

STATE OF NEW YORK

8214

IN SENATE

April 22, 2020

Introduced by Sen. KAMINSKY -- 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 regulation of chemicals in upholstered furniture, mattresses and electronic enclosures

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 amended
2 by adding a new title 10 to read as follows:

TITLE X

REGULATION OF CHEMICALS IN UPHOLSTERED FURNITURE, MATTRESSES AND ELECTRONIC ENCLOSURES

Section 37-1001. Definitions.

37-1003. Furniture, juvenile products, and mattresses.

37-1005. Exemptions.

37-1007. Electronic casings.

37-1009. Severability.

37-1011. Effect on other laws.

§ 37-1001. Definitions.

As used in this title:

1. "Covered flame retardant chemical" means any chemical that meets both of the following criteria:

(a) A functional use for the chemical is to resist or inhibit the spread of fire or as a synergist to chemicals that resist or inhibit the spread of fire; and

(b) The chemical is one of the following: a halogenated, organophosphorus, organonitrogen, or nanoscale chemical. As used in this title:

(i) "Halogenated chemical" is any chemical that contains one or more halogen elements, including fluorine, chlorine, bromine, or iodine.

(ii) "Organophosphorus chemical" is any chemical that contains one or more carbon elements and one or more phosphorus elements.

(iii) "Organonitrogen chemical" is any chemical that contains one or more carbon elements and one or more nitrogen elements.

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

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1 2. "Custom upholsterer" means a person who, either by himself or
2 herself or through employees or agents, repairs, reupholsters, recovers,
3 restores, or renews upholstered furniture, or who makes to order and
4 specification of the user any article of upholstered residential furni-
5 ture, using either new materials or owner's materials.

6 3. "Electronic display" means a display screen and associated elec-
7 tronics that, as its primary function, displays visual information from
8 wired or wireless sources.

9 4. "Juvenile product" means a consumer product designed for residen-
10 tial use by infants and children under twelve years of age, including,
11 but not limited to, a bassinet, booster seat, changing pad, floor play-
12 mat, highchair, highchair pad, infant bouncer, infant carrier, infant
13 seat, infant swing, infant walker, nursing pad, nursing pillow, playpen
14 side pad, playard, portable hook-on chair, stroller, and children's nap
15 mat. A juvenile product shall not mean (a) a food or beverage or an
16 additive to a food or beverage regulated by the United States Food and
17 Drug Administration; (b) a drug, biologic or medical device regulated by
18 the United States Food and Drug Administration.

19 5. "Mattress" has the same definition as that term is defined in
20 Section 1632.1 of Title 16 of the Code of Federal Regulations.

21 6. "Organohalogen flame retardant chemical" means a chemical that
22 contains one or more halogen elements, including fluorine, chlorine,
23 bromine, or iodine, bonded to carbon.

24 7. "Reupholstered furniture" means furniture whose original fabric,
25 padding, decking, barrier material, foam, or other resilient filling has
26 been replaced by a custom upholsterer, that has not been sold since the
27 time of the replacement.

28 8. "Upholstered furniture" means any item of furniture, that consists,
29 in whole or in part, of leather, plastic, fabric or other material that
30 contains cotton, wool, polyurethane or other natural or synthetic mate-
31 rial that is placed in cushions or on the frame of the furniture.

32 9. "Upholstered or reupholstered furniture component" means the sepa-
33 rate constituent parts of upholstered furniture, specifically cover
34 fabrics, barrier materials, resilient filling materials, and decking
35 materials.

36 § 37-1003. Furniture, juvenile products, and mattresses.

37 1. Beginning July first, two thousand twenty-two, no person shall sell
38 or offer for sale in the state of New York any new, not previously
39 owned, upholstered furniture, juvenile product, or mattress, that
40 contains, or a constituent component of which contains, any covered
41 flame retardant chemical, individually or in combination, at levels
42 above one thousand parts per million.

43 2. Beginning July first, two thousand twenty-one, a custom upholsterer
44 in the state of New York shall not repair, reupholster, re-cover,
45 restore, or renew upholstered furniture or reupholstered furniture using
46 replacement components that contain any covered flame retardant chemi-
47 cal, individually or in combination, at levels above one thousand parts
48 per million.

49 § 37-1005. Exemptions.

50 The prohibitions in section 37-1003 of this title shall not apply to
51 the following:

52 1. Electronic components of mattresses, juvenile products, reuphol-
53 stered furniture, or upholstered furniture, or any associated casing for
54 such electronic components.

55 2. Upholstered or reupholstered furniture components other than those
56 identified in subdivision seven of section 37-1001 of this title.

1 3. Thread or fiber when used for stitching mattress components togeth-
2 er.

3 4. Adult mattress components other than foam. As used in this subdivi-
4 sion, "adult mattress" means a mattress other than a toddler mattress,
5 crib mattress, or other infant sleep product.

6 § 37-1007. Electronic casings.

7 1. Beginning January first, two thousand twenty-three, no person shall
8 sell or offer for sale in the state of New York any electronic display
9 that contains an organohalogen flame retardant chemical in the enclosure
10 or stand of such electronic display.

11 2. Beginning one year after the effective date of this title, manufac-
12 turers shall report annually to the department the flame retardants used
13 in the enclosure or stand of the electronic display in a form to be
14 specified by the department.

15 § 37-1009. Severability.

16 If any provisions of this title, or any application of any provision
17 of this title, is held to be invalid, or to violate or be inconsistent
18 with any federal law or regulation, that shall not affect the validity
19 or effectiveness of any other provision of this title, or of any other
20 application of any provision of this title, which can be given effect
21 without that provision or application; and to that end, the provisions
22 and applications of this title are severable.

23 § 37-1011. Effect on other laws.

24 The provisions of this title shall not displace other New York state
25 laws except for the specific restrictions for specific products and
26 chemicals covered in this title.

27 § 2. Section 71-3703 of the environmental conservation law is amended
28 by adding a new subdivision 5 to read as follows:

29 5. Any person who violates any of the provisions of or who fails to
30 perform any duty imposed by sections 37-1003 and 37-1005 of this chapter
31 or any rule or regulation promulgated pursuant hereto, shall be liable
32 for a civil penalty not to exceed one thousand dollars for each day
33 during which such violation continues, and in addition thereto, such
34 person may be enjoined from continuing such violation. Such person shall
35 for a second violation be liable to the people of the state for a civil
36 penalty not to exceed two thousand five hundred dollars for each day
37 during which such violation continues.

38 § 3. This act shall take effect immediately.