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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 ASSEM-
BLY, 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 ELEVEN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS
20 MEET A RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORM-
21 ANCE 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
24 MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE
25 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.

LBD03270-02-0

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

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

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

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

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

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

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35 STUDIO COUCH, PILLOW OR CUSHION MADE OF LEATHER, CLOTH OR ANY OTHER
36 MATERIAL, WHICH IS OR CAN BE STUFFED OR FILLED IN WHOLE OR IN PART WITH
37 ANY CONCEALED SUBSTANCE OR MATERIAL, WHICH CAN BE USED BY ANY HUMAN
38 BEING FOR SLEEPING OR RECLINING PURPOSES.

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40 STATE SHALL BE FIRE RETARDANT. THE OFFICE OF FIRE PREVENTION AND CONTROL
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42 EN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET A
43 RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE
44 CRITERIA BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE
45 PREVENTION AND CONTROL OR THAT IS BASED ON ASTM 1590. IF THE OFFICE OF
46 FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO
47 MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE
48 FLAME RETARDANT UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE,
49 THE OFFICE OF FIRE PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A
50 MANUFACTURER TO COMPLY WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING
51 A SMALL SCALE VERSION OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS,
52 THE OFFICE OF FIRE PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR
53 OTHERWISE SHARE RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGAN-
54 IZATIONS, OR INDEPENDENT CONTRACTORS THAT IT CONSIDERS APPROPRIATE FOR
55 PURPOSES OF REVIEWING TEST CRITERIA AND METHODS, EQUIPMENT SPECIFICA-
56 TIONS, AND OTHER RELEVANT SUBJECTS. THESE REGULATIONS SHALL BECOME INOP-

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12 FURNITURE SOLD TO OR OFFERED FOR SALE FOR USE IN A HOTEL, MOTEL, OR
13 OTHER PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, AND REUPHOLSTERED
14 FURNITURE TO WHICH FILLING MATERIALS ARE ADDED, SHALL BE FIRE RETARDANT
15 AND SHALL BE LABELED IN A MANNER SPECIFIED BY THE OFFICE OF FIRE
16 PREVENTION AND CONTROL.

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

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