

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 15, 2008
3:02 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Carl Gatto
Representative Gabrielle LeDoux

OTHER LEGISLATORS

Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 295

"An Act relating to the filing or recording of documents and records with the Department of Natural Resources, to the inspection and copying of filed and recorded documents, and to the filing of secured transaction records under the Uniform Commercial Code; and providing for an effective date."

- MOVED HB 295 OUT OF COMMITTEE

HOUSE BILL NO. 271

"An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to bio accumulative toxic chemicals; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 295

SHORT TITLE: RECORDED OR FILED DOCUMENTS

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/04/08 (H) PREFILE RELEASED 1/4/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) L&C, RES
02/15/08 (H) L&C AT 3:00 PM CAPITOL 17

BILL: HB 271

SHORT TITLE: FLAME RETARDANTS AND TOXIC CHEMICALS
SPONSOR(S): REPRESENTATIVE(S) DOLL, GRUENBERG

01/04/08 (H) PREFILE RELEASED 1/4/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) L&C, HES
02/15/08 (H) L&C AT 3:00 PM CAPITOL 17

WITNESS REGISTER

NANCY MANLY, Staff
to Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 295 on behalf of the prime sponsor, Representative Bob Lynn.

VICKY BACKUS, State Recorder
State Recorder's Office
Division of Support Services
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on HB 295.

REPRESENTATIVE ANDREA DOLL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as one of the joint prime sponsors of HB 271.

KELLY NICOLELLO, Assistant Fire Marshal
Division of Fire and Life Safety
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on HB 271.

CHRIS HALL
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 271.

PAM MILLER, Executive Director
Alaska Community Action on Toxics (ACAT)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 271.

GWEN NORTON
Anchorage, Alaska
POSITION STATEMENT: Testified on HB 271.

LAWRENCE WEISS, Ph.D. Retired Professor of Public Health
University of Alaska Anchorage;
Executive Director
Alaska Center for Public Policy
Anchorage, Alaska
POSITION STATEMENT: Testified and answered questions on HB 271.

JAY BUTLER, M.D.
Chief Medical Officer
Office of the Commissioner
Department of Health and Social Services (DHSS)
Anchorage, Alaska
POSITION STATEMENT: Testified and answered questions on HB 271.

SUSAN WALSH, Registered Nurse
Ketchikan, Alaska
POSITION STATEMENT: Testified in support of HB 271.

LAUREN HEINE, Ph.D., Consultant
Clean Production Action
Bellingham, Washington
POSITION STATEMENT: Testified on HB 271.

TIM JUNE
Haines, Alaska
POSITION STATEMENT: Testified on HB 271.

CHRIS CLEET, Director
Environmental Affairs
Information Technology Industry Council
Washington, D.C.
POSITION STATEMENT: Testified on HB 271.

ETHAN BERKOWITZ
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 271.

KRISTIN RYAN, Director

Division of Environmental Health
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion on HB 271.

ERIC MOHRMANN, Fire Chief
Alaska Fire Chiefs Association (AFCA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 271.

VALERIE DELAWN
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion on HB 271.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:02:29 PM](#). Representatives Buch, Gardner, Neuman, and Olson were present at the call to order. Representative Ramras arrived as the meeting was in progress.

HB 295-RECORDED OR FILED DOCUMENTS

[3:02:36 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 295, "An Act relating to the filing or recording of documents and records with the Department of Natural Resources, to the inspection and copying of filed and recorded documents, and to the filing of secured transaction records under the Uniform Commercial Code; and providing for an effective date."

NANCY MANLY, Staff to Representative Bob Lynn, Alaska State Legislature, explained that the advancing technology in the State Recorder's Office has reached a point of "instant recording." She characterized HB 295 as primarily a cleanup bill to allow this to happen. This bill would amend three areas in statute to enable the return of original documents to the presenter at the time of recording, to ensure all required recording information is located on the document, to delete references to filming or scanning daily recordings, to remove all references to court authority over the recorder's office, and would update Uniform Commercial Code (UCC) forms, references and statutes, and to conform with national standards. This bill would also require that documents presented for recording contain the name of the recording district in which the document

is to be recorded. The State Recorder's Office requested HB 295 and any questions be directed to the State Recorder's Office. In response to Representative Gardner, Ms. Manly answered that no one has contacted the bill's sponsor in opposition to HB 295.

