

**CS FOR SENATE BILL NO. 27(HSS)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/1/11

Referred: Finance

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 in Products.**

7 **Sec. 18.31.600. Prohibitions.** (a) A person may not manufacture, sell, or  
8 distribute a product if one or more components of the product contains more than 0.1  
9 percent by mass of pentaBDE, octaBDE, or a combination of pentaBDE and octaBDE.

10 (b) A person may not manufacture, sell, or distribute a mattress, a mattress  
11 pad, or upholstered furniture if one or more components of the mattress, mattress pad,  
12 or upholstered furniture contains more than 0.1 percent by mass of decaBDE.

13 (c) A person may not manufacture, sell, or distribute an electronic product if  
14 the electronic product has a plastic housing or other external component that contains

1 more than 0.1 percent by mass of decaBDE.

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

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

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

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

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

16 (c) In this section, "product" means

17 (1) a mattress, a mattress pad, or upholstered furniture if the mattress,  
18 mattress pad, or upholstered furniture contains plastic fibers that contain the flame  
19 retardant; or

20 (2) an electronic product that has a plastic housing that contains the  
21 flame retardant.

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

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

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

28 (3) electronic wiring or cable used for power transmission;

29 (4) a used item that is resold; or

30 (5) a new item that is brought into the state before the effective date of  
31 this section.

1           **Sec. 18.31.630. Notification by manufacturer.** A person who manufactures  
2 products whose sale and distribution are prohibited by AS 18.31.600 shall inform its  
3 retailers in the state of the prohibitions under AS 18.31.600 and the penalty under  
4 AS 18.31.650.

5           **Sec. 18.31.640. Enforcement.** If the department determines that there are  
6 grounds to suspect that a retailer is selling a product in violation of AS 18.31.600, the  
7 department may request that, within 10 days, the manufacturer of the product

8                   (1) provide the department with a sworn certificate indicating that the  
9 sale of the product does not violate AS 18.31.600; or

10                   (2) notify each retailer who sells the product in the state that the sale of  
11 the product is prohibited by AS 18.31.600 and provide the department with a list of the  
12 names and addresses of the retailers notified.

13           **Sec. 18.31.650. Civil penalty.** A person who violates AS 18.31.600 -  
14 18.31.640 is liable to the state for a civil penalty of up to \$1,000 for each violation.

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

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

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

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

24           **Sec. 18.31.670. Regulations.** In addition to the regulations allowed under  
25 AS 18.31.610, the department may adopt regulations to implement AS 18.31.600 -  
26 18.31.690. The department shall adopt the regulations for AS 18.31.600 - 18.31.690  
27 under AS 44.62 (Administrative Procedure Act).

28           **Sec. 18.31.690. Definitions for AS 18.31.600 - 18.31.690.** In AS 18.31.600 -  
29 18.31.690, unless the context indicates otherwise,

30                   (1) "congener" means a specific polybromodiphenyl ether molecule;

31                   (2) "decaBDE" means decabromodiphenyl ether or a technical mixture

1 in which decabromodiphenyl ether is the predominant congener;

2 (3) "department" means the Department of Environmental  
3 Conservation;

4 (4) "distribution" means distribution for sale or for a commercial  
5 purpose;

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

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

10 (7) "manufacture" means manufacture for sale;

11 (8) "manufacturer" means a person who

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

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

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

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

21 (11) "sell" includes an offer to sell;

22 (12) "technical mixture" means a mixture that is named for the  
23 predominant congener and that is not exclusively composed of the predominant  
24 congener;

25 (13) "transportation vehicle" means a mechanized vehicle that is used  
26 to transport goods or individuals, and includes an airplane, an automobile, a  
27 motorcycle, a truck, a bus, a train, and a ship.

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

30 **TRANSITION: REGULATIONS.** The Department of Environmental Conservation  
31 may adopt regulations necessary to implement this Act. The regulations take effect under

1 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory  
2 changes.

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

5 REVISOR'S INSTRUCTION. Wherever "chapter" appears in AS 18.31.010 -  
6 18.31.500, the revisor of statutes shall substitute "AS 18.31.010 - 18.31.500."

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

9 \* **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2013.