

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 899

Introduced by Senator Simitian

February 23, 2007

An act to add Chapter 11 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to toxic ~~substances~~ *materials*.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as amended, Simitian. ~~Toxic substances: perfluorinated compounds: packaging materials.~~

Existing law establishes the Office of Environmental Health Hazard Assessment in the California Environmental Protection Agency. The office assesses human health risks of chemicals and performs toxicologic and scientific consultation to programs in the State Department of Health Services and in other state agencies *generally prohibits the manufacture, processing, or distribution in commerce, of a product containing more than a specified amount of polybrominated diphenyl ether (PBDES).*

This bill would *enact the "Toxic Free Oceans Act of 2007" and would prohibit, on and after June 1, 2008 2015, a person from manufacturing, processing, or distributing in commerce a product plastic packaging containing perfluorinated compounds toxic materials, as defined, or chemicals that degrade in the environment to perfluorinated compounds.* The bill would authorize the Director of the Office of Environmental Health Hazard Assessment, with the concurrence of the Secretary for Environmental Protection, to defer the operation of this prohibition with respect to a product under certain conditions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 11 (commencing with Section 108930)
2 is added to Part 3 of Division 104 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 11. ~~PERFLUORINATED COMPOUNDS TOXIC FREE~~
6 *OCEANS ACT OF 2007*
7

8 ~~108930. In order to protect the public health and the~~
9 ~~environment, the Legislature finds it is necessary for the state to~~
10 ~~develop a precautionary approach regarding the production, use,~~
11 ~~storage, or disposal of products containing perfluorinated~~
12 ~~compounds.~~

13 ~~108931. For purposes of this chapter, the following definitions~~
14 ~~shall apply:~~

15 ~~(a) "Director" means the Director of the Office of Environmental~~
16 ~~Health Hazard Assessment.~~

17 ~~(b) "Perfluorinated compounds" means perfluorooctanoic acid~~
18 ~~(PFOA) or perfluorooctane sulfonate (PFOS), or PFOA- and~~
19 ~~PFOS-homologues containing more than five carbon atoms, or~~
20 ~~chemicals that degrade in the environment to PFOA or PFOS, or~~
21 ~~PFOA- and PFOS-homologues containing more than five carbon~~
22 ~~atoms. "Perfluorinated compound" includes all acids, salts, or ionic~~
23 ~~forms of the perfluorinated compounds.~~

24 ~~108932. Except as provided in Section 108933, on and after~~
25 ~~June 1, 2008, a person shall not manufacture, process, or distribute~~
26 ~~in commerce a product containing a perfluorinated compound or~~
27 ~~a chemical that degrades in the environment to a perfluorinated~~
28 ~~compound.~~

29 ~~108933. The director, with the concurrence of the Secretary~~
30 ~~for Environmental Protection, may defer the operation of the~~
31 ~~prohibition described in Section 108932 with respect to a specific~~
32 ~~product, if both of the following occur:~~

33 ~~(a) The director receives a petition from the manufacturer~~
34 ~~requesting a deferral of prohibition.~~

35 ~~(b) The director makes a written finding of one of the following:~~

36 ~~(1) Prohibiting the sale of the product would be more detrimental~~
37 ~~to the environment than continued use of the product, that there~~

1 would be no unmitigated human exposure to the product, and that
2 no feasible alternative to the product is available.

3 ~~(2) Prohibiting the sale of the product would cause substantial
4 economic hardship to the users of the product, that there would be
5 no unmitigated human exposure to the product, and that no feasible
6 alternative to the product is available.~~

7 ~~(3) Prohibiting the use of the product would result in significant
8 risk to public health and that no feasible alternative to the product
9 is available.~~

10 108934. ~~The director shall limit the use of a product granted
11 a deferral of prohibition pursuant to Section 108933 to a two-year
12 period, subject to renewal.~~

13 108930. (A) *The Legislature finds and declares all of the
14 following:*

15 (1) *Marine debris pollutes the state's waterways and beaches
16 and harms the state's "ocean economy" which is valued at
17 forty-three billion dollars (\$43,000,000,000).*

18 (2) *According to the Ocean Protection Council, despite global
19 treaties and state and federal laws to prevent dumping in
20 waterways, the quantity of marine debris in the world's oceans is
21 increasing, and 60 to 80 percent of all marine debris is plastic.*

22 (3) *According to the California Coastal Commission, plastic
23 marine debris is responsible for injuring or killing at least 267
24 species world-wide, including 86 percent of all sea turtle species,
25 44 percent of all sea bird species, and 43 percent of marine
26 mammal species.*

27 (4) *Because plastic can take more than a hundred years to break
28 down, it can present a persistent and cumulative threat to our
29 oceans and their inhabitants.*

30 (5) *Plastic contains chemicals that may pollute the water,
31 contaminate marine life, and can present a threat to human health.*

32 (6) *According to the California Coastal Commission, almost
33 every marine organism, from the tiniest plankton to whales and
34 polar bears, is contaminated with man-made chemicals, such as
35 those chemicals used in consumer products, including plastics.*

36 (7) *In recognition of the severity of the marine debris problem,
37 on February 8, 2007, the Ocean Protection Council adopted a
38 comprehensive resolution on marine debris that outlines specific
39 actions for California to prevent and reduce marine debris,*

1 *including a provision to plan for the phased ban of toxic plastic*
2 *packaging.*

3 *(b) This chapter may be known, and shall be cited, as the “Toxic*
4 *Free Oceans Act of 2007.”*

5 *108931. For purposes of this chapter, the following definitions*
6 *shall apply:*

7 *(a) “Plastic packaging” means any plastic package having a*
8 *relatively inflexible finite shape or form, with a minimum capacity*
9 *of eight fluid ounces or its equivalent volume and a maximum*
10 *capacity of five fluid gallons or its equivalent volume, that is*
11 *capable of maintaining its shape while holding other products,*
12 *including, but not limited to, bottles, cartons, and other receptacles,*
13 *for sale or distribution in the state.*

14 *(b) “Toxic material” means a material that contains styrene,*
15 *bisphenol-A, perflourooctanoic acid, vinyl chloride, nonylphenol,*
16 *or alkylphenol.*

17 *108932. On and after January 1, 2015, a person shall not*
18 *manufacture, process, or distribute in commerce any plastic*
19 *packaging that contains a toxic material.*