3:04:44 PM

VICKY BACKUS, State Recorder, State Recorder's Office, Division of Support Services, Department of Natural Resources (DNR), also characterized HB 295 as primarily cleanup legislation, but noted that the bill will pave the way to allow for electronic recording. The proposed changes to AS 40.17 will change the way a document is returned to the person after it is recorded. Currently, the recorder's office must return the original document to the person designated on the document after it has been recorded internally. The division requests that the document be returned to either the person named on the instrument, or to the presenter at the time of recording. Another division request is to amend statute to require that recording district information be on the document. Current statute allows this information to be submitted verbally or in a cover letter. However, if the information is not on the document, the recorder's office must create a verbal form or retain the cover letter which identifies the desired recording district. Subsequently, the form and cover letter must be filmed, scanned, and retained for future reference. Additionally, proposed AS 40.25 would remove a requirement that the recorder's office provide facilities for copying the public record. Previously, the division's backlog for filming necessitated an outside vendor film the records. Since the recorder's office has been current for quite some time, the statutory requirement is no longer necessary. This proposed section will also remove a reference for the recorder's office to be under the court's jurisdiction. However, the recorder's office has not been under its jurisdiction since 1977. She offered that proposed changes to AS 45.29 would allow the DNR to adopt regulations specifying acceptable Uniform Commercial Code (UCC) forms, along with the authority to reject documents submitted on old forms. This change is to prevent filers from including their social security number (SSN), she explained. In fact, the old forms currently in use and authorized by statute include a space for the SSN. Thus, people continue to provide this private information. The use of the new national form will eliminate that field, she noted.

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MS. BACKUS, in response to Representative Neuman, answered that there are no other departments that officially record the public record.

REPRESENTATIVE NEUMAN related his understanding that the Department of Natural Resources maintains all public records and further inquired about birth and death certificates.

MS. BACKUS, in further response to Representative Neuman, explained that the permanent public record of Alaska primarily consists of real estate documents. She offered that birth certificates and death certificates are not considered public records.

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CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 295.

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REPRESENTATIVE NEUMAN moved to report HB 295 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 295 was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:10 p.m. to 3:13 p.m.

HB 271-FLAME RETARDANTS AND TOXIC CHEMICALS

[3:13:05 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 271, "An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to bioaccumulative toxic chemicals; and providing for an effective date."

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REPRESENTATIVE ANDREA DOLL, Alaska State Legislature, speaking as one of the joint prime sponsors, explained that HB 271 would ban the manufacture and sale of certain products that contain chemicals, called polybrominated diphenyl ethers (PBDEs). The PBDEs are flame retardant chemicals used in the manufacture of industrial fabrics found in items such as mattresses, carpet pads, and upholstery, as well as in the plastic casings of

computers and other electronic devices. She offered that PDBE flame retardants have received national attention in such publications as the New York Times, the National Geographic, and Newsweek. She pointed out that PBDE chemicals are categorized into three different classes, which are "decaBDE", "octaBDE", and "pentaBDE." The most hazardous forms of PBDE, octaBDE and pentaBDE, have been banned in ten states. Many industries have voluntarily used alternatives to PBDEs. The European community has also banned PBDEs, she advised.

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REPRESENTATIVE DOLL offered that while decaBDE has not been considered as dangerous, it degrades into the other two forms. The PBDEs are considered "persistent organic pollutants" which means that the chemicals accumulate in the environment. The PDBEs are found in all kinds of products and most frequently are ingested by breathing in the dust. The chemicals contaminates food and accumulates in fat and breast milk. In fact, the United States has the highest level of this contaminant in breast milk in the world, she opined. She noted the presence of PDBEs in milk, fish, dairy products as well as sewage and sludge, which is often recycled in fertilizer. Globally PDBES are more significant in northern climates, with significant levels in marine mammals such as killer whales. The coastal Alaskan Natives have historically depended on marine mammals as a food source so consequently it represents a health threat. Representative Doll explained that this matter initially came to her attention because it affects children's health in that it negatively affects the brain tissues in young children and the unborn. It also affects memory and learning functions, creates thyroid problems, and significantly reduces sperm counts in adults, she opined. According to current research, when PDBEs are burned they create toxic fumes which represent a significant hazard for firefighters. Thus, firefighters have assisted passage in other states of similar legislation to ban or restrict use of PDBEs.

