

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 3, 2019

1:52 p.m.

MEMBERS PRESENT

Representative Geran Tarr, Co-Chair
Representative Grier Hopkins, Vice Chair
Representative Sara Hannan
Representative Ivy Spohnholz
Representative Dave Talerico
Representative George Rauscher
Representative Sara Rasmussen

MEMBERS ABSENT

Representative John Lincoln, Co-Chair
Representative Chris Tuck

COMMITTEE CALENDAR

HOUSE BILL NO. 27

"An Act relating to the manufacture, sale, distribution, and labeling of child-related products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding unlawful acts to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 3

"An Act relating to the purchase and sale of state land; relating to discounts for veterans on state land purchases; and relating to the assignment of permanent fund dividends to purchase state land."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 27

SHORT TITLE: REGULATION OF FLAME RETARDANT CHEMICALS

SPONSOR(S): REPRESENTATIVE(S) TARR

02/20/19 (H) PREFILE RELEASED 1/11/19

02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) RES, L&C
04/03/19 (H) RES AT 1:00 PM BARNES 124

BILL: HB 3

SHORT TITLE: STATE LAND SALE; PFD VOUCHER AND ASSIGN.

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

02/20/19 (H) PREFILE RELEASED 1/7/19
02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) MLV, RES, FIN
03/13/19 (H) SPONSOR SUBSTITUTE INTRODUCED
03/13/19 (H) READ THE FIRST TIME - REFERRALS
03/13/19 (H) MLV, RES, FIN
03/14/19 (H) MLV AT 2:00 PM GRUENBERG 120
03/14/19 (H) Heard & Held
03/14/19 (H) MINUTE(MLV)
03/26/19 (H) MLV AT 1:00 PM GRUENBERG 120
03/26/19 (H) Moved SSHB 3 Out of Committee
03/26/19 (H) MINUTE(MLV)
03/27/19 (H) MLV RPT 4DP 2NR
03/27/19 (H) DP: THOMPSON, JACKSON, TARR, RAUSCHER
03/27/19 (H) NR: TUCK, LEDOUX
04/03/19 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

CAROL BACON, Retired Firefighter
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

VYTENIS BABRAUSKAS, PhD
Fire, Science and Technology Inc.
New York, New York

POSITION STATEMENT: Testified in support of HB 27.

EVE GARTNER, Staff Attorney
Earthjustice
New York, New York

POSITION STATEMENT: Testified in support of HB 27 and answered questions.

SARA HANNON, Spokesperson
Alaska Nurses Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

MAUREEN SWANSON, Director
Healthy Children Project
Learning Disabilities Association of America
Pittsburgh, Pennsylvania

POSITION STATEMENT: On behalf of the Learning Disabilities Association of Alaska, based in Juneau, testified in support of HB 27.

DAVE CAVITT, Owner
Furniture Enterprises of Alaska, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified regarding HB 27 and offered a suggestion.

EMILY NEENAN, Director
Alaska Government Relations
American Cancer Society Cancer Action Network (ACSCAN)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 27 and answered a question.

DARRELL BREESE, Staff
Representative George Rauscher
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Rauscher, sponsor, presented a sectional analysis of HB 3.

ACTION NARRATIVE

[1:52:04 PM](#)

CO-CHAIR GERAN TARR called the House Resources Standing Committee meeting to order at 1:52 p.m. Representatives Hannan, Talerico, Spohnholz, Rauscher, Hopkins, and Tarr were present at the call to order. Representative Rasmussen arrived as the meeting was in progress.

HB 27-REGULATION OF FLAME RETARDANT CHEMICALS

[1:53:00 PM](#)

CO-CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 27, "An Act relating to the manufacture, sale, distribution, and labeling of child-related products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding unlawful acts to the Alaska

Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

CO-CHAIR TARR passed the gavel to Vice Chair Hopkins.

[1:53:11 PM](#)

The committee took a brief at-ease.

[1:53:44 PM](#)

CO-CHAIR GERAN TARR, speaking as the sponsor of HB 27, provided a PowerPoint presentation entitled, "HB 27, Toxic Free Children's Act." She cautioned that federal laws regarding chemicals don't ensure the population is safe [slide 2]. For example, she noted, many things have changed in the manufacture of products since passage of the 1910 federal Insecticide, Fungicide, and Rodenticide Act and the 1938 Food, Drug, and Cosmetic Act. The 1976 Toxic Substances Control Act (TSCA), she continued, was updated [in 2016] but is still so weak that it doesn't even ban asbestos, a known carcinogen. Asbestos has been taken out of manufacturing because of its known carcinogenic effects, she added, but the law doesn't ban it and it's examples like this that point to why work must be continued to update laws based on current information.

