S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 21, 2016

Introduced by M. of A. BUCHWALD -- read once and referred to the Committee on Environmental Conservation

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:

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

TITLE 9

UPHOLSTERED FURNITURE SAFETY ACT

SECTION 37-0901. DEFINITIONS.

37-0903. SMOLDER RESISTANCE STANDARDS.

S 37-0901. DEFINITIONS.

AS USED IN THIS TITLE:

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

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

(B) CUSHIONS AND PADS DESIGNED FOR OUTDOOR USE;

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

(D) BASSINETS, BOOSTER SEATS, CAR SEATS, CHANGING PADS, FLOOR PLAY MATS, HIGHCHAIRS, HIGHCHAIR PADS, INFANT BOUNCERS, INFANT CARRIERS, INFANT SEATS, INFANT SWINGS, INFANT WALKERS, NURSING PADS, NURSING

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

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PILLOWS, PLAYPEN SIDE PADS, PLAYARDS, PORTABLE HOOK-ON CHAIRS, AND STROLLERS; AND

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

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

S 37-0903. SMOLDER RESISTANCE STANDARDS.

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

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

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

S 2. The commissioner of the New York state division of homeland security and emergency services, in consultation with the New York state office of fire prevention and control, shall on or before February 1, 2018, prepare a report to be delivered to the governor and legislature assessing emerging fire barrier materials and other relevant technologies to examine their open flame resistant properties, evaluate their cost effectiveness and determine their applicability in open flame testing of upholstered furniture as defined in section 37-0901 of the environmental conservation law, as added by section one of this act. The commissioner shall consult with interested stakeholders and incorporate findings from similar research performed by the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI).

S 3. This act shall take effect immediately.