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An Act To Protect Pregnant Women and Children from Toxic Chemicals Released into the Home

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

Sec. 1. 38 MRSA §1609, as reallocated by RR 2003, c. 2, §119, is amended to read:

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

For purposes of this section, "brominated flame retardant" means any chemical containing the element bromine that is added to a plastic, foam or textile to inhibit flame formation.

1. "Penta" mixture and "octa" mixtures 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%~~0.1% of the "penta" or "octa" mixtures of polybrominated diphenyl ethers.

~~**2. Review; report.** The department, with the Department of Human Services, Bureau of Health, shall review relevant risk assessments in connection with brominated flame retardants and relevant findings and rulings by the United States Environmental Protection Agency and the European Union. The department shall annually, no later than January 5th, submit a report regarding the regulation of brominated flame retardants 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.~~

4. "Deca" mixture of polybrominated diphenyl ethers in home furniture.

Effective January 1, 2008, a person may not manufacture, sell or offer for sale or distribute for sale or use in the State any of the following products that have plastic fibers containing the "deca" mixture of polybrominated diphenyl ethers:

A. A mattress or mattress pad; or

B. Upholstered furniture intended for indoor use in a home or other residential occupancy.

5. "Deca" mixture of polybrominated diphenyl ethers in electronics. Effective January 1, 2010, a person may not manufacture, sell or offer for sale or distribute for sale or use in the State a television or computer that has a plastic housing containing the "deca" mixture of polybrominated diphenyl ethers.

6. Exemptions. The restrictions in subsections 4 and 5 do not apply to the following products containing the “deca” mixture of polybrominated diphenyl ethers:

- A. Transportation vehicles or products or parts for use in transportation vehicles or transportation equipment;
- B. Products or equipment used in industrial or manufacturing processes; or
- C. Electronic wiring and cable used for power transmission.

7. Manufacturer responsibility. Effective January 1, 2008, a manufacturer of a product containing polybrominated diphenyl ethers restricted under subsections 1, 4 or 5 must notify persons that sell the manufacturer’s product of the requirements of this section.

8. Retailer assistance. The department must develop a program to assist retailers in identifying products that might contain polybrominated diphenyl ethers in their inventory.

9. Use notification. Effective January 1, 2010, a person who manufactures a product or product component containing any brominated flame retardant must provide written notice to the department in accordance with this subsection. A product or a product component containing any brominated flame retardant may not be offered for final sale, use or distribution after January 1, 2010 unless such notice has been provided to the department. A trade association representing manufacturers of products may act to fulfill the responsibilities of individual manufacturers under this subsection. The notice must include the following information on a form provided by the department:

- A. A brief description of the product or product component;
- B. The name and Chemical Abstracts Service registry number of each brominated flame retardant contained in the product or product component;
- C. The amount of each brominated flame retardant in each unit of the product or product component, reported as an exact number, as an average per product or component with an upper or lower limit or as falling within a range approved by the department;
- D. The total amount of each brominated flame retardant in all units of the product or product components sold in the United States during the most recent calendar year for which sales figures are available, reported either for the units or components sold by the manufacturer or as aggregated by a manufacturer trade association for all units of the product or components made by the industry; and
- E. The name and address of the manufacturer and the name, address and phone number of a contact person for the manufacturer.

With the approval of the department, the manufacturer may supply the information required in this subsection for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is significant change in the information or when requested by the department. The information required under paragraph D must be updated and provided to the department every 3 years.

Notwithstanding paragraph C, the manufacturer of a product containing one or more components containing brominated flame retardants is not required to include information on the amount of brominated flame retardant in the component in the notice to the department if the component manufacturer has provided that information to the department and the manufacturer of the product that contains the component identifies the component and component manufacturer in the notice. An importer of the product or product component from a foreign country may not sell, use or distribute the product or product component in the State unless the manufacturer of the product or product component is in compliance with this section, except that this prohibition does not apply to retailers for whom importing is not a primary business.

10. Interstate clearinghouse. The department may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of this chapter and to help coordinate education and outreach activities, review risk assessments and alternatives to the use of chemicals listed in this section, and carry out any other activities related to the administration of this chapter. The department may provide the interstate clearinghouse with product information submitted to the department under subsection 9 and the department and the interstate clearinghouse may compile or publish analyses or summaries of such information.

11. Review; report. The department, with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, shall review relevant hazard and risk assessments in connection with brominated flame retardants as well as assessments of alternatives to the use of brominated flame retardants and relevant findings and rulings by the United States Environmental Protection Agency and the European Union. Every 2 years beginning in 2008, the department shall submit a report regarding the regulation of brominated flame retardants to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 5th. The report must include recommendations on actions that would further protect the public health and the environment from brominated flame retardants.

12. Application. This section does not apply to the sale of used products.

SUMMARY

This bill tightens current law restricting the manufacture, sale and distribution in this State of products containing certain brominated flame retardants. Certain of the new restrictions are phased in over time. The bill also requires, beginning in 2010, manufacturers of products containing brominated flame retardants to provide information about the products to the Department of Environmental Protection and authorizes the department to participate in the establishment of an interstate clearinghouse of such information. It directs the department to submit a report every 2 years to the joint standing committee of the Legislature having jurisdiction over natural resources matters that includes recommendations on actions that would further protect the public health and the environment from brominated flame retardants.