CO-CHAIR TARR explained that the 2008 Consumer Product Safety Improvement Act provides that children must be used as the benchmark for chemical safety [slides 3-5]. She pointed out that many of the 60,000 chemicals in use in the U.S. in 2008 were grandfathered in by TSCA in 1976 despite never having been tested for adverse effects on human health or the environment. Between the 1976 and 2008 laws, she continued, it was learned that children are much more vulnerable to chemical exposure because of being on the ground, putting things into their mouths, and their higher metabolisms. However, she continued, very few chemicals have been retested since the 2008 law because it is very difficult to establish causation for exposure to a single chemical since each person has a different amount of exposure to a given chemical. For example, she noted, some people eat organic foods and some do not, and women tend to use personal care products, which contain many different types of chemicals, much more often than do men.

[2:00:06 PM](#)

CO-CHAIR TARR warned that even for chemicals that have been regulated or approved by a federal agency, much was done without any scientific foundation and much more is now known today. It was previously thought, she said, that significant exposure to a chemical was needed for it to have adverse health impacts, but it is now known that only a few incidents of exposure can have adverse health impacts. However, she reiterated, it is very difficult to establish a direct link that a person's exposure to a particular chemical caused their cancer. Therefore, she suggested, a precautionary approach should be taken that a chemical not be used if it can't absolutely be stated that it doesn't cause harm.

[2:00:57 PM](#)

REPRESENTATIVE RAUSCHER inquired whether it is the importing and manufacturing of products that is being talked about by HB 27.

CO-CHAIR TARR replied that since Alaska isn't a big manufacturer of products it would be mostly imported products. For example, she said, flame retardants are used in upholstered furniture and therefore products purchased for one's home may have these chemicals. It has been learned, she continued, that much lower levels of exposure can be problematic and having these items in the home results in continuous exposure, particularly in Alaska where doors are kept closed, thereby intensifying the exposure. It is not where an item is manufactured, she noted, but about exposure in the home or workplace. Responding further to Representative Rauscher, Co-Chair Tarr explained HB 27 would put restrictions on the manufacturers of products and the use of products.

[2:02:16 PM](#)

CO-CHAIR TARR returned to her presentation of HB 27 and reviewed the health concerns related to exposure to the chemicals used in products [slides 6-7]. She explained that chemical exposure occurs in three ways - absorption, inhalation, and eating. Absorption occurs when personal care products are applied directly to the skin. Inhalation occurs when flame retardants in furniture break down and become dust in the home that is then inhaled. Eating occurs when pesticides are applied to fruits and other foods. She further explained that firefighters are exposed to inhaling flame retardants when a home catches fire and the furniture burns. Inhalation, she noted, is the primary route for chemical exposure that is talked about [under HB 27].

CO-CHAIR TARR discussed slides 8-9. The chemical components of flame retardants are polybrominated diphenyl ethers (PBDEs), she explained. The first bill on this issue was introduced 10 years ago, she continued, and there has been more and more evidence of the health impacts since then, as well as more and more incidents of rare cancers among firefighters. This has been the catalyst to make change at the state level, she added.

CO-CHAIR TARR noted that PBDEs are structurally similar to polychlorinated biphenyls (PCBs). She explained that these chemicals are problematic because they bio accumulate in blood, breast milk, and fat tissues. Northern residents have increased exposure to these chemicals, she further explained, because global wind and water patterns help chemicals migrate to the poles; this movement and intensification of chemicals is called the "grasshopper effect." Tests show, for example, that the breast milk of mothers in [Canada's] Northwest Territories contains many chemicals even though the chemicals are manufactured very far away. She pointed out that global wind and water patterns expose Alaskans to chemicals from Southeast Asia and further noted that [flame retardants] are a leading cause of cancer in firefighters.

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CO-CHAIR TARR addressed why flame retardant chemicals are used [slide 10]. Before self-extinguishing cigarettes, she said, many home fires occurred because of people falling asleep [while holding] a burning cigarette. In response during the 1970s, flammability standards were passed that required furniture to be able to be exposed to a certain amount of fire without combusting, the idea being to give a person enough time to get out of the home before it became engulfed in fire. While self-extinguishing cigarettes resolved this problem, she stated, the use of flame retardants in furniture was continued. In recent years, she noted, many states have passed laws in response to the evidence about the adverse health impacts.

CO-CHAIR TARR reviewed places in the home where chemical exposure occurs [slides 11-12] and pointed out that children are more exposed because they crawl on the floor, put their hands in their mouths, and chew on things. Exposure occurs from upholstered furniture, plastic casings of electronics, dust in carpet padding, [and foam products], she noted, and this is why firefighters are so exposed to these chemicals when a home burns and all these exposure routes are in flames.

[2:09:30 PM](#)

REPRESENTATIVE RAUSCHER asked when self-extinguishing cigarettes started to be made and whether it is a chemical that does that.

CO-CHAIR TARR offered her belief that it was in the 1980s and that rather than the addition of a chemical it was a change in the design of the cigarette, which put an air space between the tobacco and the edge of the cigarette.

