

Frequently Asked Questions About the PBDE Bill (SHB 1024/ SSB 5034)

January 2007

The toxic flame retardant (PBDE) bill (SHB 1024/SSB 5034), is a common-sense approach that takes the first step in solving the problem of rapidly rising levels of these industrial chemicals in breast milk, the food supply, and wildlife. The bill stops the flow of these poisons into products, our homes, our bodies, and the environment while ensuring that consumer products will continue to meet the highest fire safety standards.

1. What does the bill do?

- Bans penta and octa in consumer products beginning January 1, 2008, with limited exceptions for airplane safety equipment, used cars and parts, medical devices, recycled carpet padding, and used products.

- Bans deca in residential mattresses beginning January 1, 2008. New Consumer Product Safety Commission (CPSC) fire safety standards for mattresses approve the use of inherently flame retardant materials or the use of safer chemicals to meet fire safety requirements.



- Bans deca in televisions, computers and residential upholstered furniture by January 1, 2011 ONLY IF:
 - a) By December 2008, the Departments of Ecology and Health identify a safer alternative to deca that also is available at a reasonable cost; and
 - b) A committee of 5 fire association representatives approves the use of the alternative to meet appropriate fire safety standards.

If a safer alternative that adequately meets fire safety standards is not identified by December 2008, Ecology must issue an exemption to the ban, then re-evaluate the availability of deca alternatives annually. Once a safer, fire safety approved alternative is identified, Ecology will repeal the exemption and the ban will go into effect no earlier than 2 years after the exemption is repealed.

- Requires the Departments of Ecology and Health to continue to review the availability of alternatives for other uses of PBDEs not banned by the bill and report to the legislature when they find a safer alternative that meets fire safety standards.

2. How will the bill be implemented and enforced?

Ensuring that PBDEs are phased out is not as easy as testing the end of a tailpipe or pollution discharge pipe. This bill is not a typical regulatory approach due to the pervasiveness of PBDEs in products, people's homes, and the environment. Because the bill phases out PBDE use in certain applications, it doesn't make sense to set up an expensive oversight system to catch a few companies that may choose to violate the law. Instead, it makes more sense to widely publicize the ban to signal the marketplace, educate companies on purchasing PBDE-free products, and for Ecology to conduct spot checks on products to ensure manufacturers are in compliance.

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3. What are the alternatives to PBDEs?

The legislation does not prescribe what non-PBDE materials manufacturers should use, but instead allows for flexibility on how to comply with the ban. For example, companies can use different materials that are inherently flame resistant or use safer flame retardant chemicals that don't build up in the environment or our bodies.

In the case of mattresses, the Washington State Department of Health has determined that several of the chemical options listed by the CPSC as meeting fire safety standards are safer than deca, including boric acid and melamine. Non-chemical approaches can also be used, such as using inherently fire-resistant materials. For televisions and computers, many manufacturers have already switched to alternative chemicals and are finding ways to re-design products to be fire-safe. One of the most common non-brominated alternatives to deca used in electronic products is a phosphorous-based compound resorcinol bis(diphenylphosphate) (RDP). Electronics manufacturers are meeting the Underwriters Laboratories (UL) recommended standard for television components (UL 94) of V-0 with RDP. According to the Department of Health, RDP is not a persistent bioaccumulative toxic chemical (PBT).

4. What if an alternative that meets fire safety standards is not available for a product?

The legislation bans deca in computers, televisions, and residential furniture only if the Departments of Ecology and Health find that a safer alternative to deca is available at a reasonable cost AND a committee made up of five fire association representatives determines the alternative meets the appropriate fire safety standards. Ecology, Health, and the fire safety committee have until December 2008 to make these determinations. If they cannot identify a suitable alternative, then Ecology must exempt the product from the ban. Ecology, Health, and the fire safety committee must continue to review potential alternatives annually. Once a suitable alternative is identified, Ecology must rescind the exemption and the ban will go into effect no earlier than two years after the exemption is rescinded.

5. How will retailers know whether they are selling products that contain PBDEs?

The ban on products containing the penta and octa forms of PBDE, as well as the ban on mattresses containing the deca form, does not take effect until January 2008. The earliest the ban on deca in computers, televisions, and residential upholstered furniture can take effect is January 2011. This provides ample time for retailers to learn about the law. Also, under the legislation, retailers are not liable for unknowingly selling PBDE-containing products. Retailers may sell any existing inventory of products containing PBDEs. Under this bill, the manufacturers would be fined if PBDE containing products are sold in the state.

The bill also provides additional help specifically for retailers by directing Ecology to figure out the best way to assist retailers in identifying products that contain PBDEs. The Department of Ecology has conducted significant research on what types of products contain PBDEs. The agency has set up a web site (www.flameretardants.org) and has completed a chemical action plan that contains this information.

6. Has Europe banned deca?

In June 2006, the European Union banned electronic products containing deca beginning July 1, 2006. In 2005, the EU delayed the ban on deca for four years. However, the EU discovered that deca was contaminated with a form of PBDE in a quantity that is already banned in electronics in Europe. This means that any product containing deca also contains the form of PBDE that is illegal. As a result, any electronic product containing deca was banned in the EU as of July 1, 2006.

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