S T A T E O F N E W Y O R K

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I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. GABRYSZAK, BRODSKY, ESPAILLAT -- Multi-Sponsored by -- M. of A. GOTTFRIED, HOOPER, McENENY, PHEFFER -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law and the executive law, in relation to requiring mattresses and upholstered furniture to be fire retardant

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 385-b to read as follows:

S 385-B. MATTRESSES AND UPHOLSTERED FURNITURE TO BE FIRE RETARDANT. 1. AS USED IN THIS SECTION:

(A) "FIRE RETARDANT" MEANS A PRODUCT THAT MEETS THE REGULATIONS ADOPTED BY THE OFFICE OF FIRE PREVENTION AND CONTROL. THIS DOES NOT INCLUDE FURNITURE USED EXCLUSIVELY FOR THE PURPOSE OF PHYSICAL FITNESS AND EXERCISE.

(B) "BEDDING" MEANS ANY QUILTED PAD, PACKING PAD, MATTRESS PAD, HAMMOCK PAD, MATTRESS, COMFORTER, QUILT, SLEEPING BAG, BOX SPRING, STUDIO COUCH, PILLOW OR CUSHION MADE OF LEATHER, CLOTH OR ANY OTHER MATERIAL, WHICH IS OR CAN BE STUFFED OR FILLED IN WHOLE OR IN PART WITH ANY CONCEALED SUBSTANCE OR MATERIAL, WHICH CAN BE USED BY ANY HUMAN BEING FOR SLEEPING OR RECLINING PURPOSES.

2. (A) ALL MATTRESSES AND BOX SPRINGS MANUFACTURED FOR SALE IN THIS STATE SHALL BE FIRE RETARDANT PURSUANT TO SECTION ONE HUNDRED FIFTY-SIX-H OF THE EXECUTIVE LAW. THE OFFICE OF FIRE PREVENTION AND CONTROL SHALL ADOPT REGULATIONS NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET A RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE CRITERIA BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE PREVENTION AND CONTROL OR THAT IS BASED ON ASTME 1590. IF THE OFFICE OF FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE FLAME RETARDANT UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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THE OFFICE OF FIRE PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A MANUFACTURER TO COMPLY WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING A SMALL SCALE VERSION OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS, THE OFFICE OF FIRE PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR OTHERWISE SHARE RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGANIZATIONS, OR INDEPENDENT CONTRACTORS THAT IT CONSIDERS APPROPRIATE FOR PURPOSES OF REVIEWING TEST CRITERIA AND METHODS, EQUIPMENT SPECIFICATIONS, AND OTHER RELEVANT SUBJECTS. THESE REGULATIONS SHALL BECOME INOPERATIVE UPON THE EFFECTIVE DATE OF ANY FEDERAL LAW OR REGULATION ESTABLISHING AN OPEN-FLAME RESISTANCE STANDARD FOR THESE PRODUCTS. THE OFFICE OF FIRE PREVENTION AND CONTROL SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON OR BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, SUMMARIZING ITS REGULATORY FINDINGS.

(B) REQUIREMENTS FOR FLAME RESISTANT MATTRESSES, BOX SPRINGS, OR OTHER BEDDING PRODUCTS SHALL NOT APPLY TO ANY HOTEL, MOTEL, BED AND BREAKFAST, INN, OR SIMILAR TRANSIENT LODGING ESTABLISHMENT THAT HAS AN AUTOMATIC FIRE EXTINGUISHING SYSTEM THAT CONFORMS TO APPLICABLE STATE CODES.

(C) ALL SEATING FURNITURE SOLD OR OFFERED FOR SALE BY AN IMPORTER, MANUFACTURER, OR WHOLESALER FOR USE IN THIS STATE, INCLUDING ANY SEATING FURNITURE SOLD TO OR OFFERED FOR SALE FOR USE IN A HOTEL, MOTEL, OR OTHER PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, AND REUPHOLSTERED FURNITURE TO WHICH FILLING MATERIALS ARE ADDED, SHALL BE FIRE RETARDANT AND SHALL BE LABELED IN A MANNER SPECIFIED BY THE OFFICE OF FIRE PREVENTION AND CONTROL.