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VICE CHAIR HOPKINS inquired whether the flammability standards of the 1970s are still in use today or have been updated.

CO-CHAIR TARR responded that in some cases the standards have been changed. For example, she explained, in 2014 California abandoned the rule that compelled furniture manufacturers to use flame retardants and some furniture makers began to drop the chemical. The economy dominating the West Coast of the U.S. is California, she continued, and the saying is, "How California goes so goes the rest of the West Coast." She noted that Alaska receives the products that are manufactured for the West Coast, but cautioned that as states make the change, Alaska must be careful to not become the dumping ground for products that don't meet the standards elsewhere.

CO-CHAIR TARR addressed why HB 27 is called the children's and firefighters bill [slide 12]. For firefighters, she said, the concern for exposure is cancer and for children the concern for exposure is endocrine disruption and reproductive damage. These chemical products were previously used in children's pajamas, she noted, but this was stopped once they were found to be harmful. It represents what has been learned in the intervening time, she added, and doing the best that can be done with what is known at a particular time and "we know better now."

[2:12:44 PM](#)

REPRESENTATIVE SPOHNHOLZ asked what year the chemicals were removed from pajamas.

CO-CHAIR TARR answered that she would get back to the committee with the dates.

[2:13:03 PM](#)

CO-CHAIR TARR resumed her presentation. She pointed out that disruption of the endocrine system is caused by even small amounts of exposure to flame retardants [slide 13]. The endocrine system is the hormone system, she explained, and because it operates like an on-demand system the production of hormones is only wanted when those hormones are needed. In endocrine disruption, she further explained, the chemical that a person is exposed to becomes the key that fits into the lock of a receptor within the body, and this isn't wanted. The body is confused because this [chemical] key looks like the other key and this can result in too much or too little of the hormone being produced or the hormone being produced at the wrong time. She related that recent research is showing early maturation for females, a cause of concern related to endocrine disruption. A chemical shouldn't be used without confidence that it doesn't have an impact, Co-Chair Tarr opined, and therefore moving forward with a change is the appropriate thing to do. She pointed out that endocrine disruption is very far reaching [slide 14], affecting the reproductive system as well as the pancreas, thyroid, and other endocrine organs.

CO-CHAIR TARR presented four policy solutions [slide 15] as they relate to HB 27 - restricting the use of known chemicals of concern, restricting the use of known possible substitutes, conducting Alaska research, and collaborating with other states. In the past, she noted, a chemical of known concern was slightly modified only to later learn that the modified chemical also has problems.

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CO-CHAIR TARR explained that page 2 of HB 27 addresses classes of chemicals, thereby providing a more comprehensive approach [than naming just one chemical of known concern in a class of chemicals]. She said page 3 provides that once the bill is in effect, products would need to be labeled whether they do or don't have the flame retardant chemicals. A civil penalty would be set up for failure to comply with the law. The penalty would not be too burdensome, she added, but also not so low that the fine would just be considered the cost of doing business. She noted that [page 3] would also provide for [voluntary] participation in an interstate chemicals clearinghouse. Since it is very difficult to conduct research on these individual chemicals, she continued, this provision would allow for working with other states and building on what they have learned and the research that has been done. Also provided [on page 3] are definitions, she said. "Child" means "a child who is under 12

years of age" and "consumer product" means "clothing, toys, detachable car seats, nursing pillows, upholstered furniture, bedding, mattresses, crib mattresses, nap pads and changing pads, or other products used in the home primarily for or by a child or the parent or guardian of a child."

CO-CHAIR TARR drew attention to the committee packet and noted it contains letters and statements of support from citizens and professional firefighters from across the state. She shared that last fall the federal government passed a cancer registry bill and that U.S. Senator Lisa Murkowski had the bill named after Anchorage firefighter Andy Mullen who died of a rare cancer caused by exposure to toxins. She added that HB 27 is trying to be preventative. She further added that the Anchorage Assembly passed an ordinance that is very similar to HB 27.

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REPRESENTATIVE RAUSCHER referred to the definitions on page 3 of the bill and inquired whether it relates to household items as they pertain to children under the age of 12 or whether it relates to all household items.

CO-CHAIR TARR replied that the focus is on children's products since children are more vulnerable to the exposure because they are still developing. The flip side, she continued, is that firefighters are exposed to the chemicals should these products burn during a fire.

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REPRESENTATIVE HANNAN observed that the bill's narrative [Section 2] speaks to firefighters, while Section 3 appears to focus on children's products. Therefore, she surmised, the bill gives some de facto protection to firefighters if a house full of new children's products versus old children's products catches fire. However, she posited, other than that the bill doesn't actually give any additional protection to firefighters; it only elevates the concern and educates the public.

CO-CHAIR TARR responded that once the bill is passed and implemented, a manufacturer wouldn't be able to sell those products in Alaska. The bill doesn't require people to give up any products, she continued, so these products won't be gone the next day, but the bill would start the process of transitioning these products out and eventually these products would no longer be there and creating exposure.

