

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human and Environmental Health Protection Act of 2010 to prohibit the manufacture, sale, and distribution of products containing carcinogenic flame retardants, and to authorize the Mayor to request and obtain a certificate of compliance with the Human and Environmental Health Protection Act of 2010 from manufacturers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Carcinogenic Flame Retardant Prohibition Amendment Act of 2016”.

Sec. 2. The Human and Environmental Health Protection Act of 2010, effective March 31, 2011 (D.C. Law 18-336; D.C. Official Code § 8-108.01 *et seq.*), is amended as follows:

(a) New sections 3a and 3b are added to read as follows:

“Sec. 3a. Prohibitions on chlorinated flame retardants.

“(a) After January 1, 2018, no person or legal entity shall manufacture, sell, offer for sale, or distribute any children’s product or residential upholstered furniture containing more than 0.1% by mass in any product component of the following:

“(1) Tris(1,3-dichloro-2-propyl) phosphate (chemical abstract service number 13674-87-8) (“TDCPP”); or

“(2) Tris(2-chloroethyl) phosphate (chemical abstract service number 115-1496-8) (“TCEP”).

“(b) After January 1, 2019, no person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing more than 0.1% by mass in any product component of the following:

“(1) TDCPP; or

“(2) TCEP.

“(c) The prohibitions contained in this section shall not apply to the following:

“(1) The sale, offer for sale, or distribution of a product by a retailer who purchased or acquired the product before the effective date of the Carcinogenic Flame Retardant Prohibition Amendment Act of 2016, passed on 2nd reading on March 1, 2016 (Enrolled version of Bill 21-143);

“(2) Any activity involving a product that occurs subsequent to the 1st sale at retail;

“(3) Motor vehicles or replacement parts or replacement equipment for motor vehicles;

“(4) Commercial or residential building insulation or wiring that otherwise complies with the Construction Codes Supplement, set forth in Title 12 of the District of Columbia Municipal Regulations;

“(5) Desktop and laptop computers, audio and video equipment, calculators, wireless telephones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cables, adaptors, and other similar connecting devices; or

“(6) Storage media, such as compact discs, for interactive software, such as computer games.

“(d) If a product component of a non-exempt product would be exempt under subsection (c)(5) or (6) of this section, the product shall be prohibited pursuant to subsections (a) and (b) of this section if the product contains more than 0.1% by mass of TDCPP or TCEP in any non-exempt product component.

“(e) For the purposes of this section, the term:

“(1) “Children’s product” means a consumer product:

“(A) Marketed for use by children under 12 years of age; or

“(B) The substantial use of which by a child under 12 years of age is reasonably foreseeable.

“(2) “Residential upholstered furniture” means furniture intended for use in a home or other dwelling that includes cushioning material covered by fabric or similar material.

“Sec. 3b. Replacement of regulated flame retardants.

“A manufacturer shall not replace the penta or octa mixtures of polybrominated diphenyl ethers, the deca mixture of polybrominated diphenyl ethers, Tris(1,3-dichloro-2-propyl) phosphate (chemical abstract service number 13674-87-8), or Tris(2-chloroethyl) phosphate (chemical abstract service number 115-1496-8) in a product prohibited in this act with a chemical that is:

“(1) Classified as “known to be a human carcinogen” or “reasonably anticipated to be a human carcinogen” in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;

“(2) Classified as “carcinogenic to humans” or “likely to be carcinogenic to humans” in the U.S. Environmental Protection Agency’s most recent list of chemicals evaluated for carcinogenic potential; or

“(3) Identified by the U.S. Environmental Protection Agency or the National Institutes of Health as causing birth defects, hormone disruption, neurotoxicity, or harm to reproduction or development.”.

(b) A new section 5a is added to read as follows:

“Sec. 5a. Certificate of compliance.

“(a) The Mayor may request a manufacturer of products subject to this act and sold, offered for sale, or distributed for sale in the District to provide a certificate demonstrating compliance with this act with respect to those products.

“(b) Within 45 days of a request for a certificate of compliance, a manufacturer shall:

“(1) Provide the Mayor with a certificate declaring that its products comply with the requirements of this act; or

“(2) Notify persons or entities located in the District that sell, offer for sale, or distribute a product made by the manufacturer that the product does not comply with this act and that the sale, offer for sale, and distribution of the product is prohibited, and submit to the Mayor a list of the names and addresses of those notified.”.

Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia