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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 607

February 9, 2009

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

1.1 A bill for an act
1.2 relating to the environment; restricting the manufacture and sale of certain
1.3 polybrominated diphenyl ethers; authorizing participation in multistate
1.4 clearinghouse; amending Minnesota Statutes 2008, sections 325E.386, by adding
1.5 subdivisions; 325E.387, by adding a subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2008, section 325E.386, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 3. Commercial decabromodiphenyl ether. (a) Except as provided in
1.10 subdivision 4, a person may not manufacture, process, or distribute in commerce any of
1.11 the following products containing more than one-tenth of one percent of commercial
1.12 decabromodiphenyl ether by mass:

1.13 (1) the exterior casing of a television, computer, or computer monitor;

1.14 (2) upholstered furniture or textiles intended for indoor use in a home or other
1.15 residential occupancy; or

1.16 (3) mattresses and mattress pads.

1.17 (b) The sale or distribution by a business, charity, public entity, or private party of
1.18 any used product containing commercial decabromodiphenyl ether is exempt from this
1.19 subdivision.

1.20 (c) Nothing in this subdivision restricts the ability of a manufacturer, importer, or
1.21 distributor from transporting products containing commercial decabromodiphenyl ether
1.22 through the state or storing such products in the state for later distribution outside the state.

1.23 **EFFECTIVE DATE.** This section is effective July 1, 2010.

2.1 Sec. 2. Minnesota Statutes 2008, section 325E.386, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 4. Exemption process. (a) A manufacturer or user of a product prohibited
2.4 from manufacture, sale, or distribution under subdivision 3 may apply for an exemption
2.5 for a specific use of commercial decabromodiphenyl ether under this section by filing a
2.6 written request with the commissioner. The commissioner may grant an exemption for
2.7 a term not to exceed three years. The exemption is renewable upon written request. An
2.8 initial or renewal request for exemption must include at least the following:

2.9 (1) a policy statement articulating upper management support for eliminating or
2.10 reducing to the maximum feasible extent the use of commercial decabromodiphenyl ether;

2.11 (2) a description of the product and the amount of commercial decabromodiphenyl
2.12 ether distributed for sale and use in the state on an annual basis;

2.13 (3) a description of the recycling and disposal system used for the product in the
2.14 state and an estimate of the amount of product or commercial decabromodiphenyl ether
2.15 that is recycled or disposed of in the state on an annual basis;

2.16 (4) a description of the manufacturer's or user's past and ongoing efforts to eliminate
2.17 or reduce the amount of commercial decabromodiphenyl ether used in the product;

2.18 (5) an assessment of options available to reduce or eliminate the use of commercial
2.19 decabromodiphenyl ether, including any alternatives that do not contain commercial
2.20 decabromodiphenyl ether, perform the same technical function, are commercially
2.21 available, and are economically practicable;

2.22 (6) a statement of objectives in numerical terms and a schedule for achieving the
2.23 elimination of commercial decabromodiphenyl ether and an environmental assessment of
2.24 alternative products, including but not limited to human health, solid waste, hazardous
2.25 waste, and wastewater impacts associated with production, use, recycling, and disposal
2.26 of the alternatives;

2.27 (7) a listing of options considered not to be technically or economically practicable;
2.28 and

2.29 (8) certification of the accuracy of the information contained in the request, signed
2.30 and dated by an official of the manufacturer or user.

2.31 (b) The commissioner may grant an initial or renewal exemption for a specific use of
2.32 commercial decabromodiphenyl ether, with or without conditions, upon finding that the
2.33 applicant has demonstrated that there is no alternative that performs the same technical
2.34 function, is commercially available, is economically practicable, and provides net health
2.35 and environmental benefits to the state.

2.36 **EFFECTIVE DATE.** This section is effective July 1, 2010.

3.1 Sec. 3. Minnesota Statutes 2008, section 325E.386, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 5. Fees for exemption applicants. The application fee for an exemption
3.4 under subdivision 4 is \$2,000 per exemption. The fee is exempt from section 16A.1285.
3.5 Revenues from application fees must be deposited in the environmental fund.

3.6 **EFFECTIVE DATE.** This section is effective July 1, 2010.

3.7 Sec. 4. Minnesota Statutes 2008, section 325E.387, is amended by adding a subdivision
3.8 to read:

3.9 Subd. 3. Participation in interstate clearinghouse. The commissioner may
3.10 participate in a regional or national multistate clearinghouse to assist in carrying out the
3.11 requirements of this section. The clearinghouse is authorized to maintain information on
3.12 behalf of Minnesota, including, but not limited to:

3.13 (1) a list of all products containing polybrominated diphenyl ethers; and

3.14 (2) information on all exemptions granted by the state.

3.15 Sec. 5. **TRANSITION.**

3.16 In-state retailers in possession of products on January 1, 2010, that are banned for
3.17 sale under section 1 may exhaust their stock of products located in the state as of that
3.18 date through sales to the public.