A BILL FOR

1 An Act prohibiting the manufacture and sale of certain products containing specified chemical flame retardants in the state, providing civil penalties, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 455 F. 12 Chemical flame retardants — prohibition on manufacture and sale.

1. As used in this section, unless the context otherwise requires:
   a. "Bedding" means any residential or commercial bedding material including but not limited to a mattress, mattress pad, mattress cover, sheeting, pillow, blanket, comforter, duvet cover, sleeping bag, or any other item stuffed with bedding material used for recycling or sleeping.
   b. "Carpeting" means residential or commercial fabric floor covering, including carpet padding.
   c. "Children's product" means a consumer product manufactured or marketed for use by individuals twelve years of age or younger.
   d. "Covered product" means bedding, carpeting, children's products, residential upholstered furniture, or window treatments.
   e. "Manufacturer" means a person who manufactures or produces a covered product for resale in this state.
   f. "Residential upholstered furniture" means any residential furniture product that consists in whole or in part of cushioning material enclosed within a covering consisting of fabric or any other textile.
   g. "Retailer" means a person offering for sale or selling a covered product to the ultimate consumer, within this state.
   h. "Window treatment" means residential or commercial curtain materials, blinds, or shades.

2. A manufacturer or retailer shall not sell, offer for sale, or manufacture for sale a covered product that contains the following chemical flame retardants with a concentration level that exceeds one thousand parts per million by weight for any component part of the covered product:
   a. Tris (1,3-dichloro-2-propyl) phosphate (TDCPP).
   b. Tris (2-chloroethyl) phosphate (TCEP).
   c. Antimony trioxide.
H.F. 457

1. Hexabromocyclododecane (HBCD).

e. Bis (2-Ethylhexyl)-3,4,5,6-tetrabromophthalate (TBPH).

f. 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB).

g. Chlorinated paraffins.

h. Tris (1-chloro-2-propyl) phosphate (TCPP).
i. pentaBDE.
j. octaBDE.
k. Any other chemical flame retardant identified by the department pursuant to subsection 3.

3. a. The department shall conduct a review every three years to identify any additional chemical flame retardants to be added to the list of prohibited chemical flame retardants provided in subsection 2, provided, however, that the department shall demonstrate that the chemical flame retardant is harmful to health and is present in human bodily tissue or fluid, the home environment, or in a covered product, as determined through scientific sampling and analysis. For purposes of this subsection, “harmful to health” means any of the following:

(1) Harming the normal development of a fetus or child or cause other developmental toxicity.

(2) Causing cancer, genetic damage, or reproductive harm.

(3) Disrupting the endocrine system.

(4) Damaging the nervous system, immune system, or an organ or cause other systemic toxicity.

(5) Constituting a persistent, bioaccumulative, and toxic substance.

b. If the department determines that a chemical flame retardant meets the conditions provided in paragraph “a”, the department shall promulgate rules to restrict the sale, offer for sale, or manufacture for sale of any covered product containing the chemical flame retardant pursuant to subsection 2 within nine months after making such determination.

4. This section shall not apply to any of the following:

b. A covered product containing a chemical flame retardant identified in subsection 2 due to the presence of recycled material used to manufacture the covered product.

c. Motor vehicles as defined in section 321.1, watercraft, aircraft, all-terrain vehicles as defined in section 321.1, motorized bicycles as defined in section 321.1, or any component part thereof.

5. a. A manufacturer or retailer who sells, offers for sale, or manufactures for sale a covered product in violation of subsection 2 shall be subject to a civil penalty of one thousand dollars for each covered product manufactured, sold, or offered for sale for a first offense, and a civil penalty of five thousand dollars for each covered product manufactured, sold, or offered for sale for a second or subsequent offense.

b. Notwithstanding paragraph "a", a retailer shall only be liable under this subsection if the retailer had knowledge or in the exercise of reasonable diligence should have known that the retailer was selling or offering for sale a covered product in violation of subsection 2.

6. The department may adopt rules pursuant to chapter 17A to administer this section.

Sec. 2. NEW SECTION. 455F.13 Notification.

The manufacturer of a covered product that contains a prohibited chemical flame retardant identified in section 455F.12 shall provide initial notice of the prohibitions identified in that section to any known retailer selling the covered product in the state no later than October 3, 2017. The department shall establish by rule notification requirements applicable to the identification of additional chemical flame retardants following the review and determination process provided in section 455F.12.

Sec. 3. EFFECTIVE DATE.

1. The section of this Act requiring manufacturers to provide notice of this Act to retailers, being deemed of immediate importance, takes effect upon enactment.
2. The remaining sections of this Act take effect January 1, 2018.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill prohibits the manufacture and sale of certain products containing specified chemical flame retardants in the state.

The bill contains several definitions. The bill defines "bedding", "carpeting", "children’s product", "covered product", "manufacturer", "residential upholstered furniture", "retailer", and "window treatment".

The bill provides that a manufacturer or retailer shall not manufacture, sell, or offer for sale a covered product in the state containing a chemical flame retardant listed in the bill that has a concentration level that exceeds 1,000 parts per million by weight for any component part of the covered product.

The bill provides that the department of natural resources shall conduct a review every three years to identify any additional chemical flame retardants to include in the list of prohibited chemical flame retardants contained in the bill. To do so the department must demonstrate that the chemical flame retardant is harmful to health, as defined in the bill, and is determined through scientific sampling and analysis to be present in human bodily tissue or fluid, the home environment, or in a covered product. If the department determines that a chemical flame retardant meets these conditions, the department must adopt rules to restrict the sale and manufacture of such chemical flame retardant within nine months of making its determination.

The bill provides that the bill does not apply to any of the following: a covered product manufactured prior to January 1, 2018; a covered product containing a prohibited chemical flame retardant due to the presence of recycled material.
used to manufacture the covered product; and motor vehicles, watercraft, aircraft, all-terrain vehicles, motorized bicycles, or any component part thereof.

The bill provides that a manufacturer or retailer that manufactures, sells, or offers to sell a covered product prohibited by the bill shall be subject to a civil penalty of $1,000 for each covered product manufactured, sold, or offered for sale for a first offense, and a civil penalty of $5,000 for each covered product manufactured, sold, or offered for sale for a second or subsequent offense. However, a retailer may only be liable if the retailer had knowledge or in the exercise of reasonable diligence should have known that the retailer was selling or offering to sell a covered product in violation of the bill.

The bill requires a manufacturer of a covered product containing a prohibited chemical flame retardant identified in the bill to provide initial notice of the prohibition to any known retailer selling the covered product in the state no later than October 3, 2017, and to establish notification procedures for subsequently identified prohibitions by rule. The section of the bill containing this requirement takes effect upon enactment.

The section of the bill prohibiting the manufacture or sale of certain covered products containing prohibited chemical flame retardants takes effect January 1, 2018.