REPRESENTATIVE HANNAN asked whether the bill deals only with children's products or also with the next couch she might buy.

CO-CHAIR TARR answered that the bill includes upholstered furniture and therefore covers the next couch that a person might buy under the definitions starting on line 24 of page 3.

REPRESENTATIVE HANNAN inquired whether the bill would cover the transporting of furniture into Alaska when a person makes online purchases.

CO-CHAIR TARR replied that that becomes trickier because of the federal constitutional prohibition on interstate commerce issues. "You can prohibit things from being sold in your state; you cannot prohibit things from being sold at the state level across state lines," she explained. "We do what we can with the tools that we have," she added.

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REPRESENTATIVE RASMUSSEN stated she would like to have an awareness program come out so parents can look into it. She expressed her concern that proper alternatives might not be available.

CO-CHAIR TARR responded that HB 27 tries to address those concerns via its labeling section. As to where to put the burden, she continued, the bill says the change is wanted at the manufacturing level so when it changes there will be alternatives that are known. Then there is the question of whether to ask retail outlets to do something about education, she noted, and while she isn't opposed to requiring retail outlets to do that, she is trying to find a balance in responsibility and how burdensome it would be. The labeling provision in the bill is one way of trying to address that, she explained. She added that the same kind of innovation it took to develop these products can be the same kind of innovation to develop new products, and therefore she is looking at it as a business opportunity rather than an adversarial frame.

[2:28:13 PM](#)

REPRESENTATIVE RAUSCHER, in regard to labeling, asked whether the onus would be on the retail store or on the product coming from outside [the state].

CO-CHAIR TARR answered that the onus would be on manufacturers to implement - to state on the label whether the product does or does not contain those chemicals.

[2:29:13 PM](#)

REPRESENTATIVE SPOHNHOLZ recalled that the Toxics Substances Control Act was updated in 2016 with the Frank Lautenberg Chemical Safety for the 21st Century Act. She surmised the update didn't incorporate labeling requirements or exclusions for these chemicals specifically.

CO-CHAIR TARR replied, "No."

REPRESENTATIVE SPOHNHOLZ inquired whether there are other states that have already passed or have introduced similar legislation.

CO-CHAIR TARR responded, "Yes, to both." She said she would provide the committee with the list of approximately 12 states that have already passed legislation.

REPRESENTATIVE SPOHNHOLZ stated she would appreciate getting the list because she has heard concerns about whether [Alaska] can accomplish this on its own. However, she continued, it is known that states are often incubators for what becomes federal laws and if [Alaska] is part of a movement that is moving across the nation, that could then set precedent and allow for federal law to be enacted as well. It is clearly important, she added, that [Alaska] update its practices with new information about chemicals.

CO-CHAIR TARR concurred and said that that is often the thinking when states are working on this. From a manufacturing point of view, she noted, it is easier to have a consistent nationwide policy rather than a patchwork, and in that regard she has tried to make the language of HB 27 similar to that of the Anchorage ordinance so there aren't two sets of rules in the state.

[2:31:31 PM](#)

The committee took a brief at-ease.

[VICE CHAIR HOPKINS returned the gavel to Co-Chair Tarr.]

[2:31:38 PM](#)

CO-CHAIR TARR opened invited testimony.

CAROL BACON testified in support of HB 27. She said she is retired Anchorage firefighter who had a rewarding 25-year career. However, she continued, shortly after retiring she was diagnosed with a rare blood cancer, making her one of many Anchorage firefighters who have been diagnosed with cancer.

MS. BACON explained that flame retardants generate excessive smoke and toxic chemical byproducts that expose firefighters to a toxic soup when a structure is burning. Despite their training and protective gear, she continued, firefighters are exposed to toxins that have been linked to cancer. Protective gear doesn't completely protect firefighters because [the toxins] can accumulate inside the protective gear and enter firefighters' bodies through dermal contact.

MS. BACON said firefighters are diagnosed with cancers at a much higher rate than the general public. She related that a survey conducted with the San Francisco Fire Department found that the rate of breast cancer among female firefighters aged 40-50 is six times the national average. The estimated cost of her bone marrow transplant, she reported, was close to \$1 million. She spent six weeks in the hospital and four months living near the hospital in Seattle, she continued. Although her treatment was mentally and physically taxing, she said she fortunately didn't have to cover the cost, instead the burden fell on taxpayers. Cancer is the biggest killer of America's firefighters, she stated, and toxic flame retardants are one of the leading culprits contributing to firefighter cancer. She expressed her support for HB 27 and urged the state be more pro-active in banning flame retardants for the safety of its firefighters and communities. It is a preventative step to address the cancer epidemic that has become the fate of her occupation, she added.

REPRESENTATIVE HOPKINS thanked Ms. Bacon for her testimony in support of HB 27.

