

HOUSE BILL No. 4699

March 25, 2009, Introduced by Reps. Kennedy, Warren, Nerat, Scripps, Liss, Haase, Haugh, Slavens, Roberts, Donigan, Gregory, Geiss, Miller, Byrum, Smith, Lisa Brown, Cushingberry, Durhal, Meltzer, Meadows, Valentine and Womack and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 14721 and 14724 (MCL 324.14721 and 324.14724), as added by 2004 PA 526, and by adding section 14723a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 14721. (1) As used in this subpart:
- 2 (A) "DECA-BDE" MEANS DECABROMODIPHENYL ETHER.
- 3 (B) ~~(a)~~"Department" means the department of environmental
- 4 quality.
- 5 (C) ~~(b)~~"Octa-BDE" means octabromodiphenyl ether.
- 6 (D) ~~(e)~~"PBDE" means polybrominated diphenyl ether.

1 (E) ~~(d)~~—"Penta-BDE" means pentabromodiphenyl ether.

2 (F) "RELEASE" MEANS THAT TERM AS IT IS DEFINED IN SECTION
3 20101.

4 (2) This subpart may be cited as the "Mary Beth Doyle PBDE
5 act".

6 SEC. 14723A. (1) EXCEPT AS PROVIDED IN SUBSECTION (3),
7 BEGINNING JULY 1, 2010, A PERSON SHALL NOT MANUFACTURE, SELL, OR
8 DISTRIBUTE FOR SALE WITHIN THIS STATE A MATTRESS OR UPHOLSTERED
9 FURNITURE DESIGNED FOR RESIDENTIAL USE THAT CONTAINS DECA-BDE.
10 HOWEVER, A RETAILER THAT IS IN POSSESSION OF A PRODUCT DESCRIBED IN
11 THIS SUBSECTION ON JULY 1, 2010 MAY SELL OR OTHERWISE DISPOSE OF
12 THAT PRODUCT. THIS SUBSECTION DOES NOT RESTRICT A PERSON FROM
13 TRANSPORTING A PRODUCT DESCRIBED IN THIS SUBSECTION OR STORING THAT
14 PRODUCT FOR LATER DISTRIBUTION OUTSIDE OF THIS STATE.

15 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), BEGINNING JANUARY 1,
16 2012, A PERSON SHALL NOT MANUFACTURE, SELL, OR DISTRIBUTE FOR SALE
17 WITHIN THIS STATE A TELEVISION OR COMPUTER THAT CONTAINS DECA-BDE.
18 HOWEVER, A RETAILER THAT IS IN POSSESSION OF A PRODUCT DESCRIBED IN
19 THIS SUBSECTION ON JULY 1, 2012 MAY SELL OR OTHERWISE DISPOSE OF
20 THAT PRODUCT. THIS SUBSECTION DOES NOT RESTRICT A PERSON FROM
21 TRANSPORTING A PRODUCT DESCRIBED IN THIS SUBSECTION OR STORING THAT
22 PRODUCT FOR LATER DISTRIBUTION OUTSIDE OF THIS STATE.

23 (3) A MANUFACTURER OR USER OF A PRODUCT PROHIBITED FROM
24 MANUFACTURE, SALE, OR DISTRIBUTION WITHIN THIS STATE UNDER THIS
25 SECTION MAY APPLY FOR AN EXEMPTION FOR A SPECIFIC USE OF DECA-BDE
26 BY SUBMITTING A WRITTEN PETITION TO THE DIRECTOR OF THE DEPARTMENT.
27 AN EXEMPTION GRANTED UNDER THIS SECTION SHALL BE FOR A TERM NOT TO

1 EXCEED 2 YEARS. THE EXEMPTION MAY BE RENEWED UPON WRITTEN PETITION
2 IF THE SPECIFIC USE OF DECA-BDE CONTINUES TO MEET THE CRITERIA OF
3 THIS SUBSECTION AND THE MANUFACTURER OR OTHER PERSONS COMPLY WITH
4 THE CONDITIONS OF ITS ORIGINAL APPROVAL. THE DIRECTOR OF THE
5 DEPARTMENT MAY GRANT AN EXEMPTION FOR A SPECIFIC USE OF DECA-BDE,
6 WITH OR WITHOUT CONDITIONS, UPON FINDING THAT THE APPLICANT HAS
7 DEMONSTRATED EITHER OF THE FOLLOWING:

8 (A) A TECHNICALLY FEASIBLE ALTERNATIVE IS NOT AVAILABLE AT
9 REASONABLE COST.

10 (B) THE POTENTIAL HARM TO PUBLIC HEALTH AND THE ENVIRONMENT
11 DIRECTLY POSED BY A TECHNICALLY FEASIBLE AND AVAILABLE ALTERNATIVE
12 IS GREATER THAN THE POTENTIAL HARM POSED BY THE USE OF DECA-BDE.

13 Sec. 14724. The department may establish a PBDE advisory
14 committee to assist the department in determining the risk posed by
15 the release of PBDEs, other than penta-BDE or octa-BDE, **AND**
16 **SUBSTANCES USED AS ALTERNATIVES TO PBDES** to human health and the
17 environment. The department may use existing programs to monitor
18 the presence of PBDEs in the state's environment to determine
19 exposure and risk. If new scientific information gathered by the
20 advisory committee indicates a significant risk to human health and
21 the environment in the state, the advisory committee shall inform
22 the department of risk or risks and, if the department concurs, the
23 department shall advise the legislature of the risk. ~~Nothing in~~
24 ~~this section shall~~ **THIS SECTION DOES NOT** preclude the department
25 from issuing recommendations to the legislature independent of any
26 actions of the advisory committee.