

HOUSE BILL NO. 2084

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ENGLUND (Sponsor), HOLSMAN, CARTER, YAEGER, LeBLANC, KUESSNER, SHIVELY, McCLANAHAN, SCHUPP, DEEKEN, McNARY, STEVENSON, MOLENDORP, ALLEN, HUMMEL, TALBOY, OXFORD, FALLERT, MEADOWS, LAMPE, STORCH, SCHOEMEHL, KELLY AND SCHIEFFER (Co-sponsors).

4724L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto nine new sections relating to the sale of toxic flame-retardant products, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto nine new sections, to be
2 known as sections 407.2050, 407.2053, 407.2056, 407.2059, 407.2062, 407.2065, 407.2068,
3 407.2071, and 407.2074, to read as follows:

407.2050. Sections 407.2050 to 407.2074 shall be known and may be cited as the
2 **"Toxic Fire Retardant Prevention Act".**

407.2053. As used in sections 407.2050 to 407.2074, the following terms mean:

- 2 (1) **"DecaBDE", decabromodiphenyl ether;**
- 3 (2) **"OctaBDE", octabromodiphenyl ether;**
- 4 (3) **"PBDE", polybrominated diphenyl ether;**
- 5 (4) **"PentaBDE", means pentabromodiphenyl ether.**

407.2056. 1. Beginning January 1, 2012, a person may not manufacture, process,
2 **or distribute in commerce a product or a flame-retardant part of a product containing**
3 **more than one-tenth of one percent of pentaBDE or octaBDE.**

2. Subsection 1 of this section shall not apply to the following:

- 5 (1) **The sale by a business, charity, or private party of any used product containing**
6 **PBDE;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 (2) The distribution in commerce of original equipment manufacturer replacement
8 service parts manufactured prior to the effective date of sections 407.2050 to 407.2074;

9 (3) The processing of recycled material containing pentaBDE or octaBDE in
10 compliance with applicable state and federal laws.

11 3. Beginning January 1, 2012, a person shall not manufacture, process, or
12 knowingly sell, offer for sale, distribute for sale, or distribute for use any of the following:

13 (1) A mattress, mattress pad, an article of furniture, or any other product intended
14 for indoor residential use if the product has a textile component containing decaBDE;

15 (2) A television, computer, or other electronic device if the exterior casing of the
16 device contains decaBDE.

17 4. Subsection 3 of this section shall not apply to any of the following:

18 (1) The processing of recycled material containing decaBDE in compliance with
19 applicable state and federal laws;

20 (2) The sale of used products by a person who is not engaged in the business of
21 selling the type of products involved;

22 (3) Vehicles used for transportation or products or parts used in such vehicles;

23 (4) Medical devices used to help diagnose, care, treat, or prevent a disease or other
24 health concern.

 407.2059. 1. A manufacturer of a product restricted under subsections 3 and 4 of
2 section 407.2056 shall notify persons that sell or distribute the manufacturer's product of
3 the requirements of sections 407.2050 to 407.2074 no later than January 1, 2011.

4 2. A retailer who unknowingly sells products in violation of section 407.2056 is not
5 liable under sections 407.2050 to 407.2074. A manufacturer who unknowingly produces,
6 sells, or distributes a product prohibited by sections 407.2050 to 407.2074 shall recall the
7 product and reimburse the retailer or any other purchaser for the product and any
8 applicable shipping and handling for returning the product.

 407.2062. The department of natural resources may participate in the
2 establishment and implementation of a regional, multistate clearinghouse to assist in
3 carrying out the requirements of sections 407.2050 to 407.2074 and to help coordinate
4 education and outreach activities, review hazard and alternative assessments, and any
5 other activities related to the administration of sections 407.2050 to 407.2074.

 407.2065. Except as provided in subsection 2 of section 407.2059, a person who
2 violates section 407.2056 shall be subject to a fine of not less than ten thousand dollars and
3 not more than twenty-five thousand dollars for each violation.

407.2068. By January 2, 2012, the department of natural resources shall submit to
2 the general assembly and the governor a report that reviews the latest available scientific
3 research to address the following issues:

4 (1) Whether decaBDE is bioaccumulating in humans and the environment, and if
5 so, whether the levels of decaBDE are increasing, decreasing, or staying the same;

6 (2) How are humans exposed to decaBDE;

7 (3) What health effects could result from exposure to decaBDE, and are current
8 levels of exposure at levels that could produce these effects;

9 (4) Whether decaBDE breaks down into more harmful chemicals that could
10 damage public health; and

11 (5) Whether effective flame retardants are available for decaBDE uses, and
12 whether the use of available alternatives reduce health risks while still maintaining an
13 adequate level of flame-retardant performance.

407.2071. By February 28, 2012, the Missouri department of health and senior
2 services shall submit to the general assembly and the governor a report that reviews the
3 department of natural resources' decaBDE study. In addition to a review of any public
4 health implications the department of health and senior services believes would result from
5 exposure to decaBDE, it shall also comment on the following:

6 (1) The known exposure pathways for humans to decaBDE;

7 (2) What scientific evidence exists to demonstrate that decaBDE breaks down into
8 other chemicals that could pose public health concerns; and

9 (3) What research and analysis exists on the potential human health effects of flame
10 retardants that could be used as alternatives to decaBDE.

407.2074. Nothing in sections 407.2050 to 407.2074 restrict a manufacturer,
2 importer, or distributor from transporting products containing PBDEs through this state
3 or storing PBDEs in this state for further distribution.

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