

1 A BILL

2
3 21-143

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5
6 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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

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

18 Sec. 2. The Human and Environmental Health Protection Act of 2010, effective March
19 31, 2011 (D.C. Law 18-336; D.C. Official Code § 8-108.01 *et seq.*), is amended by adding new
20 sections 3a, 3b, and 5a to read as follows:

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

22 “(a) After January 1, 2018, no person or legal entity shall manufacture, sell, offer for sale,
23 or distribute any children’s product or residential upholstered furniture containing more than
24 0.1% by mass in any product component of the following:

25 “(1) Tris(1,3-dichloro-2-propyl) phosphate (chemical abstract service number
26 13674-87-8) (“TDCPP”); or

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

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

32 “(1) TDCPP; or

33 “(2) TCEP.

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

35 “(1) The sale, offer for sale, or distribution of a product by a retailer who
36 purchased or acquired the product before the effective date of the Carcinogenic Flame Retardant
37 Prohibition Amendment Act of 2016, as approved by the Committee on Transportation and the
38 Environment on January 14, 2016 (Committee print of Bill 21-143);

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

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

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

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

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

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

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

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

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

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

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

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

64 “A manufacturer shall not replace the penta or octa mixtures of polybrominated diphenyl
65 ethers, Deca-BDE, TDCPP, or TCEP in a product prohibited in this act with a chemical that is:

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

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

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

75 “Sec. 5a. Certificate of compliance.

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

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

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

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

86 Sec. 3. Applicability.

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

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

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

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

96 Sec. 4. Fiscal impact statement.

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

100 Sec. 5. Effective date.

101 This act shall take effect following approval by the Mayor (or in the event of veto by the
102 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
103 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
104 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
105 Columbia Register.