

4654

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 4, 2011

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Introduced by M. of A. GABRYSZAK -- Multi-Sponsored by -- M. of A. GOTT-FRIED, 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 THIRTEEN, 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 E 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 THIRTEEN,  
15 SUMMARIZING 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 THIR-  
44 TEEN, REQUIRING THAT FIRE RETARDANT MATTRESSES AND BOX SPRINGS MEET A  
45 RESISTANCE TO OPEN-FLAME TEST THAT USES A PASS OR FAIL PERFORMANCE  
46 CRITERIA BASED ON A TEST METHOD DEVELOPED BY THE OFFICE OF FIRE  
47 PREVENTION AND CONTROL OR THAT IS BASED ON ASTM E 1590. IF THE OFFICE OF  
48 FIRE PREVENTION AND CONTROL CONCLUDES THAT OTHER BEDDING CONTRIBUTES TO  
49 MATTRESS FIRES, THE REGULATIONS SHALL REQUIRE THE OTHER BEDDING TO BE  
50 FLAME RETARDANT UNDER THE RESISTANCE TO OPEN-FLAME TEST. IF FEASIBLE,  
51 THE OFFICE OF FIRE PREVENTION AND CONTROL REGULATIONS SHALL PERMIT A  
52 MANUFACTURER TO COMPLY WITH THE RESISTANCE TO OPEN-FLAME TEST BY TESTING  
53 A SMALL SCALE VERSION OF ITS PRODUCT. IN DEVELOPING THESE REGULATIONS,  
54 THE OFFICE OF FIRE PREVENTION AND CONTROL MAY CONTRACT, COOPERATE, OR  
55 OTHERWISE SHARE RESOURCES WITH OTHER GOVERNMENT AGENCIES, PRIVATE ORGAN-  
56 IZATIONS, 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 THIRTEEN, 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 WHOLESALE 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.