

4733

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer 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:

1     Section 1. The general business law is amended by adding a new section  
2     385-b to read as follows:  
3     S 385-B. MATTRESSES AND UPHOLSTERED FURNITURE TO BE FIRE RETARDANT. 1.  
4     AS USED IN THIS SECTION:  
5     (A) "FIRE RETARDANT" MEANS A PRODUCT THAT MEETS THE REGULATIONS  
6     ADOPTED BY THE OFFICE OF FIRE PREVENTION AND CONTROL. THIS DOES NOT  
7     INCLUDE FURNITURE USED EXCLUSIVELY FOR THE PURPOSE OF PHYSICAL FITNESS  
8     AND EXERCISE.  
9     (B) "BEDDING" MEANS ANY QUILTED PAD, PACKING PAD, MATTRESS PAD,  
10    HAMMOCK PAD, MATTRESS, COMFORTER, QUILT, SLEEPING BAG, BOX SPRING,  
11    STUDIO COUCH, PILLOW OR CUSHION MADE OF LEATHER, CLOTH OR ANY OTHER  
12    MATERIAL, WHICH IS OR CAN BE STUFFED OR FILLED IN WHOLE OR IN PART WITH  
13    ANY CONCEALED SUBSTANCE OR MATERIAL, WHICH CAN BE USED BY ANY HUMAN  
14    BEING FOR SLEEPING OR RECLINING PURPOSES.  
15    2. (A) ALL MATTRESSES AND BOX SPRINGS MANUFACTURED FOR SALE IN THIS  
16    STATE SHALL BE FIRE RETARDANT PURSUANT TO SECTION ONE HUNDRED  
17    FIFTY-SIX-H OF THE EXECUTIVE LAW. THE OFFICE OF FIRE PREVENTION AND  
18    CONTROL SHALL ADOPT REGULATIONS NO LATER THAN JANUARY FIRST, TWO THOU-  
19    SAND TEN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET  
20    A RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE  
21    CRITERIA BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE  
22    PREVENTION AND CONTROL OR THAT IS BASED ON ASTM E 1590. IF THE OFFICE OF  
23    FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO  
24    MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE

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

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1 FLAME RETARDANT UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE,  
2 THE OFFICE OF FIRE PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A  
3 MANUFACTURER TO COMPLY WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING  
4 A SMALL SCALE VERSION OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS,  
5 THE OFFICE OF FIRE PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR  
6 OTHERWISE SHARE RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGAN-  
7 IZATIONS, OR INDEPENDENT CONTRACTORS THAT IT CONSIDERS APPROPRIATE FOR  
8 PURPOSES OF REVIEWING TEST CRITERIA AND METHODS, EQUIPMENT SPECIFICA-  
9 TIONS, AND OTHER RELEVANT SUBJECTS. THESE REGULATIONS SHALL BECOME INOP-  
10 ERATIVE UPON THE EFFECTIVE DATE OF ANY FEDERAL LAW OR REGULATION ESTAB-  
11 LISHING AN OPEN-FLAME RESISTANCE STANDARD FOR THESE PRODUCTS. THE OFFICE  
12 OF FIRE PREVENTION AND CONTROL SHALL SUBMIT A REPORT TO THE GOVERNOR AND  
13 THE LEGISLATURE ON OR BEFORE JANUARY FIRST, TWO THOUSAND TEN, SUMMARIZ-  
14 ING ITS REGULATORY FINDINGS.

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

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

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

28 S 156-H. FIRE SAFETY STANDARDS FOR MATTRESSES AND UPHOLSTERED FURNI-  
29 TURE. 1. AS USED IN THIS SECTION:

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

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

40 2. (A) ALL MATTRESSES AND BOX SPRINGS MANUFACTURED FOR SALE IN THIS  
41 STATE SHALL BE FIRE RETARDANT. THE OFFICE OF FIRE PREVENTION AND CONTROL  
42 SHALL ADOPT REGULATIONS NO LATER THAN JANUARY FIRST, TWO THOUSAND TEN,  
43 REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET A RESIST-  
44 ANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE CRITERIA  
45 BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE PREVENTION AND  
46 CONTROL OR THAT IS BASED ON ASTM E 1590. IF THE OFFICE OF FIRE PREVENTION  
47 AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO MATTRESS FIRES,  
48 THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE FLAME RETARDANT  
49 UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE, THE OFFICE OF FIRE  
50 PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A MANUFACTURER TO COMPLY  
51 WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING A SMALL SCALE VERSION  
52 OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS, THE OFFICE OF FIRE  
53 PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR OTHERWISE SHARE  
54 RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGANIZATIONS, OR  
55 INDEPENDENT CONTRACTORS THAT IT CONSIDERS APPROPRIATE FOR PURPOSES OF  
56 REVIEWING TEST CRITERIA AND METHODS, EQUIPMENT SPECIFICATIONS, AND OTHER

1 RELEVANT SUBJECTS. THESE REGULATIONS SHALL BECOME INOPERATIVE UPON THE  
2 EFFECTIVE DATE OF ANY FEDERAL LAW OR REGULATION ESTABLISHING AN  
3 OPEN-FLAME RESISTANCE STANDARD FOR THESE PRODUCTS. THE OFFICE OF FIRE  
4 PREVENTION AND CONTROL SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE  
5 LEGISLATURE ON OR BEFORE JANUARY FIRST, TWO THOUSAND TEN, SUMMARIZING  
6 ITS REGULATORY FINDINGS.

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

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

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

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