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REPRESENTATIVE DOLL related that the International Association of Firefighters (IAFF) supports HB 271. She pointed out that there are safe alternatives for PDBEs. This bill would ban all products that contain pentaBDE and octaBDE, although these products are being voluntarily phased out, she noted. This bill would ban decaBDE in mattresses and upholstery beginning in 2009, and would authorize the Department of Environmental

Conservation (DEC) to add other chemical flame retardants it deems harmful to public health if reasonable, safe alternatives exist. This bill will empower the department to educate retailers to identify products that contain the chemicals and to fine companies that fail to comply with the ban. Under the bill, every two years, the DEC must report the progress of the ban. It must also develop a list of chemicals of concern along with a strategy to phase out products. Under HB 271, the phase out would be gradual, and the bill provides exemptions for transportation vehicles. In response to Chair Olson, Representative Doll explained the rationale to exempt some industries such as the airline industry that use PDBEs is to allow for voluntary compliance. "No one wants to be poisoned," she said. In further response to Chair Olson, she noted that the bill is modeled after Maine and Washington's laws which have banned all three forms of PDBEs. Additional exemptions in the bill include exemptions for mining and electrical companies, as well as resale of goods.

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REPRESENTATIVE NEUMAN pointed out that some of the letters in the committee packet suggest that there is not enough evidence to support the complete ban of PDBEs, such as letters from the American Chemistry Council, the Department of Public Safety, and the Minneapolis Fire Department. He asked the prime sponsor to discuss whether HB 271 is premature since there are no viable alternatives, or since some chemicals are used within products such as light bulbs that are not readily released into the environment.

REPRESENTATIVE DOLL referred to a listing of alternatives titled, "Protect Public Health HB 271 "Flame Retardants and Toxic Chemicals" which is contained in the packet.

REPRESENTATIVE GARDNER pointed out to the extent there are environmental risks to products and chemicals, it is also important to consider the costs associated without using them.

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KELLY NICOLELLO, Assistant Fire Marshal, Division of Fire and Life Safety, Department of Public Safety (DPS), Anchorage, Alaska read a prepared statement as follows [original punctuation provided]:

With the permission of the Chair, My Name is Kelly Nicoletto; I am the Assistant State Fire Marshal for the Department of Public Safety Division of Fire and Life Safety. For the record, I have 29 years of expertise in the fire service.

It appears from multiple sources that polybrominated diphenyl ethers (PBDEs) are a concern to the well being of humans and animals. The fact that PBDE is a persistent organic pollutant, similar to PCBs and DDT, and can remain in the environment for years without breaking down is of major concern. The larger problem is the lack of serious regulation of the chemical industry. If the chemical industry were regulated to the degree of pharmaceutical industry we probably wouldn't be having this discussion. Pharmaceuticals (chemicals intentionally ingested, injected, inhaled by, or topically applied to humans) have to be proven safe for humans before they are sold on the open market. In the industrial chemical industry it seems that chemicals are banned only after they are proven harmful to humans or the environment. I see a benefit to this legislation, as long as there is a suitable fire retardant to replace the PBDEs. The lack of fire retardant will kill more people sooner than using PBDEs.

Dell Computers and HP are leading the way in eliminating the use of PBDEs. Dell is drastically reducing their use of brominated fire retardants. They currently prohibit the use of PBCs and PBDEs (including DecaBDE) for all of their products. HP is following suit. Dell's goal is to eliminate the use of all brominated fire retardants by 2009. They will use different plastics and retardants when applicable and when possible re-engineer their products so that fire retardants aren't required.

The value of flame retardants in plastics is extremely high. Without them we would have many more fires, exposing firefighters more often, and would not be able to have some of the convenience appliances and products we now enjoy in our homes today. Flame retardants in plastics protect us from low temperature ignition. Fighting structure fires is hazardous. Chemical contamination is just one danger of this occupation. Structural collapse, back-draft, and

flashover are hazards that are prevented when the fire doesn't start.

