notify anyone selling the product that its sale is prohibited, and give the commissioner the names and addresses of people selling the product.

The commissioner may enforce the bill, within available

appropriations. The bill does not specify a penalty, but by law, violations of similar laws are punishable by a civil penalty of up to \$25,000 for each offense (CGS § 22a-438).

FLAME RETARDANT BAN

The bill authorizes the commissioner to adopt regulations barring the manufacture, sale, or distribution of products containing a flame retardant if she determines (1) the flame retardant is harmful to the public health and environment; (2) that an alternative is available nationally; and (3) in consultation with the state Fire Marshal, that the alternative meets applicable fire safety standards.

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 the ignition time and rate of fire growth, allowing people more time to escape from a fire. However, there is growing evidence PBDEs persist in the environment and accumulate in people's bodies, possibly causing harm to the liver, thyroid, and nervous system.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 23 Nay 4 (03/06/2009)