

# STATE OF NEW YORK

5418

2021-2022 Regular Sessions

## IN ASSEMBLY

February 16, 2021

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. 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 and mattresses.

37-1005. Exemptions.

37-1007. Electronic display.

37-1009. Reporting.

37-1011. Severability.

37-1013. Regulations.

##### § 37-1001. Definitions.

As used in this title:

1. "Consumer product" means any product that is regularly used or  
purchased to be used for personal, family or household purposes. Consum-  
er 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 Adminis-  
tration; or (b) a drug, biologic or medical device regulated by the  
United States Food and Drug Administration.

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

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

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

4 (b) The chemical is one of the following: a halogenated, organophos-  
5 phorus, organonitrogen, or nanoscale chemical. As used in this title:

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

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

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

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

17 4. "Electronic display" means a consumer product with a display screen  
18 and associated electronics that, as its primary function, displays visu-  
19 al information from wired or wireless sources and is available for  
20 purchase by individuals or households for personal use. Electronic  
21 display shall not include: (a) any electronic display with a screen area  
22 smaller than or equal to one hundred square centimeters or fifteen and  
23 one-half square inches; (b) projectors; (c) virtual reality headsets; or  
24 (d) all-in-one video conference systems.

25 5. "Intentionally added" shall have the same meaning as "intentionally  
26 added chemical" in subdivision eleven of section 37-0901 of this arti-  
27 cle.

28 6. "Mattress" means a ticking filled with a resilient material used  
29 alone or in combination with other products intended or promoted for  
30 sleeping upon.

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

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

38 9. "Ticking" means the outermost layer of fabric or related material  
39 that encloses the core and upholstery materials of a mattress or  
40 mattress pad. A mattress ticking may consist of several layers of fabric  
41 or related materials quilted together.

42 10. "Upholstered furniture" means any item of furniture, that  
43 consists, in whole or in part, of leather, plastic, fabric or other  
44 material that contains cotton, wool, polyurethane or other natural or  
45 synthetic material that is placed in cushions or on the frame of the  
46 furniture.

47 11. "Upholstered or reupholstered furniture component" means the sepa-  
48 rate constituent parts of upholstered furniture, specifically cover  
49 fabrics, barrier materials, resilient filling materials, and decking  
50 materials.

51 § 37-1003. Furniture and mattresses.

52 1. Beginning December thirty-first, two thousand twenty-three, no  
53 person shall sell or offer for sale in the state of New York any new,  
54 not previously owned, upholstered furniture or mattress, that contains,  
55 or a constituent component of which contains, any intentionally added  
56 covered flame retardant chemical, individually or in combination.

1 2. Beginning December thirty-first, two thousand twenty-two, a custom  
2 upholsterer in the state of New York shall not repair, reupholster,  
3 re-cover, restore, or renew upholstered furniture or reupholstered  
4 furniture using replacement components that contain any intentionally  
5 added covered flame retardant chemical, individually or in combination.  
6 § 37-1005. Exemptions.

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

9 1. Electronic components of mattresses, reupholstered furniture, or  
10 upholstered furniture, or any associated casing for such electronic  
11 components.

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

14 3. Thread or fiber when used for stitching mattress components togeth-  
15 er.

16 § 37-1007. Electronic display.

17 Beginning January first, two thousand twenty-four, no person shall  
18 sell or offer for sale in the state of New York any electronic display  
19 that contains an intentionally added organohalogen flame retardant chem-  
20 ical in the enclosure or stand of such electronic display.

21 § 37-1009. Reporting.

22 1. For the purposes of this section, "manufacturer" shall mean a  
23 person who: (a) assembles or substantially assembles electronic displays  
24 for sale in the state; (b) manufactures electronic displays, under its  
25 own brand name or under any other brand name, for sale in the state; (c)  
26 sells, under its own brand name, electronic displays in the state; (d)  
27 owns a brand name that it licenses to another person for use on elec-  
28 tronic displays sold in the state; (e) imports electronic displays for  
29 sale in the state; or (f) manufactures electronic displays for sale in  
30 the state without affixing a brand name.

31 2. Beginning one year after the effective date of this title, no elec-  
32 tronic display shall be sold in the state unless the manufacturer has  
33 submitted an annual report to the department identifying all of the  
34 flame retardants used in the enclosure or stand of the electronic  
35 display in a form determined by the department.

36 § 37-1011. Severability.

37 If any clause, sentence, paragraph, subdivision, section or part of  
38 this act shall be adjudged by any court of competent jurisdiction to be  
39 invalid, such judgment shall not affect, impair, or invalidate the  
40 remainder thereof, but shall be confined in its operation to the clause,  
41 sentence, paragraph, subdivision, section or part thereof directly  
42 involved in the controversy in which such judgment shall have been  
43 rendered. It is hereby declared to be the intent of the legislature that  
44 this act would have been enacted even if such invalid provisions had not  
45 been included herein.

46 § 37-1013. Regulations.

47 The department may adopt any rules and regulations it deems necessary  
48 to implement the provisions of this title.

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

51 5. Any person who violates any of the provisions of or who fails to  
52 perform any duty imposed by sections 37-1003 and 37-1007 of this chapter  
53 or any rule or regulation promulgated pursuant hereto, shall be liable  
54 for a civil penalty not to exceed one thousand dollars for each day  
55 during which such violation continues, and in addition thereto, such  
56 person may be enjoined from continuing such violation. Such person shall

1 for a second violation be liable to the people of the state for a civil  
2 penalty not to exceed two thousand five hundred dollars for each day  
3 during which such violation continues.  
4 § 3. This act shall take effect immediately.