I want to thank Rep. Doll for taking the initiative on this issue and bringing it forward. I also want to thank her for contacting our office and involving the Div. of Fire and Life Safety in the review of the legislation. The division cannot support the legislation at this time because there is not enough empirical evidence established that supports the complete ban of these chemicals, nor are there enough adequate replacements for these chemicals available at this time. While this bill provides an opportunity to discuss this issue and the possibility of a ban in the future, the division feels the measure is premature at this time. I am available to answer any questions relating to the division or our conclusion of the bill. Thank you.

[3:31:15 PM](#)

REPRESENTATIVE GARDNER recalled that Mr. Nicoletto's testimony mentioned efforts by the computer industry to phase out PBDEs. She inquired as to whether the manufacturers of mattresses or upholstery have similar plans.

MR. NICOLELLO explained that market force tends to shift manufacturers, although he did not have any statistics to demonstrate that shift. The division hopes that the chemical industry will self regulate with respect to the health risks posed by PBDEs and replace the PBDEs with substitute that does not pose a health hazard, he related. In further response to Representative Gardner, Mr. Nicoletto noted that as states begin to ban PDBEs, the industry will search for viable substitutes.

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CHRIS HALL explained that he is not involved in any fire protection organization. He expressed concern with HB 271 because flame retardants have protected thousands of people from burning. He offered statistical information that showed when flame retardants were first introduced it resulted in a 64 percent drop in death rates from household fires. Until safer alternatives for flame retardants are discovered, that have withstood testing, it is unwarranted to create a bureaucratic process, spend unknown funds, and put the citizens of Alaska at fire risk, he opined.

3:34:29 PM

PAM MILLER, Executive Director, Alaska Community Action on Toxics (ACAT), said that she is also a biologist for the ACAT, a statewide environmental health organization that conducts research and provides educational programs, technical assistance, and training. She related that ACAT urges support for HB 271. This bill is an important measure to help protect the health of workers and the general public. The American Public Health Association (APHA) recognizes the public health threat presented by the prevalence of toxic PBDE flame retardants. The APHA passed a resolution that read [original punctuation provided]:

In light of the emerging science on the inherent toxicity and persistence of PBDEs, evidence of adverse health effects on animals, and the prevalence and rising levels in fish, biota, and human breast milk, immediate action is needed to prevent further environmental contamination and to protect public health. The American Public Health Association urges state and federal governments to require the use of all PBDE flame retardants be phased out in all products manufactured and sold in the U.S. by a date certain.

Polybrominated diphenyl ethers (PBDEs) are similar in structure to the banned chemicals known as PCBs, polychlorinated biphenyls, and thus can have similar harmful effects on the body. The PBDEs are persistent, bioaccumulative, and toxic. People are exposed to PBDEs through contaminated air, household dust, and foods. PBDEs are associated with adverse health effects in animal studies, including: neurobehavioral toxicity, thyroid hormone disruption, and for some forms of the chemical, cancer. PBDEs can impair brain development and the ability to learn. There is growing evidence that these chemicals can cause developmental effects, endocrine disruption, immunotoxicity, and long-term multi-generational harm. Worldwide, people in the U.S. have the highest levels in breast milk, blood serum, and body fat - 10-100 fold higher than people in Europe, Asia, and New Zealand. PBDEs can be transferred to the developing baby during pregnancy and to newborns through breast milk. One study suggests that in utero exposure is

associated with an increased risk of testicular cancer in men. The Agency for Toxic Substances and Disease Registry (ATSDR) lists decaBDE as a possible human carcinogen based on the development of liver tumors in laboratory animals. PBDE exposures have been correlated with cryptorchidism, or undescended testes in newborn boys. PBDEs are persistent and travel long distances atmospherically—PBDEs are now ubiquitous and found in Arctic air, sediments, and wildlife. People of the north are more vulnerable to exposures due to higher levels of consumption of fish and marine mammals. Dr. Larissa Taskser of the University of Sherbrooke, Department of Obstetrics, and Gynecology states: Current regulations do not take into account how sensitive the fetus is to the toxicity of polluting agents. She observed effects at extremely low doses at levels that we consume everyday. She concluded that PBDES can have an impact on a pregnant woman's thyroid gland and could adversely affect the fetal brain. Elevated levels of PBDEs are found in workers who dismantle and recycle electronics, those who repair and maintain computers, and in rubber workers. Firefighters are at particular risk because they are exposed to toxic fumes containing PBDEs from burning building materials, electronics, and furniture. Safe and economic alternatives are available that does not compromise fire safety.

