STATE OF NEW YORK

1367

2019-2020 Regular Sessions

IN SENATE

January 14, 2019

Introduced by Sens. RITCHIE, BAILEY, BENJAMIN, BRESLIN, BROOKS, CARLUCCI, COMRIE, FELDER, FUNKE, GALLIVAN, GIANARIS, HOYLMAN, KAMINSKY, KAVANAGH, KRUEGER, MAYER, RIVERA, ROBACH, SAVINO, SEPULVEDA, STAVISKY -- 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 prohibiting the use of chemical flame retardants

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

CHEMICAL FLAME RETARDANTS

Section 37-0901. Definitions.
37-0903. Prohibition on the use of chemical flame retardants.
37-0905. Increased fire safety.

§ 37-0901. Definitions. As used in this title:

1. "Chemical flame retardants" shall mean any halogenated chemical flame retardant, including but not limited to TDCPP Tris (1, 3 Dicholoro-2-propyl) phosphate, and any Phosphorus-Bromine flame retardants.

2. "Residential upholstered furniture" shall mean a sofa, loveseat, chair, ottoman, footstool, or other item of furniture, intended for indoor use in a home that consists, in whole or in part, of leather, plastic, fabric or other material that contains cotton, wool, polyurethane or other natural or synthetic material that is placed in cushions or on the frame of the furniture.

§ 37-0903. Prohibition on the use of chemical flame retardants.

1. Beginning July first, two thousand twenty, no person, firm, partnership, association, limited liability company or corporation shall sell or offer for sale any residential upholstered furniture that contains chemical flame retardants intentionally-added in order to

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

LBD03674-01-9

provide a specific characteristic, appearance or quality, to perform a specific function, or for any other purpose.

2. The provisions of this section shall not apply to the sale or distribution of residential upholstered furniture resold or offered for resale, or distributed by consumers for consumer use.

§ 37-0905. Increased fire safety.

1. Beginning December first, two thousand twenty-two, each manufacturer of residential upholstered furniture that is sold or offered for sale in the state shall certify to the department that any residential upholstered furniture sold or offered for sale in the state meets the requirements of the open flame flammability standard.

2. a. For purposes of this section, "open flame flammability standard" shall mean a standard, developed pursuant to rules and regulations of the department, in consultation with the office of fire prevention and control, requiring residential upholstered furniture to not lead to flashover for at least fifteen minutes of time. Such standard shall be reviewed for effectiveness no less than every two years, with such review including, at a minimum, examination of the standards used in other states.

b. For the purposes of this section "flashover" shall mean the point at which all exposed surfaces of the residential upholstered furniture reach ignition temperatures and fire spreads rapidly.

c. For the purposes of this section "manufacturer" shall mean a person, firm, partnership, association, limited liability company or corporation that assembles or substantially assembles residential upholstered furniture for sale in the state or imports residential upholstered furniture for sale in the state.

3. The department may, following public hearings, adopt rules and regulations authorizing an exemption to subdivision one of section 37-0903 of this title upon a determination by the commissioner that the proposed chemical flame retardant will not negatively affect human health or the environment. Such determination may only be made after the completion of a comprehensive health impact assessment conducted by the department of health, following a model recommended by the centers for disease control and prevention.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law; provided however, that section 37-0905 of the environmental conservation law as added by section one of this act shall take effect June 1, 2022; provided, however, that the commissioner of environmental conservation is authorized and directed to promulgate any rules and regulations necessary to implement the provisions of this act on or before such effective date.