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MEMORANDUM

TO: Chairwoman McIntosh
             Members of House Environmental Matters Committee

FROM: Lisa Nissley

SUBJ: HB14: Environment–Brominated Flame Retardants–Decabrominated Diphenyl Ether-Prohibition

DATE: Feb. 11, 2009

In its testimony and its position statement on February 4, 2009 to the Committee, MDE requested three amendments to HB 14:

1. Correction of an impermissible prohibition of the deca-flame retardants prior to passage of the bill;
2. A requirement for certification from the manufacturer that a product does not contain the prohibited substances; and
3. A request for civil and criminal penalties.

After discussions with the sponsor, Delegate Hubbard, and additional review of the existing law, particularly sections 6-1203 and 6-1204, the Department withdraws its request for amendments (2) and (3) above and considers that its concerns have been addressed. The Department understands that the sponsor has offered an amendment that addresses the first issue.

The Department will be guided in enforcement by "grounds for suspecting…[a] violation" e.g., a report that there may be a problem, rather than a need to proactively provide for inspections or chemical analyses for the BDEs, and that the person responsible for the manufacture, sale or distribution of the product would need to provide certification that it is compliant with the requirements.

With a better understanding of the requirements of the sections referenced above, the fiscal impact can be reduced to retain only the listed outreach specialist; the three other positions originally requested can be dropped from the note.

Cc: Delegate James Hubbard
        Heather Barthel, MDE
        Evan Issacson, DLS
        Richard Eskin, Science Services, MDE
        Thomas Thornton, MDE