1976 MEMORANDUM

Re: Senate

Assembly

AN ACT to amend the environmental conservation law, in relation to restricting the manufacture, sale, distribution, use and disposal of products containing polychlorinated biphenyls, and prescribing penalties therefor

This bill, recommended by the Attorney General, authorizes restriction of the manufacture, sale, distribution, use and disposal of polychlorinated biphenyls (PCB's). Restriction would be authorized only after hearings and appropriate findings by the Commissioner of the Department of Environmental Conservation.

PCB's are a class of highly dangerous synthetic chemicals currently in use in various industries throughout the country. While PCB's are used predominantly in "closed end" systems such as electrical transformers and capacitors, they also are used in a number of other products as a result of which they readily make their way into the environment. Even electrical equipment, after being discarded, eventually releases PCB's from solid-waste disposal areas where it may enter streams.

PCB's, like other synthetic compounds, persist in the environment, concentrating up the food chain and increasing the danger to man. Because of their toxic nature, PCB's have been limited by the U. S. Food and Drug Administration to less than five parts per million in food for human consumption. Exposure to or ingestion of even relatively minute quantities of PCB's have been linked to cancer of the liver, reproductive failure and skin disease.

The State Department of Environmental Conservation is presently proceeding to halt discharges of PCB's into waterways such as the Hudson River and has warned of the dangers to man of eating fish contaminated with them. The sale and distribution of articles containing PCB's, however, continues unabated and is in need of immediate regulation.

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The instant bill would prohibit the sale in this state after October 1, 1977 of any products containing PCB's except those for which the use of PCB's has been authorized by the Commissioner of the Department of Environmental Conservation. The Commissioner is directed to issue a comprehensive report on PCB's and to promulgate a list of specified permissible PCB uses, by December 1, 1976. PCB use in products can be permitted by the Commissioner only if he affirmately finds that there are no suitable alternatives for the specified uses, and that the specified uses are not likely to create a public health or environmental hazard. The Commissioner also is authorized to conduct studies and investigations and promulgate appropriate rules and regulations specifying safe and permissible disposal practices of PCB products.

Violations of Article 40 and regulations promulgated pursuant thereto are punishable by civil penalties assessed by the Commissioner after hearings, not to exceed $10,000. The Commissioner also has the power to direct the abatement of violations and to have PCB products withdrawn from commerce. Criminal sanctions of fines between $500 and $5,000 for the first offense also are available.

This bill will entail no significant budgetary expenditures.

The bill is part of the Attorney General's legislative program.

(A.G. Prog. No. 61)