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:

Section 1. Article 37 of the environmental conservation law is amended 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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2. "Custom upholsterer" means a person who, either by himself or herself or through employees or agents, repairs, reupholsters, recovers, restores, or renews upholstered furniture, or who makes to order and specification of the user any article of upholstered residential furniture, using either new materials or owner's materials.

3. "Electronic display" means a display screen and associated electronics that, as its primary function, displays visual information from wired or wireless sources.

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

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

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

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means furniture whose original fabric, padding, decking, barrier material, foam, or other resilient filling has been replaced by a custom upholsterer, that has not been sold since the time of the replacement.

8. "Upholstered furniture" means any item of furniture, 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.

9. "Upholstered or reupholstered furniture component" means the separate constituent parts of upholstered furniture, specifically cover fabrics, barrier materials, resilient filling materials, and decking materials.

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

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

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

§ 37-1005. Exemptions.

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

1. Electronic components of mattresses, juvenile products, reupholstered furniture, or upholstered furniture, or any associated casing for such electronic components.

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

3. Thread or fiber when used for stitching mattress components together.

4. Adult mattress components other than foam. As used in this subdivision, "adult mattress" means a mattress other than a toddler mattress, crib mattress, or other infant sleep product.

§ 37-1007. Electronic casings.

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

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

§ 37-1009. Severability.

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

§ 37-1011. Effect on other laws.

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

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

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

§ 3. This act shall take effect immediately.