



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

7700 East First Place Denver, CO 80230

ph (303) 364-7700 fax (303) 364-7800

www.ncsl.org

State Regulation of PBDEs

February 1, 2011

Compiled by Scott Hendrick

Summary

Polybrominated diphenylethers (PBDEs) are used widely as flame retardants in a number of consumer products, including mattresses, furniture foam, consumer electronics, wire insulation, draperies and upholstery. However, there is concern about the potential environmental and human health effects of PBDEs. Studies have shown that PBDEs accumulate in the environment and living organisms. These compounds have also been associated with liver toxicity, thyroid toxicity, and neurodevelopmental toxicity in humans.

State legislative activity has focused on three types of PBDEs: pentaBDE, octaBDE and decaBDE. Twelve states regulate pentaBDE and octaBDE in certain consumer products. Of these, eight states also regulate decaBDE or have authorized studies into its environmental or human health effects. Illinois, Indiana, Minnesota, New York and Rhode Island require manufacturers of certain electronic products to notify the state if their products exceed the European Union's maximum concentration values for PBDEs. Minnesota also requires that PBDE-free equipment, supplies and products be made available for purchase and use by state agencies.

For state legislation addressing PBDEs, visit NCSL's Environmental Health Legislation Database (available online at <http://www.ncsl.org/default.aspx?tabid=13226>).

State Statutes Regulating PBDEs

State	Citation	Summary
California	West's Ann.Cal.Health & Safety Code § 108920 to 108923	Prohibits a person from manufacturing, processing or distributing a product, or a flame- retarded part of a product, containing more than one-tenth of 1 percent of pentaBDE or octaBDE, except for products containing small quantities of



		PBDEs that are produced or used for scientific research on the health or environmental effects of PBDEs.
Hawaii	HRS § 332D-1 to 332D-3	Prohibits a person from manufacturing, processing or distributing a product, or a flame-retarded part of a product, containing more than one-tenth of one per cent, by mass, of pentaBDE, octaBDE, or any other chemical formulation that is part of these classifications. This prohibition does not apply to the processing of metallic recyclables containing pentaBDE or octaBDE.
Illinois	410 ILCS 48/1 to 48/99	Prohibits a person from manufacturing, processing or distributing a product, or a flame- retarded part of a product, containing more than one-tenth of 1 percent of pentaBDE or octaBDE. Exempts used products and the processing of recyclable material containing pentaBDE or octaBDE. Authorizes a study of the health and environmental effects of decaBDE.
Maine	38 M.R.S.A. § 1609	Prohibits a person from selling or distributing a product containing more than 0.1% of the "penta" or "octa" mixtures of polybrominated diphenyl ethers. Prohibits a person from manufacturing, selling or distributing certain products containing the "deca" mixture of polybrominated diphenyl ethers. These products include mattresses, mattress pads, upholstered furniture, shipping pallets, televisions, and computers. Exempts transportation vehicles and parts, parts and equipment used in industrial manufacturing, and electronic cable and wiring used in power transmission. Requires manufacturers of products containing PBDE to notify retailers of prohibitions.
Maryland	MD Code, Environment, § 6-1201 to -1205	Prohibits a person from manufacturing, processing or distributing a product, or a flame- retarded part of a product, containing more than one-tenth of 1 percent of pentaBDE or octaBDE. Prohibits the manufacture, lease, sale or

		distribution of certain products containing decaBDE. Makes certain exemptions.
Michigan	M.C.L.A. 324.14721 to .14725	Prohibits the manufacturing, processing or distribution of products or materials containing than 1/10 of 1% of penta-BDE or octa-BDE. Authorizes PBDE advisory committee to study human health and environmental risks of PBDEs.
Minnesota	M.S.A. § 325E.385 and .386	Prohibits a person from manufacturing, processing or distributing a product or flame-retardant part of a product containing more than one-tenth of one percent of pentabromodiphenyl ether or octabromodiphenyl ether by mass. Makes certain exemptions.
	M.S.A. § 325E.387	Requires state to review the commercial use and health and environmental risks of decaBDE.
New York	McKinney's ECL § 37-0111	Prohibits a person from manufacturing, processing or distributing a product, or a flame-retardant part of a product, containing more than one-tenth of one per centum of pentabrominated diphenyl ether or octabrominated diphenyl ether, by mass. Makes certain exemptions.
Oregon	O.R.S. § 453.005	Lists pentaBDE, octaBDE and decaBDE as hazardous substances and therefore subject to labeling and product restrictions under O.R.S. §§ 453.005 to 435.185.
Rhode Island	Gen.Laws 1956, § 23-13.4-1	Codifies legislative finding that the state should develop a precautionary approach regarding the production, use, storage, and disposal of products containing brominated fire retardants. Prohibits a person from manufacturing, processing or distributing a product or a flame-retardant part of a product containing more than one-tenth (1/10 %) of one percent (1%) of pentaBDE or octaBDE. Makes certain exemptions. Authorizes a study of the health and environmental effects of decaBDE.
Vermont	9 V.S.A. § 2971	Prohibits a person from manufacturing, processing or distributing a product, or a flame- retarded part of a product, containing greater than 0.1 percent of pentaBDE or octaBDE by weight. Prohibits a person from manufacturing,

		selling or distributing certain products containing the deca BDE. These products include mattresses, mattress pads, upholstered furniture, televisions, and computers. Exempts motor vehicles and parts, and the sale or resale of used products. Requires manufacturers of products containing decaBDE to notify retailers of prohibitions. Requires decaBDE be replaced with safer alternatives.
Washington	West's RCWA 70.76.005 to .110	Prohibits a person from manufacturing, selling or distributing noncombustible products containing pentaBDE and octaBDE. Makes certain exemptions. Prohibits a person from manufacturing, selling or distributing mattresses containing the deca BDE. This prohibition extends to upholstered furniture, televisions, and computers if the state, in consultation with a fire safety committee, finds that a safer and technically feasible alternative to decaBDE is available. Requires manufacturers of products containing PBDEs to notify retailers of the prohibitions.

Other State Statutes Addressing PBDEs

State	Citation	Summary
Illinois	415 ILCS 150/30	Requires certain electronic manufacturers to submit registration to the state that discloses whether any covered electronic device exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the European Union standards.
Indiana	IC 13-20.5-1-1	Requires video display device manufacturers to submit registration to the state that discloses whether any covered video display device exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the European Union standards.

Minnesota	M.S.A. § 115A.1312	Requires video display device manufacturers to submit registration to the state that discloses whether any covered video display device exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the European Union standards.
	M.S.A. § 325E.387	Requires that the commissioner of administration make available for purchase and use by all state agencies equipment, supplies, and other products that do not contain polybrominated diphenyl ethers.
New York	McKinney's ECL § 27-2605	Requires certain electronic manufacturers to submit registration to the state that discloses whether any covered electronic device exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the European Union standards.
Rhode Island	Gen.Laws 1956, § 23-24.10-9	Requires video display device manufacturers to submit registration to the state that discloses whether any covered video display device exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEEs) under the European Union standards.



NOTE: The above summarizes state law or legislation and is the property of the National Conference of State Legislatures (NCSL) and is intended as a reference for state legislators and their staff. NCSL makes no warranty, expressed or implied, or assumes any legal liability or responsibility for third party use of this information, or represents that its use by such third party would not infringe on privately owned rights.