S 2. The executive law is amended by adding a new section 156-h to read as follows:

S 156-H. FIRE SAFETY STANDARDS FOR MATTRESSES AND UPHOLSTERED FURNITURE. 1. AS USED IN THIS SECTION:

(A) "FIRE RETARDANT" MEANS A PRODUCT THAT MEETS THE REGULATIONS ADOPTED BY THE OFFICE OF FIRE PREVENTION AND CONTROL. THIS DOES NOT INCLUDE FURNITURE USED EXCLUSIVELY FOR THE PURPOSE OF PHYSICAL FITNESS AND EXERCISE.

(B) "BEDDING" MEANS ANY QUILTED PAD, PACKING PAD, MATTRESS PAD, HAMMOCK PAD, MATTRESS, COMFORTER, QUILT, SLEEPING BAG, BOX SPRING, STUDIO COUCH, PILLOW OR CUSHION MADE OF LEATHER, CLOTH OR ANY OTHER MATERIAL, WHICH IS OR CAN BE STUFFED OR FILLED IN WHOLE OR IN PART WITH ANY CONCEALED SUBSTANCE OR MATERIAL, WHICH CAN BE USED BY ANY HUMAN BEING FOR SLEEPING OR RECLINING PURPOSES.

2. (A) ALL MATTRESSES AND BOX SPRINGS MANUFACTURED FOR SALE IN THIS STATE SHALL BE FIRE RETARDANT. THE OFFICE OF FIRE PREVENTION AND CONTROL SHALL ADOPT REGULATIONS NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET A RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE CRITERIA BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE PREVENTION AND CONTROL OR THAT IS BASED ON ASTME 1590. IF THE OFFICE OF FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE FLAME RETARDANT UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE, THE OFFICE OF FIRE PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A MANUFACTURER TO COMPLY WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING A SMALL SCALE VERSION OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS, THE OFFICE OF FIRE PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR OTHERWISE SHARE RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGANIZATIONS, OR INDEPENDENT CONTRACTORS THAT IT CONSIDERS APPROPRIATE FOR PURPOSES OF REVIEWING TEST CRITERIA AND METHODS, EQUIPMENT SPECIFICATIONS, AND OTHER RELEVANT SUBJECTS. THESE REGULATIONS SHALL BECOME INOP-

ERATIVE UPON THE EFFECTIVE DATE OF ANY FEDERAL LAW OR REGULATION ESTABLISHING AN OPEN-FLAME RESISTANCE STANDARD FOR THESE PRODUCTS. THE OFFICE OF FIRE PREVENTION AND CONTROL SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON OR BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, SUMMARIZING ITS REGULATORY FINDINGS.

(B) REQUIREMENTS FOR FLAME RESISTANT MATTRESSES, BOX SPRINGS, OR OTHER BEDDING PRODUCTS SHALL NOT APPLY TO ANY HOTEL, MOTEL, BED AND BREAKFAST, INN, OR SIMILAR TRANSIENT LODGING ESTABLISHMENT THAT HAS AN AUTOMATIC FIRE EXTINGUISHING SYSTEM THAT CONFORMS TO APPLICABLE STATE CODES.

(C) ALL SEATING FURNITURE SOLD OR OFFERED FOR SALE BY AN IMPORTER, MANUFACTURER, OR WHOLESALER FOR USE IN THIS STATE, INCLUDING ANY SEATING FURNITURE SOLD TO OR OFFERED FOR SALE FOR USE IN A HOTEL, MOTEL, OR OTHER PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, AND REUPHOLSTERED FURNITURE TO WHICH FILLING MATERIALS ARE ADDED, SHALL BE FIRE RETARDANT AND SHALL BE LABELED IN A MANNER SPECIFIED BY THE OFFICE OF FIRE PREVENTION AND CONTROL.

3. THE ATTORNEY GENERAL SHALL HAVE THE POWER TO ASSESS A FINE OF UP TO ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS SECTION. TO ENFORCE THE PROVISIONS OF THIS SECTION, THE ATTORNEY GENERAL MAY BRING AN ACTION ON BEHALF OF THE PEOPLE OF THE STATE OF NEW YORK TO ENJOIN ACTS IN VIOLATION OF THIS SECTION AND TO RECOVER CIVIL PENALTIES AUTHORIZED UNDER THIS SUBDIVISION.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.