

5585

2015-2016 Regular Sessions

I N S E N A T E

May 15, 2015

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed 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:

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:

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

22 (B) CUSHIONS AND PADS DESIGNED FOR OUTDOOR USE;

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

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

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1 (D) BASSINETS, BOOSTER SEATS, CAR SEATS, CHANGING PADS, FLOOR PLAY
2 MATS, HIGHCHAIRS, HIGHCHAIR PADS, INFANT BOUNCERS, INFANT CARRIERS,
3 INFANT SEATS, INFANT SWINGS, INFANT WALKERS, NURSING PADS, NURSING
4 PILLOWS, PLAYPEN SIDE PADS, PLAYARDS, PORTABLE HOOK-ON CHAIRS, AND
5 STROLLERS; AND

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

16 2. "RETAILER" MEANS A PERSON WHO SELLS ANY ARTICLE OF UPHOLSTERED
17 FURNITURE TO A CONSUMER OR USER OF THE ARTICLE AS PURCHASED.
18 S 37-0903. SMOLDER RESISTANCE STANDARDS.

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

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

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

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

47 S 3. This act shall take effect immediately.