

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2011 Summer
Supp.

To regulate the manufacture and sale of products containing bisphenol-A and polybrominated diphenyl ether, to phase out the use of perchloroethylene in dry cleaning; and to amend the Phosphate Soaps and Detergent Restriction Act of 1985 to reduce the percentage of phosphorus permitted in cleaning agents used for dishwashers from 8.7% by weight to 0.5% by weight.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Human and Environmental Health Protection Act of 2010”.

Sec. 2. Restrictions on bisphenol-A.

(a) Except as provided in subsection (b) of this section, no individual or legal entity shall manufacture, sell, offer for sale, or distribute in commerce any empty bottle, cup, or other container that:

- (1) Contains bisphenol-A; and
- (2) Is designed or intended by the manufacturer to be filled with food or liquid for consumption by a child under the age of 4.

(b) Facilities licensed to provide medical care may use Food and Drug Administration-approved, medically essential products containing bisphenol-A if a suitable alternative is unavailable.

Sec. 3. Prohibitions on polybrominated diphenyl ethers.

(a) No person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing the penta or octa mixtures of polybrominated diphenyl ethers; provided, that subsection (a) of this section shall not apply to original equipment manufacturer replacement parts or equipment for vehicles manufactured prior to the effective date of this act or to used vehicles.

(b) Except as provided in subsection (c) of this section, after January 1, 2013, no person or legal entity shall manufacture, sell, offer for sale, or distribute any of the following products:

- (1) A mattress or mattress pad that contains the deca mixture of polybrominated diphenyl ethers (“Deca-BDE”);

(2) Upholstered furniture intended for indoor use in a home or other residential occupancy that contains Deca-BDE; or

(3) A television, monitor, or computer that has a plastic housing that contains Deca-BDE.

(c) The restrictions in subsection (b) of this section shall not apply to the following products containing Deca-BDE:

(1) Transportation vehicles or products or parts for use in transportation vehicles or transportation equipment;

(2) Products or equipment used in industrial or manufacturing processes;

(3) Products for use in a medical context, including a hospital, treatment facility, or nursing home; or

(4) Electronic wiring and cable used for power transmission.

(d) After January 1, 2014, no person or legal entity shall manufacture, sell, offer for sale, or distribute any product containing Deca-BDE; provided, that this section shall not apply to the following:

(1) A retailer that is in possession of a product prohibited for manufacture, lease, sale, or distribution for sale or lease under subsections (b) and (c) of this section from selling, recycling, or otherwise disposing of a product that is in the retailer's or lessor's inventory on or after the date that the prohibition takes effect;

(2) A person or legal entity from recycling a product that contains Deca-BDE;

(3) A person or legal entity from selling, leasing, recycling, or otherwise disposing of a product that contains recycled Deca-BDE;

(4) Any activity involving a product that contains Deca-BDE that occurs subsequent to the 1st sale at retail;

(5) Products for use in a medical context, including a hospital, treatment facility, or nursing home if a suitable substitute is not available;

(6) Vehicles manufactured prior to model year 2016, replacement parts or equipment for vehicles manufactured prior to model year 2016, or used vehicles; or

(7) Vehicles, replacements parts or replacement equipment for vehicles manufactured during or after model year 2016 if the use of a Deca-BDE-free alternative would create a substantial and unreasonable hardship for manufacturers or consumers.

Sec. 4. Phase out of perchloroethylene in dry cleaning.

(a) After January 1, 2014, no person or legal entity shall install a machine designed to use perchloroethylene as a cleaning agent for clothes or other fabrics.

(b) After January 1, 2029, no person or legal entity shall use perchloroethylene as a cleaning agent for clothes or other fabrics.

Sec. 5. Penalties.

(a) A violation of this act shall be a civil infraction for purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective July 16, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*) (“Civil Infractions Act”). Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this act, or the rules issued under authority of this act, pursuant to the Civil Infractions Act. Adjudication of any infractions shall be pursuant to the Civil Infractions Act. This section shall not limit the enforcement of the Phosphate Soaps and Detergent Restriction Act of 1985, effective March 25, 1986 (D.C. Law 6-98; D.C. Official Code § 8-107.02).

(b) Pursuant to section 6, the Mayor shall issue rules to implement the provisions of this section 90 days after the effective date of this act.

Sec. 6. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 7. Section 3 of the Phosphate Soaps and Detergent Restriction Act of 1985, effective March 25, 1986 (D.C. Law 6-98; D.C. Official Code § 8-107.02), is amended as follows:

Amend
§ 8-107.02

(a) Subsection (b) is amended by striking the number “8.7” and inserting the number “0.5” in its place.

(b) Subsection (e) is amended as follows:

(1) Paragraph (2) is amended by striking the word “or” at the end.

(2) Paragraph (3) is amended by striking the period and inserting the phrase “; or” in its place.

(3) A new paragraph (4) is added to read as follows:

“(4) Complying with subsection (b) of this section may be impracticable for persons using commercial dishwashers; provided, that dishwashing detergents designed for use in commercial dishwashers shall not be used, sold, or furnished in the District of Columbia if it contains elemental phosphorus equal to or greater than 8.7% by weight.”.

Sec. 8. Applicability.

This act shall apply as of July 1, 2011.

Sec. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 10. 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 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.

Chairman
Council of the District of Columbia

Mayor
District of Columbia