

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1658

H.P. 1167

House of Representatives, March 22, 2007

### **An Act To Protect Pregnant Women and Children from Toxic Chemicals Released into the Home**

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Reference to the Committee on Natural Resources suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PINGREE of North Haven.  
Cosponsored by Senator DOW of Lincoln and  
Representatives: AYOTTE of Caswell, DUCHESNE of Hudson, FAIRCLOTH of Bangor,  
HINCK of Portland, KOFFMAN of Bar Harbor, TREAT of Farmingdale, Senators:  
BARTLETT of Cumberland, TURNER of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §1609**, as reallocated by RR 2003, c. 2, §119, is amended to  
3 read:

4 **§1609. Restrictions on sale and distribution of brominated flame retardants**

5 For purposes of this section, "brominated flame retardant" means any chemical  
6 containing the element bromine that is added to a plastic, foam or textile to inhibit flame  
7 formation.

8 **1. "Penta" mixture and "octa" mixtures of polybrominated diphenyl ethers.**  
9 Effective January 1, 2006, a person may not sell or offer to sell, or distribute for  
10 promotional purposes, a product containing more than ~~1%~~ 0.1% of the "penta" or "octa"  
11 mixtures of polybrominated diphenyl ethers.

12 ~~**2. Review; report.** The department, with the Department of Human Services,~~  
13 ~~Bureau of Health, shall review relevant risk assessments in connection with brominated~~  
14 ~~flame retardants and relevant findings and rulings by the United States Environmental~~  
15 ~~Protection Agency and the European Union. The department shall annually, no later than~~  
16 ~~January 5th, submit a report regarding the regulation of brominated flame retardants to~~  
17 ~~the joint standing committee of the Legislature having jurisdiction over natural resources~~  
18 ~~matters. For purposes of this subsection, "brominated flame retardant" means any~~  
19 ~~chemical containing the element bromine that may be added to a plastic, foam or textile~~  
20 ~~to inhibit flame formation.~~

21 ~~**3. Application.** This section does not apply to the sale of used products.~~

22 **4. "Deca" mixture of polybrominated diphenyl ethers in home furniture.**  
23 Effective January 1, 2008, a person may not manufacture, sell or offer for sale or  
24 distribute for sale or use in the State any of the following products that have plastic fibers  
25 containing the "deca" mixture of polybrominated diphenyl ethers:

26 A. A mattress or mattress pad; or

27 B. Upholstered furniture intended for indoor use in a home or other residential  
28 occupancy.

29 **5. "Deca" mixture of polybrominated diphenyl ethers in electronics.** Effective  
30 January 1, 2010, a person may not manufacture, sell or offer for sale or distribute for sale  
31 or use in the State a television or computer that has a plastic housing containing the  
32 "deca" mixture of polybrominated diphenyl ethers.

33 **6. Exemptions.** The restrictions in subsections 4 and 5 do not apply to the following  
34 products containing the "deca" mixture of polybrominated diphenyl ethers:

35 A. Transportation vehicles or products or parts for use in transportation vehicles or  
36 transportation equipment;

37 B. Products or equipment used in industrial or manufacturing processes; or

1           C. Electronic wiring and cable used for power transmission.

2           7. **Manufacturer responsibility.** Effective January 1, 2008, a manufacturer of a  
3 product containing polybrominated diphenyl ethers restricted under subsections 1, 4 or 5  
4 must notify persons that sell the manufacturer's product of the requirements of this  
5 section.

6           8. **Retailer assistance.** The department must develop a program to assist retailers in  
7 identifying products that might contain polybrominated diphenyl ethers in their inventory.

8           9. **Use notification.** Effective January 1, 2010, a person who manufactures a  
9 product or product component containing any brominated flame retardant must provide  
10 written notice to the department in accordance with this subsection. A product or a  
11 product component containing any brominated flame retardant may not be offered for  
12 final sale, use or distribution after January 1, 2010 unless such notice has been provided  
13 to the department. A trade association representing manufacturers of products may act to  
14 fulfill the responsibilities of individual manufacturers under this subsection. The notice  
15 must include the following information on a form provided by the department:

16           A. A brief description of the product or product component;

17           B. The name and Chemical Abstracts Service registry number of each brominated  
18 flame retardant contained in the product or product component;

19           C. The amount of each brominated flame retardant in each unit of the product or  
20 product component, reported as an exact number, as an average per product or  
21 component with an upper or lower limit or as falling within a range approved by the  
22 department;

23           D. The total amount of each brominated flame retardant in all units of the product or  
24 product components sold in the United States during the most recent calendar year for  
25 which sales figures are available, reported either for the units or components sold by  
26 the manufacturer or as aggregated by a manufacturer trade association for all units of  
27 the product or components made by the industry; and

28           E. The name and address of the manufacturer and the name, address and phone  
29 number of a contact person for the manufacturer.

30           With the approval of the department, the manufacturer may supply the information  
31 required in this subsection for a product category rather than an individual product.  
32 The manufacturer shall update and revise the information in the notification  
33 whenever there is significant change in the information or when requested by the  
34 department. The information required under paragraph D must be updated and  
35 provided to the department every 3 years.

36           Notwithstanding paragraph C, the manufacturer of a product containing one or more  
37 components containing brominated flame retardants is not required to include  
38 information on the amount of brominated flame retardant in the component in the  
39 notice to the department if the component manufacturer has provided that information  
40 to the department and the manufacturer of the product that contains the component  
41 identifies the component and component manufacturer in the notice. An importer of  
42 the product or product component from a foreign country may not sell, use or

1 distribute the product or product component in the State unless the manufacturer of  
2 the product or product component is in compliance with this section, except that this  
3 prohibition does not apply to retailers for whom importing is not a primary business.

4 **10. Interstate clearinghouse.** The department may participate in the establishment  
5 and implementation of a regional, multistate clearinghouse to assist in carrying out the  
6 requirements of this chapter and to help coordinate education and outreach activities,  
7 review risk assessments and alternatives to the use of chemicals listed in this section, and  
8 carry out any other activities related to the administration of this chapter. The department  
9 may provide the interstate clearinghouse with product information submitted to the  
10 department under subsection 9 and the department and the interstate clearinghouse may  
11 compile or publish analyses or summaries of such information.

12 **11. Review; report.** The department, with the Department of Health and Human  
13 Services, Maine Center for Disease Control and Prevention, shall review relevant hazard  
14 and risk assessments in connection with brominated flame retardants as well as  
15 assessments of alternatives to the use of brominated flame retardants and relevant  
16 findings and rulings by the United States Environmental Protection Agency and the  
17 European Union. Every 2 years beginning in 2008, the department shall submit a report  
18 regarding the regulation of brominated flame retardants to the joint standing committee of  
19 the Legislature having jurisdiction over natural resources matters no later than January  
20 5th. The report must include recommendations on actions that would further protect the  
21 public health and the environment from brominated flame retardants.

22 **12. Application.** This section does not apply to the sale of used products.

23 **SUMMARY**

24 This bill tightens current law restricting the manufacture, sale and distribution in this  
25 State of products containing certain brominated flame retardants. Certain of the new  
26 restrictions are phased in over time. The bill also requires, beginning in 2010,  
27 manufacturers of products containing brominated flame retardants to provide information  
28 about the products to the Department of Environmental Protection and authorizes the  
29 department to participate in the establishment of an interstate clearinghouse of such  
30 information. It directs the department to submit a report every 2 years to the joint  
31 standing committee of the Legislature having jurisdiction over natural resources matters  
32 that includes recommendations on actions that would further protect the public health and  
33 the environment from brominated flame retardants.