

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Reduce Contamination in the Home from the Release of Brominated Flame Retardants

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1609, as enacted by PL 2003, c. 629, §1 is amended to read:

§ 1609. Restrictions on sale and distribution of brominated flame retardants

1. "Penta" mixture and "octa" mixture of polybrominated diphenyl ethers.

Effective January 1, 2006, a person may not sell or offer to sell, or distribute for promotional purposes, a product containing more than 1%.1% by mass of the "penta" or "octa" mixtures of polybrominated diphenyl ethers.

1-A. "Deca" mixture of polybrominated diphenyl ethers. The limitations in this subsection apply to the sale and distribution of products containing the "deca" mixture of polybrominated diphenyl ethers.

A. Effective January 1, 2008, a person may not sell or offer to sell, or distribute for promotional purposes, a mattress, an article of furniture or any other product intended for household use if the product has a textile component containing more than .1% by mass of the "deca" mixture of polybrominated diphenyl ethers.

B. Effective January 1, 2012, a person may not sell or offer to sell, or distribute for promotional purposes, a television, computer or other electronic device if the exterior casing of the device contains more than .1% by mass of the "deca" mixture of polybrominated diphenyl ethers.

2. Review; report. The department, with the Department of Health and Human Services, Bureau of Health~~Maine~~ Center for Disease Control and Prevention, shall review relevant risk assessments and other information in connection with brominated flame retardants and their alternatives including, but not limited to, relevant findings and rulings by the United States Environmental Protection Agency and the European Union. ~~The~~By January 31, 2009 and every 2 years thereafter, the department shall ~~annually, no later than January 5th,~~ submit a report regarding ~~the regulation of brominated flame retardant~~ssummarizing the results of its review to the joint standing committee of the Legislature having jurisdiction over natural resources matters. For purposes of this subsection, "brominated flame retardant" means any chemical containing the element bromine that may be added to a plastic, foam or textile to inhibit flame formation.

3. Application. This section does not apply to the sale of ~~used products.:~~

A. Used products;

B. Products if the presence of polybrominated diphenyl ether is due solely to the use of recycled material; and

C. Replacement parts that contain the "octa" or "penta" mixtures of polybrominated diphenyl ethers if the parts are for use in a product manufactured before January 1, 2006.

4. Enforcement. If there are grounds to suspect that a product is being offered for sale in violation of this section, the commissioner may request the manufacturer of the product to provide a certificate of compliance. Within 10 days of receipt of a request, the manufacturer shall:

A. Provide the commissioner with a certificate attesting that the product complies with the requirements of this section; or

B. Notify persons who sell the manufacturer's products in this State that the sale of the product is prohibited and provide the commissioner with a list of the names and addresses of those notified.

Whenever it appears that a product has been sold, offered for sale or distributed in this State in violation of this section, the commissioner may take enforcement action in accordance with section 347-A against the product manufacturer. For the purpose of this section, the "manufacturer" is any person who manufactured the final product or whose brand name is affixed to the product. In the case of a product that was imported into the United States, "manufacturer" includes the importer or domestic distributor of the product if the person who manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.

SUMMARY

This bill further restricts the sale of products containing a class of chemical flame retardants known as polybrominated diphenyl ethers. The bill exempts products made from recycled material and certain replacement parts from the restrictions. The bill changes the reporting requirement on brominated flame retardants from annually to every 2 years. The bill authorizes the Department of Environmental Protection to require a manufacturer to provide a certificate of compliance if there are grounds to suspect that a product is being offered for sale in violation of the law.