[2:34:52 PM](#)

VYTENIS BABRAUSKAS, PhD, Fire, Science and Technology Inc., testified in support of HB 27. He spoke as follows:

I am Dr. Vyto Babrauskas. I hold the first Ph.D. degree ever awarded in fire protection engineering and have been a fire safety researcher since the 1970s. I invented the Cone Calorimeter and the Furniture Calorimeter, which have become the worldwide standards

for measuring how fast something is burning. During my career, I have studied fire retardant chemicals extensively, studying both the physics and the toxicology of burning fire-retardant-treated materials.

From decades of research, my conclusion is that fire-retardant chemicals are ineffective if used in the way that they normally are used in child-related products. They do not result in such products becoming fire-safe and do not result in consumers becoming safer. But, the health research community has documented at great length that such products are likely to harm the health of children, harm the health of firefighters, and adversely affect our environment, including the wildlife, which we should treat responsibly.

The FR [flame retardant] manufacturing industry has misrepresented at length my research, claiming that some of it justifies the use of fire retardants. But it does not, at least as concerns fire retardants used in the way they are used in consumer goods in a normal household environment. If you see some publication claiming that I have found some safety benefits for FR chemicals, you can be assured that the context was not consumer goods as used in a normal household.

The plethora of harm and the lack of benefits make conclusions quite obvious. We should not be putting FR chemicals into consumer goods that end up in the household and are likely to adversely affect your children. As a result, I strongly support House Bill No. 27, in efforts to make Alaska a healthier place for its inhabitants.

DR. BABRAUSKAS further offered his support for the concept of using classes [of chemicals] as the basis for regulation, because doing otherwise is a losing situation in terms of the "whack a mole game."

[2:38:05 PM](#)

EVE GARTNER, Staff Attorney, Earthjustice, testified in support of HB 27. She spoke as follows:

I am an attorney at Earthjustice, which is a national not-for-profit environmental law firm with two offices

in Alaska. ... It's well recognized that adding flame retardants to consumer products does not meaningfully improve fire safety, yet the chemicals find their way into our children's bodies.

The main point I want to convey to you is that the federal government has not adopted safeguards against these exposures despite the well-known health risks. Both the federal Consumer Product Safety Commission [CPSC] and the U.S. Environmental Protection Agency [EPA] have clear authority to protect children from toxic chemicals in consumer products. But neither entity is likely to use this authority in the foreseeable future and they have not done so in the past.

... I'm lead counsel on a legal petition submitted in 2015 asking the CPSC to ban the sale of four categories of consumer products if they contain any organohalogen flame retardant. After several years of consideration, the Commission granted our petition. However, it is unclear when, if ever, the Commission will finalize regulations that actually ban this class of flame retardants. In fact, because the Commission recognized that final regulations are not imminent, and because the majority of commissioners were so alarmed about the toxicity of this class of chemicals, the CPSC issued a non-binding guidance to manufacturers, retailers, and consumers which was published in the Federal Register which states, "based on the overwhelming scientific evidence presented to the Commission to date, the Commission has serious concerns regarding the potential toxicity of organohalogen flame retardants, and the risks of exposure, particularly to vulnerable populations."

The guidance went on to state that the Commission requests, but does not require, that manufacturers "eliminate the use of these chemicals" in the products covered by the petition.

Since that guidance was issued in 2017, the CPSC has not moved forward to finalize a binding prohibition on the use of these chemicals, and it is unclear if it will ever do so.

The federal EPA also has authority to protect consumers from flame retardant chemicals, but it too has not used that authority in a meaningful way. Nearly fifteen years ago, EPA convinced U.S. chemical manufacturers to voluntarily stop the domestic production of a group of flame retardants known as PBDEs ... polybrominated diphenyl ethers. These chemicals are part of the organohalogen class, a group of chemicals for which there is clear evidence of serious health impacts.

Other than this limited action, EPA has not banned domestic production or use of any flame retardants, and it has not banned the import of consumer products containing any flame retardants. ... EPA is now on track to take some regulatory action under TSCA [Toxic Substances Control Act] with respect to flame retardants. Specifically, EPA is on track to regulate - it's unclear if it will ban them - two specific flame retardants which are in a special TSCA category for persistent bioaccumulative and toxic, or PBT, chemicals. Under the law EPA must regulate these two chemicals to the maximum extent practical to avoid exposure. These ... two flame retardants are decaBDE, which is one of the PBTs, and IpTPP, which is an organophosphorus flame retardant. EPA is expected to release proposed risk management rules in June of 2019 that would be finalized in June of 2020, but as I indicated it's unknown if EPA ... will be proposing bans on these substances, or a less protective form of restriction.

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Under the TSCA statute, no federal regulation of those two PBT substances would have preemptive effect for state regulations of those two chemicals. So if Alaska goes forward and EPA goes forward ... the two laws can co-exist under TSCA.

