

STATE OF NEW YORK

8723

IN ASSEMBLY

January 11, 2022

Introduced by M. of A. ENGLEBRIGHT -- read once and referred 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 elec-
tronic enclosures

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The title heading of title 10 of article 37 of the environ-
2 mental conservation law, as added by a chapter of the laws of 2021
3 amending the environmental conservation law relating to the regulation
4 of chemicals in upholstered furniture, mattresses and electronic enclo-
5 sures, as proposed in legislative bills numbers S. 4630-B and A. 5418-B,
6 is amended to read as follows:

7 TITLE [~~*~~] 10

8 § 2. Subdivisions 3 and 9 of section 37-1001 of the environmental
9 conservation law, as added by a chapter of the laws of 2021 amending the
10 environmental conservation law relating to the regulation of chemicals
11 in upholstered furniture, mattresses and electronic enclosures, as
12 proposed in legislative bills numbers S. 4630-B and A. 5418-B, are
13 amended to read as follows:

14 3. "Custom upholsterer" means a person who, either by himself or
15 herself or through employees or agents, repairs, reupholsters, recovers,
16 restores, or renews upholstered furniture [~~, or who makes to order and
17 specification of the user any article of upholstered residential furni-
18 ture, using either new materials or owner's materials~~]. A custom uphol-
19 sterer shall not include any manufacturer of new, ready to be sold
20 furniture, or new made to order furniture.

21 9. "Organohalogen flame retardant chemical" means a chemical that
22 meets both of the following criteria:

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

26 (b) The chemical contains one or more halogen elements, including
27 fluorine, chlorine, bromine, or iodine, bonded to carbon.

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

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1 § 3. Section 37-1003 of the environmental conservation law, as added
2 by a chapter of the laws of 2021 amending the environmental conservation
3 law relating to the regulation of chemicals in upholstered furniture,
4 mattresses and electronic enclosures, as proposed in legislative bills
5 numbers S. 4630-B and A. 5418-B, is amended to read as follows:
6 § 37-1003. Furniture and mattresses.

7 1. Beginning [~~January~~] December first, two thousand twenty-four, no
8 person shall sell or offer for sale in the state of New York any new,
9 not previously owned, upholstered furniture or mattress, that contains,
10 or a constituent component of which contains, any [~~intentionally added~~]
11 covered flame retardant chemical, individually or in combination, that
12 is any of the following:

- 13 (a) At or above levels set by the department in regulation; or
14 (b) Intentionally added.

15 2. Beginning [~~January~~] December first, two thousand [~~twenty-three~~]
16 twenty-five, a custom upholsterer in the state of New York shall not
17 repair, reupholster, re-cover, restore, or renew upholstered furniture
18 or reupholstered furniture using replacement components that contain any
19 [~~intentionally added~~] covered flame retardant chemical, individually or
20 in combination, that is any of the following:

- 21 (a) At or above levels set by the department in regulation; or
22 (b) Intentionally added.

23 § 4. Subdivision 2 of section 37-1005 of the environmental conserva-
24 tion law, as added by a chapter of the laws of 2021 amending the envi-
25 ronmental conservation law relating to the regulation of chemicals in
26 upholstered furniture, mattresses and electronic enclosures, as proposed
27 in legislative bills numbers S. 4630-B and A. 5418-B, is amended to read
28 as follows:

29 2. Upholstered or reupholstered furniture components other than those
30 identified in subdivision [~~seven~~] thirteen of section 37-1001 of this
31 title.

32 § 5. Section 37-1007 of the environmental conservation law, as added
33 by a chapter of the laws of 2021 amending the environmental conservation
34 law relating to the regulation of chemicals in upholstered furniture,
35 mattresses and electronic enclosures, as proposed in legislative bills
36 numbers S. 4630-B and A. 5418-B, is amended to read as follows:

37 § 37-1007. Electronic display.

38 Beginning [~~January~~] December first, two thousand twenty-four, no
39 person shall sell or offer for sale in the state of New York any elec-
40 tronic display that contains [~~an intentionally added~~], in the enclosure
41 or stand of such electronic display, any organohalogen flame retardant
42 chemical [~~in the enclosure or stand of such electronic display~~], indi-
43 vidually or in combination, that is any of the following:

- 44 (a) At or above levels set by the department in regulation; or
45 (b) Intentionally added.

46 § 6. Subdivision 2 of section 37-1009 of the environmental conserva-
47 tion law, as added by a chapter of the laws of 2021 amending the envi-
48 ronmental conservation law relating to the regulation of chemicals in
49 upholstered furniture, mattresses and electronic enclosures, as proposed
50 in legislative bills numbers S. 4630-B and A. 5418-B, is amended to read
51 as follows:

52 2. Beginning one year after the effective date of this title, no elec-
53 tronic display shall be sold in the state unless the manufacturer has
54 submitted an annual report [~~to the department~~] identifying all of the
55 organohalogen flame [~~retardants~~] retardant chemicals used in the enclo-

1 sure or stand of the electronic display in a form determined by the
2 department.

3 § 7. Sections 37-1011 and 37-1013 of the environmental conservation
4 law, as added by a chapter of the laws of 2021 amending the environ-
5 mental conservation law relating to the regulation of chemicals in
6 upholstered furniture, mattresses and electronic enclosures, as proposed
7 in legislative bills numbers S. 4630-B and A. 5418-B, are renumbered
8 sections 37-1013 and 37-1015 and a new section 37-1011 is added to read
9 as follows:

10 § 37-1011. Certification of compliance.

11 1. For the purpose of this section the following terms shall have the
12 following meanings:

13 (a) "covered products" shall mean:

14 (i) mattresses, upholstered furniture, or electronic displays; or

15 (ii) upholstered or reupholstered furniture components for custom
16 upholsterers.

17 (b) "manufacturer" shall mean a person who, for sale in the state:

18 (i) assembles or substantially assembles covered products;

19 (ii) manufactures covered products under its own brand name or under
20 any other brand name;

21 (iii) sells covered products under its own brand name;

22 (iv) owns a brand name that it licenses to another person for use on
23 covered products;

24 (v) imports covered products; or

25 (vi) manufactures covered products without affixing a brand name.

26 2. No person that sells covered products shall be held in violation of
27 this title if they can show that they relied in good faith on the writ-
28 ten assurance of the manufacturer that such covered products met the
29 requirements of this title. Such written assurance shall take the form
30 of a certificate of compliance stating that such covered product is in
31 compliance with the requirements of this title, provided however, where
32 compliance is achieved under an exemption provided in section 37-1005 of
33 this title, the certificate shall state the specific basis upon which
34 the exemption is claimed. The certificate of compliance shall be signed
35 by an authorized official of the manufacturer.

36 § 8. This act shall take effect on the same date and in the same
37 manner as a chapter of the laws of 2021 amending the environmental
38 conservation law relating to the regulation of chemicals in upholstered
39 furniture, mattresses and electronic enclosures, as proposed in legisla-
40 tive bills numbers S. 4630-B and A. 5418-B, takes effect.