MS. MILLER concluded by saying that there are many materials from states such as Maine and Illinois that provide viable alternatives. She urged passage of HB 271.

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REPRESENTATIVE GARDNER inquired as to whether Ms. Miller was aware of any studies that have been conducted that quantify PBDEs in the tissues or breast milk of Alaskans, Alaskan Natives, or coastal Alaskans. She further inquired as to whether Ms. Miller was aware of any studies that outline the incidence of health problems and birth defects.

MS. MILLER answered that there have been several studies of Alaska wildlife and environmental concentrations of PDBEs, but the studies in Alaska are relatively new unlike those undertaken in Canada and some other arctic countries. Alaska has undertaken few studies of wildlife and people. In 2007, ACAT, along with other environmental health organizations in six other

states published a bio-monitoring study that looked at levels of PBDEs, and other chemicals in Alaskans. Alaskans had some of the higher levels of PDBEs compared to those in the other states. She opined that northern people are at risk and more vulnerable since they are exposed at home, on the job, and because of the long-range transport and persistence of the chemical in northern climates. She noted that there is ample evidence, particularly from other arctic nations that show northern people have elevated levels of PBDEs in their bodies than do people in lower latitudes.

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GWEN NORTON explained that as a concerned citizen, she researched PBDEs on the Internet. She offered that many organizations such as the National Academy of Sciences, the European Union, the United States Product Safety Commission, and National Association of State Fire Marshals have studied PBDEs and have found that the decaBDEs are safe for use until a better alternative is discovered. These organizations have recognized that more lives will be saved due to protection from fires. She pointed out that many people in Alaska use wood stoves or resides in areas off the road system. Thus, fire safety must be a primary concern for Alaskans at this time.

[3:43:16 PM](#)

LAWRENCE WEISS, Ph.D., Retired Professor of Public Health, University of Alaska Anchorage; Executive Director, Alaska Center for Public Policy (ACPP), noted that he is also the editor of the Alaska Health Policy Review. He explained that he has been a member of the American Public Health Association (APHA) for about 30 years, which is the largest and oldest public health organization in the world with about 50,000 members. APHA annually adopts about a dozen policy resolutions. In 2004, it passed a resolution on one chemical, the PBDEs. He recalled that someone mentioned that there is not definitive scientific evidence of the harmful consequences from PBDEs. He highlighted that APHA policy, which is emphasized in its Resolution 2004-5, as follows:

APHA policy encourages precautionary action to prevent potential harm to reproductive health, infants, and children, even if some cause and effect relationships have not been established with scientific certainty.

DR. WEISS explained that even though there is not definitive scientific evidence, there is sufficient evidence to warrant precautionary measures since the consequences are so terrible. He said he kept hearing in testimony today that the alternatives are that Alaskans can have PBDEs and fire safety, or a ban on PBDEs without fire safety. He opined that that is simply not true. He pointed out that even Resolution 2005-5, which he offered in part, included that some computer and electronics manufacturer like Apple, Ericsson, IBM, Intel, Motorola, Sony, Panasonic, and Phillips are using alternatives. Further, he noted that Motorola uses a halogen free laminate that is cost effective and meets fire safety standards and that Toshiba has replaced plastic casings with inherently flame resistant polyphenaline sulfides (PPS). He pointed out that other companies like IKEA, Crate and Barrel, and Eddie Bauer request PBDE free polyurethane foam products from their manufacturer, the Hickory Springs Manufacturing Company. He stressed that alternatives to PDBEs exist and are widely used.

DR. WEISS, in response to Representative Gardner, offered to provide the committee with a copy of the APHA Resolution, 2004-5.

[3:47:15 PM](#)

REPRESENTATIVE BUCH inquired as to whether a list of alternatives along with cost benefit ratios is available.

DR. WEISS answered that he could not speak to cost effective alternatives other than to say that to the extent that some manufacturers are already using them, the alternatives must be cost effective and seem to be competitive in the market.