In addition to those two PBT flame retardants, just two weeks ago EPA announced that it is initiating a process to conduct risk evaluations for three specific flame retardant chemicals under TSCA. Under this statute, if EPA finds unreasonable risk, it must regulate those chemicals and the regulations could be in the form of a ban, though the regulation could also

be something less restrictive. If EPA follows through with the process that it announced a few weeks ago and finds that those chemicals pose unreasonable risk, which is not guaranteed by any shot, it will likely be at least six years until a final rule limiting use of these chemicals [goes] into effect, based on the mandatory time frames in TSCA, and that doesn't take into account any delays that might result from lawsuits.

And at the end of that six years, even in the best public health scenario, EPA would have banned only three chemicals, opening the door to manufacturers replacing those chemicals with nearly identical substances with similar toxicity profiles; something that Alaska would address through the class approach in HB 27, which I strongly support.

Protecting the health and safety of residents has always been one of the primary functions of state government. Consistent with this role, several other states have adopted bans on the use of classes of flame retardant chemicals in consumer products similar to HB 27. None of these state laws has been challenged in court.

Based on my experience and familiarity with federal law governing regulation of toxic chemicals, federal law would not prevent or impede the implementation of the HB 27. To the contrary, as the chair noted earlier, due to the significant gaps in federal law, it is imperative that Alaska adopt HB 27 to protect the health of the children and firefighters of this state.

[2:45:37 PM](#)

REPRESENTATIVE HANNAN asked how many other states have already instituted a similar ban and which states have the most aggressive restriction or provide the most protection in Ms. Gartner's opinion. She said her concern is that HB 27 doesn't go far enough because she would like to see the whole class and in all products.

MS. GARTNER replied that many states have adopted bans on particular chemicals in particular products. The states that now go the farthest are California, Maine, Rhode Island, and

Washington state. She said she would provide a description of the legislation from each of those states in written form. To date, she added, none of the states have banned all flame retardants in all consumer products. She said HB 27 is an aggressive first step to protect children and firefighters, and while she agrees it would be better if it addressed all products, it goes quite far and farther than some of the other states have gone. The Rhode Island bill only covers furniture and mattresses, she noted, and she further stated her belief that the Maine bill only covers furniture.

REPRESENTATIVE HANNAN requested that when preparing the aforementioned descriptions Ms. Gartner also cross-reference whether those states passing the strong laws had major firefighter lawsuits and liability. She offered her assumption that liability created from firefighters suffering high rates of cancer may have driven some states to make these considerations. She said Alaska has had some individual cases, but not yet a class action lawsuit.

MS. GARTNER agreed to do so.

[2:48:42 PM](#)

REPRESENTATIVE RAUSCHER inquired whether the buyer beware is mostly overseas or still a problem from manufacturers in the Lower 48. He surmised there might be enough protection in the aforementioned states, which are predominantly the states manufacturing.

MS. GARTNER responded she is unsure she has the data to speak to that definitively, but she does know that many of these kinds of children's products, both with and without flame retardants, are manufactured overseas.

[2:50:46 PM](#)

CO-CHAIR TARR pointed out that the next witness, Sara Hannon, has the same name as Representative Sara Hannan [different spelling of last name].

SARA HANNON, Spokesperson, Alaska Nurses Association, testified in support of HB 27. She said the ill effects of exposure to chemical flame retardants are well documented in research. They are found widely in the home environment, commonly used in children's products, carpeting, and home furniture. Harmful impacts, she continued, include developmental disabilities,

thyroid function impact, miscarriages, birth defects, and cancer. She related that a national bio-monitoring program conducted by the Centers for Disease Control and Prevention (CDC) found that 97 percent of the people living in the U.S. have measurable quantities of flame retardant in their blood. This persistent exposure contaminates fish and wildlife as well as people, she added, and simply put, flame retardants are harmful to human health and the environment.

MS. HANNON pointed out that birth defects in Alaska are twice as high as the U.S. as a whole and Alaska Native infants have a doubled risk. She said HB 27 would protect children's health by preventing exposure to known toxic chemicals and would be an opportunity to make a difference to future generations in Alaska's communities. The more scientists look, she continued, the more they find negative impacts even at very low levels of exposure to toxic chemical. Prenatal exposure to these toxic chemicals at a level commonly found in households has been shown to be associated with adverse neurodevelopmental effects in young children. Safer economically viable alternatives are available, she added, which means that many Alaskans won't have to sacrifice their health and Alaska will be a healthier and less toxic place to live to raise a family. She said both she and the Alaska Nurses Association strongly support HB 27 and urge that it be passed this legislative session.

