

3128

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 23, 2009

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Introduced by M. of A. BRADLEY, BRODSKY, ESPAILLAT, GABRYSZAK -- 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:

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 1590. IF THE OFFICE OF  
23     FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO

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

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

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

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

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

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

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

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

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

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

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

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

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

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