[3:48:42 PM](#)

JAY BUTLER, M.D., Chief Medical Officer, Office of the Commissioner, Department of Health and Social Services (DHSS), noted his focus would be on the potential benefits and risks from a ban of pentaBDE, octaBDE, and decaBDEs. The possible health threats have been covered and stems from their tendency to accumulate in the environment and the bodies of mammals, including human beings. The PBDEs appear to be similar to the better known class of organic persistent pollutants polychlorinated biphenals (PCBs) which cause cancer and other health conditions. Although there have not been large scale epidemiological studies of the health effects of PBDEs in humans, studies in animals indicate that these compounds can

cause permanent changes in behavior, learning, and memory, as well as thyroid dysfunction. The PBDE concentrations in human breast milk higher are up to 40 fold higher in North America than they are in Europe, where pentaBDE and octaBDE have been banned. Ms. Miller pointed out that there have not been studies done in Alaska. Possible risks from banning PBDEs are from burns, but he offered that has not been data indicating an increase in burn injury and deaths from European Union where these substances are banned. Additionally, it appears that satisfactory alternative flame retardants are available and exemptions for certain products where good alternatives are not available are addressed in HB 271.

3:51:03 PM

DR. BUTLER, in response to Representative Gardner, pointed out that studies on PBDEs in Alaskans have not been done. He offered that the department has the ability at the state health laboratory, but not the resources to perform the testing on the health effects of PBDE use. He offered that the fiscal note includes a reimbursable services agreement (RSA) with Department of Environmental Conservation (DEC) for \$30,000, to support a portion of the costs for a toxicologist associated with a solid waste/pesticide program within DEC to research the hazards and risks associated with flame retardants. He speculated that the costs for a toxicologist to conduct a study would be similar.

3:53:09 PM

SUSAN WALSH, Registered Nurse, related that she has over 30 years of experience as a nurse. She said she hopes the committee will support HB 271. She pointed out that the American Nurses Association (ANA) adopted a resolution in 2006, which she summarized, as follows:

When an activity raises threats to harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships have not been established with scientific certainty. The proponent of an activity, the manufacturer, rather than the public, should bear the burden of proof. The process of applying the precautionary principal must be open, informed, and democratic, and must include potentially affected parties. It must also involve an examination of a full range of alternatives including no action.

MS. WALSH pointed out that there are viable alternatives to such chemicals. She asked the committee to please weigh the cost benefit of eliminating such toxins in amniotic fluid, breast milk, and our food sources. She pointed out that the APHA and IAFF have recommended the phase out of the toxic PBDE flame retardant. She urged the committee to do the same. As a member of the ANA Board of Directors, she offered to urge the ANA to adopt a resolution in support of HB 271.

[3:55:50 PM](#)

LAUREN HEINE, Ph.D., Consultant, Clean Production Action, stated that she has worked extensively with the United States Environmental Protection Agency (EPA), Design for the Environment program. Over the past few years, there have been two multi-stakeholder partnerships examined alternatives to pentaBDE. The second partnership is currently underway to review alternative flame retardant materials in electronic circuit boards. The first partnership focused on foam and identified at least 12 chemicals that could be used by manufacturers by furniture, foam, and textile manufacturers as viable alternatives to pentaBDE. Although the chemical can still be imported from China, PBDEs have been banned in Europe. Thus, manufacturers asked the EPA for help in finding alternatives. The EPA reviewed currently viable alternatives. She said that Alaska is disproportionately affected by PBDEs since the chemicals are not produced in Alaska, but drift north. Firefighters are exposed to dioxins, which are formed when these substances burn. She reiterated that fire safety is not compromised. The truth is that safe alternatives will replace PBDEs, she opined. Phosphate based flame retardants are much safer and some larger manufacturers of PBDEs are currently purchasing smaller phosphate based companies and are poised to sell the alternatives and in some cases already do so. She noted other states have taken action such as Michigan that banned pentaBDE and octaBDE. In fact, Michigan also proposes to ban decaBDE since there is growing evidence that decaBDE degrades into lower toxic chemicals or cogeners. She pointed out 11 major electronic manufacturers produce products that do not contain PBDEs and have goals to eliminate all brominated flame retardant from 2008 to 2010. Many mattress manufacturers now prefer to cover foam with a fabric overcoating instead of dousing the product in PBDE chemicals. The green product market is exploding because demand the products, she opined. She stressed the importance of passing HB 271. Manufacturers will respond to Alaska's signal, she opined.