[2:53:45 PM](#)

MAUREEN SWANSON, Learning Disabilities Association of America, on behalf of the Learning Disabilities Association of Alaska, based in Juneau, testified in support of HB 27. She paraphrased from the following written testimony [original punctuation provided]:

The Learning Disabilities Association [LDA] of Alaska strongly supports HB 27, the Toxic-Free Firefighters and Children Act. We are pleased that this bill has been strengthened to address four categories of toxic flame retardants - organohalogen, organophosphorous, organonitrogen and nanoscale - that can threaten children's health and brain development. Addressing all four categories of flame retardant chemicals helps to ensure that product makers cannot remove one toxic chemical only to replace it with another.

LDA of Alaska is headquartered in Juneau and directed by Alison and Larry Talley, with their son Matthew.

Larry was a volunteer fire fighter in Juneau for 12 years. He and Alison are parents of three young adult children, two of whom have problems with learning and attention.

One in six children in the United States has a reported learning or developmental disability including autism, attention deficit hyperactivity disorder, and other learning and developmental delays. Learning and developmental disabilities persist - with lasting impacts on children, families and society. On average, it costs twice as much to educate a child with a learning or developmental disability as to educate a child without a disability.

Flame retardant chemicals are found in pregnant women and in newborn babies. These chemicals cross the placenta to the fetus and are detected in umbilical cord blood and in breast milk.

Flame retardants migrate from products such as furniture, baby and children's products, and mattresses into household dust. The U.S. EPA estimates that children ages 1-5 ingest approximately four to five times more dust than adults. Flame retardants in house dust get on children's hands and objects such as toys, which they then put in their mouths. In Alaska, we spend a lot of time indoors during the long winters, so our children may be more highly exposed to toxic chemicals in dust than children in other parts of the country.

The developing brain, in utero and early childhood, is extremely vulnerable to harm from even low levels of toxic chemicals. The National Academy of Sciences states that environmental factors, including toxic chemicals, contribute to more than a quarter of all learning and developmental disabilities in U.S. children.

In July 2016, leading scientific and medical experts published a statement naming PBDE flame retardants as examples of toxic chemicals that are increasing children's risks for neurodevelopmental disorders, including ADHD [Attention-Deficit/Hyperactivity Disorder], learning disabilities and autism. The statement also outlines the scientists' concerns with

flame retardants that are replacing PBDEs. Some of the replacement flame retardants are similar in structure to PBDEs or to organophosphate pesticides, and emerging evidence shows they are similarly neurotoxic.

In 2015 researchers with the Endocrine Society concluded that PBDE exposure interferes with thyroid hormone and contributes to neurodevelopmental disorders. Recent studies of halogenated flame retardants that have replaced PBDEs show these chemicals also can interfere with thyroid hormone and alter brain development.

In September 2017, the U.S. Consumer Products Safety Commission (CPSC) issued a landmark ruling that recognized the need to protect people, especially pregnant women and children, from the entire class of halogenated flame retardants. CPSC banned the sale or import of furniture, mattresses, children's products and electronics enclosures if they contain any halogenated flame retardants.

The Commission stated, "The known adverse health effects of these chemicals include...neurological impacts, (such as) decreased IQ in children, impaired memory, learning deficits, altered motor behavior and hyperactivity" and concluded, "These chemicals have a disproportionately negative health effect on vulnerable populations, including children."

Organophosphate flame retardants (OPFRs) such as TDCPP and TPP, offer another example of dangerous "replacement" flame retardants. OPFRs are structurally similar to the organophosphate pesticide chlorpyrifos, which can impair brain development, and increase children's risks for learning and attention disorders. Laboratory studies of OPFRs have shown neurobehavioral toxicity, including hyperactivity and impaired exploratory behavior. The effects of OPFRs such as TDCPP on brain development and behavior, are observed at the same doses at which chlorpyrifos affects brain development and behavior.

It is important to understand that even tiny amounts of these toxic chemicals can affect children's brains - at the level of parts per billion. Researchers have

identified "critical windows of vulnerability" during fetal development and early childhood, when the brain is especially at risk from toxic chemicals, even at extremely low exposure levels.

Consider chemicals that are designed to alter behavior, like Ritalin. The prescribed dose of Ritalin for a child with ADHD affects the child's brain at about the same level as the level of flame retardants found in children. Both the prescribed behavior-altering chemical, Ritalin, and the behavior-altering toxic flame retardant chemicals are active in the child's body and brain at levels of parts per billion.

The scientific evidence is clear. Beginning in utero, children are regularly exposed to toxic flame retardants, in part because these chemicals migrate from products into house dust and are ingested. These flame retardant chemicals are active in children's bodies at levels that can disrupt brain development and function. The resulting harm to our children's minds can be permanent.

LDA of Alaska urges the House to adopt the Toxic Free Fire-Fighters and Children Act, to protect Alaska's vulnerable youngest citizens from toxic flame retardants that put them at higher risk for problems with learning, attention and behavior.

MS. SWANSON, in response to Co-Chair Tarr, stated she would be providing her testimony in writing and that it contains the references to the studies she cited.

