

4780--A

2013-2014 Regular Sessions

I N S E N A T E

April 23, 2013

Introduced by Sens. GRISANTI, AVELLA, CARLUCCI, ESPAILLAT, GIPSON, HOYLMAN, LATIMER, MARTINS, O'BRIEN, SAMPSON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to the upholstered furniture safety act

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

1 Section 1. Article 37 of the environmental conservation law is  
2 amended by adding a new title 9 to read as follows:

3 TITLE 9

4 UPHOLSTERED FURNITURE SAFETY ACT

5 SECTION 37-0901. DEFINITIONS.

6 37-0903. SMOLDER RESISTANCE STANDARDS.

7 S 37-0901. DEFINITIONS.

8 AS USED IN THIS TITLE:

9 1. "UPHOLSTERED FURNITURE" MEANS ANY FURNITURE, INCLUDING CHILDREN'S  
10 FURNITURE, MOVABLE OR STATIONARY, WHICH IS MADE OR SOLD WITH CUSHIONS OR  
11 PILLOWS, LOOSE OR ATTACHED, OR IS ITSELF STUFFED OR FILLED IN WHOLE OR  
12 IN PART WITH ANY MATERIAL, IS OR CAN BE STUFFED OR FILLED IN WHOLE OR IN  
13 PART WITH ANY SUBSTANCE OR MATERIAL, HIDDEN OR CONCEALED BY FABRIC OR  
14 ANY OTHER COVERING, INCLUDING CUSHIONS OR PILLOWS BELONGING TO OR FORM-  
15 ING A PART THEREOF, TOGETHER WITH THE STRUCTURAL UNITS, THE FILLING  
16 MATERIAL AND ITS CONTAINER AND ITS COVERING WHICH CAN BE USED AS A  
17 SUPPORT FOR THE BODY OF A HUMAN BEING, OR HIS OR HER LIMBS AND FEET WHEN  
18 SITTING OR RESTING IN AN UPRIGHT OR RECLINING POSITION. FOR PURPOSES OF  
19 THIS SECTION, UPHOLSTERED FURNITURE SHALL NOT INCLUDE:

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

LBD10248-11-4

1 (A) FURNITURE USED EXCLUSIVELY FOR THE PURPOSE OF PHYSICAL FITNESS AND  
2 EXERCISE;

3 (B) CUSHIONS AND PADS INTENDED SOLELY FOR OUTDOOR USE;

4 (C) ANY ARTICLE WHICH IS SMOOTH SURFACED AND CONTAINS NO MORE THAN  
5 ONE-HALF INCH OF FILLING MATERIAL, PROVIDED THAT SUCH ARTICLE DOES NOT  
6 HAVE A HORIZONTAL SURFACE MEETING A VERTICAL SURFACE;

7 (D) BASSINETS, BOOSTER SEATS, CAR SEATS, CHANGING PADS, FLOOR PLAY  
8 MATS, HIGHCHAIRS, HIGHCHAIR PADS, INFANT BOUNCERS, INFANT CARRIERS,  
9 INFANT SEATS, INFANT SWINGS, INFANT WALKERS, NURSING PADS, NURSING  
10 PILLOWS, PLAYPEN SIDE PADS, PLAYARDS, PORTABLE HOOK-ON CHAIRS, AND  
11 STROLLERS; AND

12 (E) ANY ARTICLE MANUFACTURED IN ACCORDANCE WITH A WRITTEN PRESCRIPTION  
13 FROM ANY ONE OF THE HEALTH CARE PROFESSIONALS SET FORTH IN THIS SUBDIVI-  
14 SION, OR MANUFACTURED IN ACCORDANCE WITH OTHER COMPARABLE WRITTEN  
15 MEDICAL THERAPEUTIC SPECIFICATION, TO BE USED IN CONNECTION WITH THE  
16 TREATMENT OR MANAGEMENT OF A NAMED INDIVIDUAL'S PHYSICAL ILLNESS OR  
17 INJURY. ANY ONE OF THE FOLLOWING HEALTH CARE PROFESSIONALS MAY PROVIDE  
18 THE WRITTEN PRESCRIPTION REQUIRED BY THIS SUBDIVISION PROVIDED THAT THE  
19 HEALTH CARE PROFESSIONAL HAS A CURRENT AND VALID LICENSE TO PRACTICE IN  
20 NEW YORK OR ANY OTHER STATE OF THE UNITED STATES IN WHICH THE  
21 PRESCRIPTION WAS WRITTEN: PHYSICIANS, CHIROPRACTORS OR OSTEOPATHS.

22 2. "RETAILER" MEANS A PERSON WHO SELLS ANY ARTICLE OF UPHOLSTERED  
23 FURNITURE TO A CONSUMER OR USER OF THE ARTICLE AS PURCHASED.

24 S 37-0903. SMOLDER RESISTANCE STANDARDS.

25 1. BEGINNING JANUARY FIRST, TWO THOUSAND FIFTEEN, ANY UPHOLSTERED  
26 FURNITURE MANUFACTURED FOR SALE IN THE STATE AND SOLD OR OFFERED FOR  
27 SALE TO THE GENERAL PUBLIC AT RETAIL OUTLETS IN THE STATE SHALL MEET THE  
28 MOST RECENTLY ADOPTED STANDARDS FOR THE SMOLDER RESISTANCE OF MATERIALS  
29 USED IN UPHOLSTERED FURNITURE ESTABLISHED BY THE CALIFORNIA DEPARTMENT  
30 OF CONSUMER AFFAIRS, BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME  
31 FURNISHINGS AND THERMAL INSULATION, AND SHALL INCLUDE AN AFFIXED LABEL  
32 DEMONSTRATING COMPLIANCE WITH SUCH STANDARD.

33 2. THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY  
34 TO:

35 (A) ANY UPHOLSTERED FURNITURE IN A RETAILER'S INVENTORY PRIOR TO JANU-  
36 ARY FIRST, TWO THOUSAND FIFTEEN AND SOLD OR OFFERED FOR SALE AFTER SUCH  
37 DATE; OR (B) ANY UPHOLSTERED FURNITURE THAT IS REPAIRED, REUPHOLSTERED,  
38 RE-COVERED, RESTORED, RENEWED OR MADE TO ORDER AND SPECIFICATION OF THE  
39 USER USING EITHER NEW MATERIALS OR THE OWNER'S MATERIALS.

40 S 2. The commissioner of the New York state division of homeland  
41 security and emergency services, in consultation with the New York state  
42 office of fire prevention and control, shall on or before February 1,  
43 2016, prepare a report to be delivered to the governor and legislature  
44 assessing emerging fire barrier materials and other relevant technolo-  
45 gies to examine their open flame resistant properties, evaluate their  
46 cost effectiveness and determine their applicability in open flame test-  
47 ing of upholstered furniture as defined in section 37-0901 of the envi-  
48 ronmental conservation law, as added by section one of this act. The  
49 commissioner may consult with interested stakeholders.

50 S 3. This act shall take effect immediately.