

# 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:

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

### TITLE 9

#### CHEMICAL FLAME RETARDANTS

##### Section 37-0901. Definitions.

6 37-0903. Prohibition on the use of chemical flame retardants.

7 37-0905. Increased fire safety.

##### § 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 Dichloro-  
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.

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

18 1. Beginning July first, two thousand twenty, no person, firm, part-  
19 nership, association, limited liability company or corporation shall  
20 sell or offer for sale any residential upholstered furniture that  
21 contains chemical flame retardants intentionally-added in order to  
22

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

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

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

6 § 37-0905. Increased fire safety.

7 1. Beginning December first, two thousand twenty-two, each manufactur-  
8 er of residential upholstered furniture that is sold or offered for sale  
9 in the state shall certify to the department that any residential uphol-  
10 stered furniture sold or offered for sale in the state meets the  
11 requirements of the open flame flammability standard.

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

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

23 c. For the purposes of this section "manufacturer" shall mean a  
24 person, firm, partnership, association, limited liability company or  
25 corporation that assembles or substantially assembles residential uphol-  
26 stered furniture for sale in the state or imports residential uphol-  
27 stered furniture for sale in the state.

28 3. The department may, following public hearings, adopt rules and  
29 regulations authorizing an exemption to subdivision one of section  
30 37-0903 of this title upon a determination by the commissioner that the  
31 proposed chemical flame retardant will not negatively affect human  
32 health or the environment. Such determination may only be made after the  
33 completion of a comprehensive health impact assessment conducted by the  
34 department of health, following a model recommended by the centers for  
35 disease control and prevention.

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