

3368

2017-2018 Regular Sessions

I N A S S E M B L Y

January 27, 2017

Introduced by M. of A. BRINDISI, SKOUFIS, HUNTER, GOTTFRIED, KAVANAGH, ROZIC, SEPULVEDA -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the use of chemical flame retardants

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 CHEMICAL FLAME RETARDANTS

5 SECTION 37-0901. DEFINITIONS.

6 37-0903. PROHIBITION ON THE USE OF CHEMICAL FLAME RETARDANTS.

7 37-0905. INCREASED FIRE SAFETY.

8 § 37-0901. DEFINITIONS. AS USED IN THIS TITLE:

9 1. "CHEMICAL FLAME RETARDANTS" SHALL MEAN ANY HALOGENATED CHEMICAL
10 FLAME RETARDANT, INCLUDING BUT NOT LIMITED TO TDCPP TRIS (1, 3 DICHOLO-
11 RO-2-PROPYL) PHOSPHATE, AND ANY PHOSPHORUS-BROMINE FLAME RETARDANTS.

12 2. "RESIDENTIAL UPHOLSTERED FURNITURE" SHALL MEAN A SOFA, LOVESEAT,
13 CHAIR, OTTOMAN, FOOTSTOOL, OR OTHER ITEM OF FURNITURE, INTENDED FOR
14 INDOOR USE IN A HOME THAT CONSISTS, IN WHOLE OR IN PART, OF LEATHER,
15 PLASTIC, FABRIC OR OTHER MATERIAL THAT CONTAINS COTTON, WOOL, POLYURE-
16 THANE OR OTHER NATURAL OR SYNTHETIC MATERIAL THAT IS PLACED IN CUSHIONS
17 OR ON THE FRAME OF THE FURNITURE.

18 § 37-0903. PROHIBITION ON THE USE OF CHEMICAL FLAME RETARDANTS.

19 1. BEGINNING JULY FIRST, TWO THOUSAND EIGHTEEN, NO PERSON, FIRM, PART-
20 NERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL
21 SELL OR OFFER FOR SALE ANY RESIDENTIAL UPHOLSTERED FURNITURE THAT
22 CONTAINS CHEMICAL FLAME RETARDANTS INTENTIONALLY-ADDED IN ORDER TO
23 PROVIDE A SPECIFIC CHARACTERISTIC, APPEARANCE OR QUALITY, TO PERFORM A
24 SPECIFIC FUNCTION, OR FOR ANY OTHER PURPOSE.

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

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1 2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SALE OR
2 DISTRIBUTION OF RESIDENTIAL UPHOLSTERED FURNITURE RESOLD OR OFFERED FOR
3 RESALE, OR DISTRIBUTED BY CONSUMERS FOR CONSUMER USE.

4 § 37-0905. INCREASED FIRE SAFETY.

5 1. BEGINNING DECEMBER FIRST, TWO THOUSAND TWENTY, EACH MANUFACTURER OF
6 RESIDENTIAL UPHOLSTERED FURNITURE THAT IS SOLD OR OFFERED FOR SALE IN
7 THE STATE SHALL CERTIFY TO THE DEPARTMENT THAT ANY RESIDENTIAL UPHOL-
8 STERED FURNITURE SOLD OR OFFERED FOR SALE IN THE STATE MEETS THE
9 REQUIREMENTS OF THE OPEN FLAME FLAMMABILITY STANDARD.

10 2. A. FOR PURPOSES OF THIS SECTION, "OPEN FLAME FLAMMABILITY STANDARD"
11 SHALL MEAN A STANDARD, DEVELOPED PURSUANT TO RULES AND REGULATIONS OF
12 THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF FIRE PREVENTION AND
13 CONTROL, REQUIRING RESIDENTIAL UPHOLSTERED FURNITURE TO NOT LEAD TO
14 FLASHOVER FOR AT LEAST FIFTEEN MINUTES OF TIME. SUCH STANDARD SHALL BE
15 REVIEWED FOR EFFECTIVENESS NO LESS THAN EVERY TWO YEARS, WITH SUCH
16 REVIEW INCLUDING, AT A MINIMUM, EXAMINATION OF THE STANDARDS USED IN
17 OTHER STATES.

18 B. FOR THE PURPOSES OF THIS SECTION "FLASHOVER" SHALL MEAN THE POINT
19 AT WHICH ALL EXPOSED SURFACES OF THE RESIDENTIAL UPHOLSTERED FURNITURE
20 REACH IGNITION TEMPERATURES AND FIRE SPREADS RAPIDLY.

21 C. FOR THE PURPOSES OF THIS SECTION "MANUFACTURER" SHALL MEAN A
22 PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR
23 CORPORATION THAT ASSEMBLES OR SUBSTANTIALLY ASSEMBLES RESIDENTIAL UPHOL-
24 STERED FURNITURE FOR SALE IN THE STATE OR IMPORTS RESIDENTIAL UPHOL-
25 STERED FURNITURE FOR SALE IN THE STATE.

26 3. THE DEPARTMENT MAY, FOLLOWING PUBLIC HEARINGS, ADOPT RULES AND
27 REGULATIONS AUTHORIZING AN EXEMPTION TO SUBDIVISION ONE OF SECTION
28 37-0903 OF THIS TITLE UPON A DETERMINATION BY THE COMMISSIONER THAT THE
29 PROPOSED CHEMICAL FLAME RETARDANT WILL NOT NEGATIVELY AFFECT HUMAN
30 HEALTH OR THE ENVIRONMENT. SUCH DETERMINATION MAY ONLY BE MADE AFTER THE
31 COMPLETION OF A COMPREHENSIVE HEALTH IMPACT ASSESSMENT CONDUCTED BY THE
32 DEPARTMENT OF HEALTH, FOLLOWING A MODEL RECOMMENDED BY THE CENTERS FOR
33 DISEASE CONTROL AND PREVENTION.

34 § 2. This act shall take effect on the thirtieth day after it shall
35 have become a law; provided however, that section 37-0905 of the envi-
36 ronmental conservation law as added by section one of this act shall
37 take effect June 1, 2020; provided, however, that the commissioner of
38 environmental conservation is authorized and directed to promulgate any
39 rules and regulations necessary to implement the provisions of this act
40 on or before such effective date.