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Bannister
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HOUSE CS FOR CS FOR SENATE BILL NO. 27(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR WIELECHOWSKI

REPRESENTATIVES Kawasaki, Holmes

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to flame retardants and to the manufacture, sale, and distribution of
2 products containing flame retardants; relating to a multistate chemicals clearinghouse;
3 and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * Section 1. AS 18.31 is amended by adding new sections to read:

6 **Article 4. Chemicals.**

7 **Sec. 18.31.600. Prohibitions.** (a) A person who is a manufacturer or a
8 distributor may not manufacture, sell, or distribute a product that contains more than
9 0.1 percent by mass of pentaBDE, octaBDE, or a combination of pentaBDE and
10 octaBDE.

11 (b) A person who is a manufacturer or a distributor may not manufacture, sell,
12 or distribute a mattress, a mattress pad, or upholstered furniture if the mattress,
13 mattress pad, or upholstered furniture has a textile component containing more than
14 0.1 percent by mass of decaBDE.

(c) A person who is a manufacturer or a distributor may not manufacture, sell, or distribute an electronic product if the electronic product has a plastic housing that contains more than 0.1 percent by mass of decaBDE.

(d) A person who is a manufacturer or a distributor may not manufacture, sell, or distribute a product that is prohibited by the department under AS 18.31.610.

(e) In this section,

(1) "congener" means a specific polybromodiphenyl ether molecule:

(2) "decaBDE" means decabromodiphenyl ether or a technical mixture in which decabromodiphenyl ether is the predominant congener;

(3) "octaBDE" means octabromodiphenyl ether or a technical mixture in which octabromodiphenyl ether is the predominant congener;

(4) "pentaBDE" means pentabromodiphenyl ether or a technical mixture in which pentabromodiphenyl ether is the predominant congener;

(5) "technical mixture" means a mixture that is named for the predominant congener and that is not exclusively composed of the predominant congener.

Sec. 18.31.610. Prohibition by department. (a) The department may prohibit by regulation the manufacture, sale, and distribution by manufacturers and distributors of a product that contains a flame retardant that is not already prohibited under AS 18.31.600(a) - (c), if the department determines that

(1) the flame retardant is harmful to public health or the environment;

(2) an alternative to the flame retardant exists, is safer for the public health or the environment, and is available on a nationwide basis.

(b) Before establishing a prohibition under (a) of this section, the department shall consult with the Department of Health and Social Services, and the state fire marshal shall determine that the flame retardant alternative identified in (a)(2) of this section satisfies applicable fire safety standards.

(c) In this section,

(1) "flame retardant" means a chemical that is added to plastic, foam, or a textile to inhibit flame formation;

(2) "product" means

(A) a mattress, a mattress pad, or upholstered furniture if the mattress, mattress pad, or upholstered furniture contains plastic fibers that contain the flame retardant; or

(B) an electronic product that has a plastic housing that contains the flame retardant.

Sec. 18.31.620. Exemptions. The prohibitions in AS 18.31.600 do not apply if the product that is prohibited is part of

(1) a transportation vehicle or a product or part used in a transportation vehicle or transportation equipment;

(2) a product or equipment used in an industrial, mining, or manufacturing process;

(3) electronic wiring or cable used for power transmission:

(4) a used item that is resold; or

(5) a new item that is brought into the state before the effective date of AS 18.31.600 - 18.31.690.

Sec. 18.31.630. Notification by manufacturer. A person who manufactures a product that is subject to a prohibition under AS 18.31.600 shall inform its retailers in the state of the prohibitions under AS 18.31.600.

Sec. 18.31.640. Enforcement. If the department determines that there are grounds to suspect that a retailer is selling a product that is subject to a prohibition under AS 18.31.600, the department may request that, within 10 days, the manufacturer of the product

(1) provide the department with a sworn certificate indicating that the manufacture, sale, and distribution of the product does not violate AS 18.31.600; or

(2) notify each retailer who sells the product in the state that the manufacture, sale, and distribution of the product by manufacturers and distributors is prohibited by AS 18.31.600 and provide the department with a list of the names and addresses of the retailers notified.

Sec. 18.31.650. Civil penalty. A person who violates AS 18.31.600 - 18.31.640 is liable to the state for a civil penalty of up to \$1,000 for each violation.

Sec. 18.31.660. Multistate chemicals clearinghouse. The department shall participate in a multistate chemicals clearinghouse to

(1) build governmental capacity to identify and promote safer chemicals and products;

(2) avoid duplication of state initiatives on chemicals and enhance the efficiency and effectiveness of state initiatives on chemicals through collaboration and coordination;

(3) ensure that state agencies, businesses, and the public have easy access to high quality and authoritative information on chemicals.

Sec. 18.31.670. Regulations. In addition to the regulations allowed under AS 18.31.610, the department may adopt regulations to implement AS 18.31.600 - 18.31.690. The department shall adopt the regulations for AS 18.31.600 - 18.31.690 under AS 44.62 (Administrative Procedure Act).

Sec. 18.31.690. Definitions. In AS 18.31.600 - 18.31.690, unless the context indicates otherwise,

(1) "department" means the Department of Environmental Conservation;

(2) "distribution" means the distribution of products to other distributors, or to retailers, for sale or for a commercial purpose;

(3) "distributor" means a person who engages in the distribution of a product;

(4) "electronic product" means a television, a computer, or another piece of electronic equipment;

(5) "manufacture" means manufacture for sale;

(6) "manufacturer" means a person who

(A) manufactures a product or whose brand name is affixed to the product; or

(B) imports or distributes a product in the United States if the person who manufactured or assembled the product or whose brand name is affixed to the product does not do business in the United States:

(7) "retailer" means a person who sells a product to a purchaser other

1 than for resale and who is not a manufacturer or a distributor of the product;

2 (8) "sell" includes an offer to sell;

3 (9) "transportation vehicle" means a mechanized vehicle that is used to
4 transport goods or individuals, and includes an airplane, an automobile, a motorcycle,
5 a truck, a bus, a train, and a ship.

6 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: REGULATIONS. The Department of Environmental Conservation
9 may adopt regulations necessary to implement this Act. The regulations take effect under
10 AS 44.62 (Administrative Procedure Act), but not before July 1, 2014.

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 REVISOR'S INSTRUCTION. Wherever "chapter" appears in AS 18.31.010 -
14 18.31.500, the revisor of statutes shall substitute "AS 18.31.010 - 18.31.500."

15 * **Sec. 4.** AS 18.31.660, enacted by sec. 1 of this Act, and sec. 2 of this Act take effect
16 immediately under AS 01.10.070(c).

17 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2014.