[3:01:43 PMS](#)

DAVE CAVITT, Owner, Furniture Enterprises of Alaska, Inc., testified regarding HB 27 and offered a suggestion. He stated he owns 13 furniture stores in Alaska and his company is 100 percent Alaska based. He said he checked with all of the manufacturers that he carries in his stores and none use flame retardants in the manufacture of their products, including the items from China, Vietnam, Mexico, and the U.S. Of the upholstery manufacturers, he added, one believed it was compliant but couldn't certify it. He noted that all of the products his company carries are already labeled with the California standards. He said it

is important to him as a local person that his company can comply with California's standard because, as stated by a prior witness, California has one of the strongest standards, if not the strongest, in the nation. He suggested that furniture and mattresses be separated from the current bill, with that bill mandating the California standard or the federal standard, whichever is stronger. He posited that all the manufacturers would move to the California standard because of California's population size and [his company] would be able to comply with that.

CO-CHAIR Tarr urged Mr. Cavitt to contact her office to explore his idea further.

MR. CAVITT agreed to do so.

[3:04:03 PM](#)

EMILY NEENAN, Director, Alaska Government Relations, American Cancer Society Cancer Action Network (ACSCAN), testified in support of HB 27. She stated that primary prevention is a key focus of her organization. While much is heard from her organization about tobacco prevention, nutrition, and physical activity, she continued, it also includes minimizing cancers from exposures to toxic substances such as in HB 27. Regarding an earlier question from Representative Rauscher, she stated that 2007 was the year Alaska passed the self-extinguishing cigarette law. Alaska was the sixth or seventh state in the nation to do that and by 2014 all states had that law in place. She pointed out that it wasn't a problem for Alaska to do that because there were a number of big states - New York being the first one to do so - and manufacturers were already creating those products for the larger population states. She maintained the same would be true in regard to HB 27 and this is the trend that ACSCAN sees moving forward.

[HB 27 was held over and public testimony was kept open.]

HB 3-STATE LAND SALE; PFD VOUCHER AND ASSIGN.

[3:05:59 PM](#)

CO-CHAIR TARR announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 3, "An Act relating to the purchase and sale of state land; relating to discounts for

veterans on state land purchases; and relating to the assignment of permanent fund dividends to purchase state land."

{Before the committee was the sponsor substitute for HB 3, introduced and referred to the House Special Committee on Military and Veterans' Affairs, committee of first referral, on 3/13/19.]

[3:06:16 PM](#)

REPRESENTATIVE RAUSCHER stated that Alaska has an abundance of three things - land, permanent fund dividends (PFDs), and veterans - and that HB 3 would bring these three together. The bill would encourage the sale of state lands, he said, thus creating growth and allowing the use of the individual's PFD to purchase land. It would encourage veterans to use the statutory discount in combination with their PFD assignment to purchase land, he explained. Alaskans who have resided in the state for at least one year immediately prior to the opening of the land disposal and those who are 18 years of age could participate. He noted the state regularly offers surplus lands for sale, either by auctions or over-the-counter sales. The bill would make these land sales more accessible to Alaskans by allowing individuals to assign their PFD to pay for their purchases of [state] land.

[3:07:48 PM](#)

DARRELL BREESE, Staff, Representative George Rauscher, Alaska State Legislature, on behalf of Representative Rauscher, sponsor, presented a sectional analysis of HB 3. He explained Section 1 would make conforming changes to existing statute "to include the changes that are made in this bill by removing reference to a specific section to include the whole chapter, which will include the changes that are added in the second part of the bill."

MR. BREESE said Section 2 would make conforming change to drafting style to work around changing "U.S Armed Forces" to "United States armed forces" and would provide a definition of the veterans who would be eligible for the discounts that are offered in Sections 4 and 5.

MR. BREESE stated Section 3 would establish that the veterans are entitled to a discount in subsection (a), which is a 25 percent discount that already exists in statute for veterans'

land purchases and to a new 33 percent discount if the veteran assigns his/her PFD to purchase the land.

MR. BREESE explained that [Subsection (f)] of Section 4 is the introduction and first major change in the statute - it would offer a one-third discount to veterans who assign their PFD to pay for the purchase of the land. Subsection (g) of Section 4 would provide that veterans could not combine multiple discounts, he noted. This means veterans could not take the 25 percent discount and the 33 percent discount at the same time and it also means that three veterans could not get together to get the land for free by each applying the 33 percent discount.

MR. BREESE said Section 5 would allow both veterans and non-veterans to assign their PFDs to help pay for the purchase of land. It would require the Department of Revenue (DOR) to include on the electronic PFD application a means for the applicant to direct that all or part of his/her PFD for that year be used to pay the Department of Natural Resources (DNR) for the land that has been purchased or will be purchased.

MR. BREESE noted that Section 6 would allow the Department of Revenue to collect an administration fee for the processing of these PFD dedications to purchase land.

[HB 3 was held over.]

[3:11:16 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:11 p.m.