# 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 electronic enclosures

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

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

TITLE [~~X~~] **10**

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

3. "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~~]. **A custom upholsterer shall not include any manufacturer of new, ready to be sold furniture, or new made to order furniture.**

9. "Organohalogen flame retardant chemical" means a 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** contains one or more halogen elements, including 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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§ 3. Section 37-1003 of the environmental conservation law, as added by a chapter of the laws of 2021 amending the environmental conservation law relating to the regulation of chemicals in upholstered furniture, mattresses and electronic enclosures, as proposed in legislative bills numbers S. 4630-B and A. 5418-B, is amended to read as follows:

§ 37-1003. Furniture and mattresses.

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

(a) At or above levels set by the department in regulation; or

(b) Intentionally added.

2. Beginning [~~January~~] December first, two thousand [~~twenty-three~~] twenty-five, 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 [~~intentionally added~~] covered flame retardant chemical, individually or in combination, that is any of the following:

(a) At or above levels set by the department in regulation; or

(b) Intentionally added.

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

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

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

§ 37-1007. Electronic display.

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

(a) At or above levels set by the department in regulation; or

(b) Intentionally added.

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

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

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

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

**§ 37-1011. Certification of compliance.**

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

**(a) "covered products" shall mean:**

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

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

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

**(i) assembles or substantially assembles covered products;**

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

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

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

**(v) imports covered products; or**

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

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

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