4:01:40 PM

TIM JUNE said that he participated last year in a national biomonitoring study that tested a small group of people in seven states for evidence of three groups of chemicals, including fire retardants. Since he contracted cancer at a young age, he has lived in Haines for the past 30 years in order to avoid chemical exposure. Five Alaskans were randomly tested as part of the study, and of the 35 participants, all had some levels of chemicals used in flame retardants in their blood with two Alaskans having the highest levels of chemicals in their blood. He said what concerns him is that Alaskans think they live in a safe environment. Granted, this was a small study, but members should consider HB 271 because of Alaska's geographical position. He asked members to review the bill from a public health and prevention standpoint. He remarked that he was not aware of persistent use of chemicals until he filled out the biomonitoring study survey that included a list of questions such as assessing whether participants sleep on a foam mattress, or have had a carpet pad deteriorate. He highlighted that increasing consumer's awareness elevates their right to know and the choices that consumers make on how to live their lives. He related as one of 30,000 commercial fishermen that he often slept on bare foam rubber on fishing boats. He characterized HB 271 as a good "consumer right to know" bill. He especially enjoyed the preventive aspects of HB 271 that require the DEC to compile a list of harmful chemicals and then work to eliminate them. Health and insurance costs are rising at an astronomical rate, he opined. Preventative strategies require a minimum amount of time and investment with long-term benefits for individual Alaskans and the state, he opined. He urged the committee to take action on HB 271. In response to Representative Gardner, Mr. June answered that to his knowledge memory foam pads are not labeled as to PBDE content since labeling is not required.

4:09:12 PM

CHRIS CLEET, Director, Environmental Affairs, Information Technology Industry Council (ITI), stated that ITI represents many of the manufacturers of technology mentioned. He explained that ITI manufacturers offer a full range of electronic products, such as computers, televisions, medical devices, and cell phones. He called attention to the differences between pentaBDE, octaBDE, and decaBDE PBDEs. Problems with pentaBDE and octaBDE are well known, but decaBDE is different, he opined. The European Union has performed a ten year risk assessment on

several hundred studies on the toxicity and uses of decaBDE. Since the risk assessment did not find any risk for its continued use, decaBDE has been exempted from the ban. Although the risk assessment was updated in 2004, evidence still did not reveal any issues for health or environmental risks. Alternatives are being used by industry, which suggests that the market is working. However, alternatives to PBDEs don't work in all cases and are not always best alternative. He urged the committee to allow time for industry to phase out chemicals if a decision is made to ban PBDEs. He also asked the committee to carefully consider any alternative chemical. He noted that Maine and Washington are the only states that banned decaBDE. However, HB 271 scope is vastly different from the legislation that those states banned. Since it is difficult for industry to tailor its products for individual states, he suggested that the committee review the scope of Washington and Maine legislation, in particular with respect to products such as computer casings, mattresses, and upholstery. He related that ITI opposes the ban on PBDEs under HB 271.

[4:13:10 PM](#)

ETHAN BERKOWITZ, noted that although he is no longer a legislator, he decided to testify since he was one of 35 Americans that participated in a national biomonitoring project in the spring of 2007. He predicted that he would fare well in the testing that measures toxic chemicals in the bodies of average Americans since he thought he was in good health. Although he is not sure how the chemicals came into his body, he emphasized the unsettling aspect of the biomonitoring project results. He urged committee members to make a deliberate decision and to contemplate the evidence. He speculated how many Alaskans might be afflicted with toxins, contract diseases, or may need social assistance. He emphasized the hidden costs for using the chemicals, PBDEs, should be considered. He urged members to make an informed decision. Additionally, he opined that consumers have a right to know that toxins could be ingested if they use certain products. The legislature has the responsibility to force companies that use these chemicals in their products to stop doing so in order to protect consumers. He pointed out that at one time chemicals such as dichloro diphenyl trichloroethane (DDT) were thought to be essential for agriculture and for the betterment of mankind. Now DDT is banned. He concluded that all chemicals should be subject to review.

