S T A T E O F N E W Y O R K

5798--A

Cal. No. 190

2011-2012 Regular Sessions

I N A S S E M B L Y

March 1, 2011

Introduced by M. of A. SWEENEY, CLARK, BOYLAND, WEISENBERG, PEOPLES-STOKES, HOOPER, COLTON, ROSENTHAL, LIFTON, PAULIN, NOLAN, ZEBROWSKI, P. RIVERA, GALEF -- Multi-Sponsored by -- M. of A. CASTELLI, DINOWITZ, FARRELL, LATIMER, McENENY -- read once and referred to the Committee on Environmental Conservation -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

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

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

8. "DECABROMODIPHENYL ETHER" MEANS THE CHEMICAL MIXTURE PREDOMINATELY COMPRISED OF DECABROMODIPHENYL ETHER, AND INCLUDING ASSOCIATED POLYBROMINATED DIPHENYL ETHER IMPURITIES NOT INTENTIONALLY ADDED.

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

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

S 37-0112. RESTRICTION OF DECABROMODIPHENYL ETHER.

1. PROHIBITION. A. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, A PERSON MAY NOT DISTRIBUTE ELECTRICAL EQUIPMENT OR COVERED ELECTRONIC DEVICES, EXCEPT THOSE USED IN TRANSPORTATION EQUIPMENT, IN COMMERCE IF THEY CONTAIN DECABROMODIPHENYL ETHER.

B. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, ON AND AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, A PERSON MAY NOT DISTRIBUTE ANY PRODUCT, EXCEPT FOR TRANSPORTATION AND MILITARY USES, IN COMMERCE IF IT CONTAINS DECABROMODIPHENYL ETHER.

C. EXCEPT AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, ON AND AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, A PERSON MAY NOT DISTRIBUTE ANY PRODUCT IN COMMERCE IF IT CONTAINS DECABROMODIPHENYL ETHER.

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

2. EXEMPTION. ANY USED PRODUCT SOLD OR DISTRIBUTED BY A BUSINESS, CHARITY OR PRIVATE PARTY SHALL BE EXEMPT FROM THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION.

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

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

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

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after December 31, 2011; provided that no penalty shall be imposed pursuant to section three of this act for conduct which occurred before such effective date.