Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS
Limits sale and manufacture of flame retardant chemical decabromodiphenyl ether.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the flame retardant chemical decabromodiphenyl ether and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that:
   a. According to the United States Environmental Protection Agency, polybrominated diphenylethers (PBDEs) are a class of flame retardant chemicals commonly found in a large number of household products, such as plastics, foams, fabrics, and other materials, and decabromodiphenyl ether (decaBDE), a type of PBDE, is a major component of commercial formulations used as a flame retardant in plastics for television cabinets, consumer electronics, shipping pallets, and wire insulation, and as back coatings for draperies and upholstery;
   b. When plastics and other products containing decaBDE burn, they emit hydrogen bromide and other toxic gases, and studies indicate that the presence of these highly toxic materials during post-fire operations can be absorbed into the body through the skin or inhalation;
   c. Hydrogen bromide, a highly toxic and corrosive gas, can penetrate the protective breathing apparatus used by firefighters, and poses a significant public safety threat to firefighters and citizens in general;
   d. DecaBDE can enter the environment in many different ways, including during the chemical manufacturing process when decaBDE is made or when it is added to consumer products as a flame retardant, through normal wear and tear of products that contain decaBDE, and when products that contain decaBDE are disposed of;
   e. People can also be exposed to decaBDE dust in the workplace and in the home, and it may enter the body by breathing or swallowing indoor dust that contains decaBDE; and
   f. It is therefore in the public interest to limit the sale, lease, and distribution of products containing the flame retardant decabromodiphenyl ether, and to limit the manufacture of decabromodiphenyl ether or products made with it.

2. As used in this act:
   “Decabromodiphenyl ether” means the chemical mixture predominately composed of decabromodiphenyl ether (decaBDE), and including associated polybrominated diphenylether impurities not intentionally added.
   “Transportation purposes” means the use of any motorized vehicle or motorized equipment to transport people, goods or
materials, including but not limited to aircraft, ships, freight and passenger trains, mass transit buses, and cranes.

3. a. Except as otherwise provided in subsection b. of this section, after December 31, 2013, no person may sell, offer for sale, lease, or distribute any product produced after December 31, 2013 that contains more than 0.1% decabromodiphenyl ether.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, any retailer in possession of a product that is banned from retail sale, lease, or distribution pursuant thereto may exhaust existing stock through sales to the public through December 31, 2014.

4. After December 31, 2013, no person may manufacture decabromodiphenyl ether, or manufacture a product containing more than 0.1% decabromodiphenyl ether.

5. Sections 3 and 4 of this act shall not apply to:
   a. products or components of products used for military purposes or transportation purposes; or
   b. decabromodiphenyl ether content that is (1) solely derived from the use of recycled materials, and (2) exclusively used in electronic equipment.

6. A violation of subsection a. of section 3 of this act or section 4 of this act shall be an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties available pursuant to P.L.1960, c.39.

7. This act shall take effect immediately.

STATEMENT

This bill would prohibit the sale, lease, distribution, and manufacture of products containing decabromodiphenyl ether (decaBDE), a flame retardant chemical.

After December 31, 2013, no person would be authorized to sell, offer for sale, lease, or distribute any product produced after December 31, 2013 that contains more than 0.1% decaBDE, unless it’s (1) a product or component of a product used for military or transportation purposes, or (2) decaBDE content is solely derived from the use of recycled materials and exclusively used in electronic equipment. Under the bill, “transportation purposes” is defined as the use of any motorized vehicle or motorized equipment to transport people, goods or materials, including but not limited to aircraft, ships, freight and passenger trains, mass transit buses, and cranes.
The bill would allow a retailer in possession of products containing decaBDE to exhaust existing stock through sales to the public through December 31, 2014.

Also, after December 31, 2013, no person would be authorized to manufacture decaBDE or manufacture a product with more than 0.1% decaBDE.

Under the bill, it would be an unlawful practice subject to the penalties under the State’s consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for any person to, after December 31, 2013: (1) manufacture decaBDE or a product containing more than 0.1% decaBDE, or (2) sell, offer for sale, lease, or distribute any product containing more than 0.1% decaBDE, unless exhausting existing stock through sales to the public up to one year after the ban takes effect. Violations under the consumer fraud act are punishable by a monetary penalty of up to $10,000 for a first offense and up to $20,000 for any subsequent offense.

DecaBDE, a type of polybrominated diphenylether (PBDE), is a major component of commercial formulations used as a flame retardant in plastics for television cabinets, consumer electronics, shipping pallets, and wire insulation, and as back coatings for draperies and upholstery. Recently, a number of states have enacted or are considering legislation to ban or restrict the sale, manufacture, and use of products containing certain PBDEs, including decaBDE, and support the use of less toxic non-brominated flame retardant alternatives.