[4:18:18 PM](#)

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), said that the division has reviewed what other states are doing with respect to PBDEs, particularly in Illinois, Michigan, Maine, and Washington. Other states have passed legislation similar to HB 271, she offered. Since other states have already examined PBDEs, their research provides resources for Alaska to use. Initially, the division thought that it should phase in the prohibitions. However, the division decided that there may not be much benefit to take that approach. The division supports banning octaBDE and pentaBDE in Section 1 of HB 271. More controversial is the proposed banning of decaBDE. She echoed earlier testimony, that some industries like the transportation industry are exempted in HB 271. She opined that certain industries have imposed higher standards, which is likely why the transportation industry has been exempted in the bill. There are not safe alternatives yet for the transportation industry, she opined. This bill is silent about the medical industry, she noted. However, that industry has very high standards too. Other states' research highlights safe alternatives for electronics, mattress, and upholstery. Banning decaBDE would not be problematic in those industries, she offered. However, banning decaBDE in other industries would pose problems. The division has recommended some changes, but she declined to offer specifics at this time. She said that the division is supportive of proposed AS 18.31.680, which lists toxic chemicals. The DEC is often asked for information on which toxic chemicals are found in the environment, beyond PBDEs. She related that the division would like a holistic approach to identifying toxic chemicals, to work with a toxicologist, and provide the legislature with the results. She pointed out that the division has tested for PBDEs in its fish monitoring program. Thus far, the division has collected approximately 150 samples of fish. The PBDEs are dangerous at really low levels so the division tests at parts per trillion. However, it is expensive to do the testing. While the division tests some fish each year, the PBDEs have not appeared in the fish samples yet, although fish may not be the best indicator of PBDEs, she surmised.

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MS. RYAN, in response to Representative Gardner, answered that the division has not tested marine mammals. She explained that the previous testimony likely referred to Canadian studies. She offered that the division's testing has been limited to fish

since that food source is predominately consumed. The division is more concerned with mercury levels, she opined.

4:24:49 PM

REPRESENTATIVE BUCH referred to proposed AS 18.31.680, and the reasonable economic study looking at public safety issues mentioned by Ms. Ryan. He asked what a plan of that type might entail and what it would cost to implement such a study.

MS. RYAN answered that the DEC's fiscal note addresses creating such a program. The department has evaluated the cost of the program including working with the health department to select the contaminants, identify concerns from a health perspective, and to develop regulations to formalize the program.

4:25:55 PM

REPRESENTATIVE GARDNER inquired as to whether the ban for mattresses and electronics would create a burden to manufacturers.

MS. RYAN responded that the states that banned the PBDEs have done so because the states have found it safe to ban them. She offered to provide committee members copies of research that other states have conducted. She cautioned against replicating research that has already been compiled by other states.

4:27:01 PM

ERIC MOHRMANN, Fire Chief, City & Borough of Juneau, Alaska Fire Chiefs Association (AFCA), stated that the AFCA has reviewed other states' data and fully supports HB 271 ban of PBDEs in Alaska. The AFCA is also concerned with fire retardants and plastic materials. However, the AFCA is aware of viable substitutes and believes the hazards outweigh the usefulness of the chemicals. He highlighted that he has 35 years of experience, with 29 years experience in fire prevention. He offered that the federal government requires fire retardants specifically for electronic cases, children's sleepwear, and children's mattresses. He highlighted that mattresses located in hospitals and jails and foam furniture located in atriums are also subject to fire retardant. Elsewhere, he said he did not believe that fire retardants are specified by code, but he offered to verify that information. Consequently, foam plastics represent a significant hazard for fire fighters. Flame retardant material is important, but may not be used as

extensively as the committee might think, which may reduce the impact of considering the ban of PBDEs. The AFCA has considered PBDEs, and passed a resolution supporting a ban on the importation and sale of these products in Alaska.

[4:30:04 PM](#)

VALERIE DELAWN noted that she has a Bachelor of Science degree in Forestry and a Masters' degree in a health care field. She said she is also a health care author. She echoed earlier testimony that identifies that alternatives to PBDEs are readily available, as well as that some companies have taken steps to self-regulate the uses of PBDEs. She offered concern that while 11 states ban PBDEs and other states are considering similar legislation, that Alaska may well become a "dumping ground" for products manufacturers cannot sell in other states. The PBDEs leech from dumps to water. Thus, she surmised that PBDEs will begin to show up in Alaska's water.

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CHAIR OLSON announced his intention to keep the public testimony open on HB 271 [HB 271 was held over.]

[4:33:05 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:33 p.m.