

2201

2013-2014 Regular Sessions

I N   S E N A T E

January 14, 2013

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Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to restricting the use of certain ethers in certain products

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Legislative intent. The legislature finds and declares the  
2 following: Polybrominated diphenyl ethers (PBDEs) have been used exten-  
3 sively as flame retardants in a large number of common household  
4 products for the past thirty years. Studies on animals show that PBDEs  
5 can impact the developing brain, affecting behavior and learning after  
6 birth and into adulthood, making exposure to fetuses and children a  
7 particular concern. Levels of PBDEs are increasing in people, and in the  
8 environment, particularly in North America. Because people can be  
9 exposed to these chemicals through house dust and indoor air, it is  
10 important to phase out their use in common household products, provided  
11 that effective flame retardants that are safer and technically feasible  
12 are available at a reasonable cost.

13     S 2. Section 37-0101 of the environmental conservation law is amended  
14 by adding two new subdivisions 7 and 8 to read as follows:

15     7. "COVERED ELECTRONIC DEVICES" MEAN COMPUTERS, COMPUTER MONITORS OR  
16 TELEVISIONS.

17     8. "DECABROMODIPHENYL ETHER" MEANS THE CHEMICAL MIXTURE PREDOMINATELY  
18 COMPRISED OF DECABROMODIPHENYL ETHER, AND INCLUDING ASSOCIATED POLYBRO-  
19 MINATED DIPHENYL ETHER IMPURITIES NOT INTENTIONALLY ADDED.

20     S 3. The environmental conservation law is amended by adding a new  
21 section 37-0112 to read as follows:

22     S 37-0112. RESTRICTION OF DECABROMODIPHENYL ETHER.

23     1. PROHIBITION. A. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS  
24 SECTION, ON AND AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, A  
25 PERSON MAY NOT DISTRIBUTE ELECTRICAL EQUIPMENT OR COVERED ELECTRONIC

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 DEVICES, EXCEPT THOSE USED IN TRANSPORTATION EQUIPMENT, IN COMMERCE IF  
2 THEY CONTAIN MORE THAN ONE TENTH OF ONE PER CENTUM DECABROMODIPHENYL  
3 ETHER BY MASS.

4 B. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, ON AND AFTER  
5 DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, A PERSON MAY NOT DISTRIBUTE  
6 ANY PRODUCT, EXCEPT FOR TRANSPORTATION AND MILITARY USES, IN COMMERCE IF  
7 IT CONTAINS MORE THAN ONE TENTH OF ONE PER CENTUM DECABROMODIPHENYL  
8 ETHER BY MASS.

9 C. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, ON AND AFTER  
10 DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, A PERSON MAY NOT DISTRIBUTE  
11 ANY PRODUCT IN COMMERCE IF IT CONTAINS MORE THAN ONE TENTH OF ONE PER  
12 CENTUM DECABROMODIPHENYL ETHER BY MASS.

13 D. ON AND AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, A PERSON  
14 MAY NOT MANUFACTURE DECABROMODIPHENYL ETHER.

15 2. EXEMPTION. ANY USED PRODUCT SOLD OR DISTRIBUTED BY A BUSINESS,  
16 CHARITY OR PRIVATE PARTY SHALL BE EXEMPT FROM THE PROVISIONS OF SUBDIVI-  
17 SION ONE OF THIS SECTION.

18 3. RETAILERS IN POSSESSION. IN-STATE RETAILERS IN POSSESSION OF  
19 PRODUCTS THAT ARE BANNED FOR SALE UNDER SUBDIVISION ONE OF THIS SECTION  
20 MAY EXHAUST THEIR STOCK THROUGH SALES TO THE PUBLIC.

21 4. ONGOING REVIEW OF AVAILABILITY OF ALTERNATIVES TO DECABROMODIPHENYL  
22 ETHER. BY JANUARY FIRST, TWO THOUSAND FOURTEEN, THE COMMISSIONER OF THE  
23 OFFICE OF GENERAL SERVICES SHALL GIVE PRIORITY AND PREFERENCE TO THE  
24 PURCHASE OF EQUIPMENT, SUPPLIES, AND OTHER PRODUCTS THAT DO NOT CONTAIN  
25 DECABROMODIPHENYL ETHERS.

26 5. PENALTIES. A MANUFACTURER WHO VIOLATES THIS SECTION IS SUBJECT TO A  
27 CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION PER  
28 DAY IN THE CASE OF A FIRST OFFENSE. A MANUFACTURER IS SUBJECT TO A CIVIL  
29 PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH REPEAT OFFENSE PER  
30 DAY.

31 S 4. This act shall take effect immediately.