

LAWS OF DELAWARE
VOLUME 83
CHAPTER 398
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 77
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE PROHIBITION OF HARMFUL FLAME RETARDANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subtitle II, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 25G. Chemical Flame Retardant Restrictions.

§ 2501G. Definitions.

For purposes of this chapter:

(1) “Children’s product” means product designed for residential use by infants and children under 12 years old. “Children’s product” includes a bassinet, booster seat, changing pad, floor play mat, highchair pad, infant bouncer, infant carrier, infant seat, infant swing, infant walker, nursing pad, nursing pillow, playpen side pad, play yard, portable hook-on chair, stroller, mattress, and children’s nap mat.

(2) “Flame-retardant chemical” means any of the following:

- a. 2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB), chemical abstracts service number 183658-27-7.
- b. Antimony, chemical abstracts service number 7440-36-0.
- c. Bis(2-ethylhexyl) tetrabromophthalate (TBPH), chemical abstracts service number 26040-51-7.
- d. Chlorinated paraffins, chemical abstracts service number 85535-84-8.
- e. Decabromodiphenyl ether, chemical abstracts service number 1163-19-5.
- f. Hexabromocyclododecane (HBCD), chemical abstracts service number 25637-99-4.
- g. Tetrabromobisphenol A (TBBPA), chemical abstracts service number 79-94-7.
- h. Tris(1,3-dichloro-2-propyl)phosphate (TDCPP), chemical abstracts service number 13674-87-8.
- i. Tris(2-chloroethyl)phosphate (TCEP), chemical abstracts service number 115-96-8.
- j. Tris(1-chloro-2-propyl)phosphate (TCPP), chemical abstracts service number 13674-84-5.

(3) “Manufacture” means making a product. If the person who makes the product or whose brand name is affixed to the product does not do business in the United States, “manufacture” means assembling, importing, or distributing a product.

(4) “Mattress” means a ticking filled with a resilient material used alone or in combination with other products intended or promoted for sleeping upon. “Mattress” includes adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, futons, water beds and air mattresses which contain upholstery material between the ticking and the mattress core, and any detachable mattresses used in any item of upholstered furniture such as convertible sofa bed mattresses, corner group mattresses, day bed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses as defined and not excluded under 16 C.F.R § 1632.1.

(5) “Organohalogen” means a class of chemicals that includes any chemical containing 1 or more halogen elements bonded to carbon.

(6) “Reupholstered furniture” means furniture whose original fabric, padding, decking, barrier material, foam, or other resilient filling has been replaced by a custom upholsterer and has not been sold since the time of the replacement.

(7) “Upholstered furniture” means residential furniture intended for indoor use in a home or other dwelling intended for residential occupancy that consists in whole or in part of resilient cushioning materials enclosed within a covering consisting of fabric or related materials.

§ 2502G. Flame retardant prohibitions.

A person may not manufacture, sell, offer to sell, or distribute any of the following products if the product contains or has a constituent component that contains more than 0.1% of a flame-retardant chemical or more than 0.1% of a mixture that includes 1 or more flame-retardant chemicals:

(1) Upholstered furniture, if the flame-retardant chemical is in the fabric, barrier or decking materials, covering, or cushioning materials.

(2) Children's products.

§ 2503G. Organohalogen prohibitions.

A person may not manufacture, sell, offer to sell, or distribute a mattress that contains, or has a constituent component that contains, more than 0.1% of an organohalogen or more than 0.1% of a mixture that includes 1 or more organohalogens.

§ 2504G. Exemptions.

(a) Sections 2502G and 2503G of this title do not apply to any of the following:

(1) Used upholstered furniture.

(2) Used mattresses.

(3) Upholstered and reupholstered furniture purchased for public use in public facilities.

(4) Thread or fiber when used for stitching mattress components together.

(5) Used children’s products or children’s products that are used in products or components as follows:

a. Are not primarily intended for use in the home, such as for motor vehicles, watercraft, aircraft, or other vehicles.

b. Are subject to 49 C.F.R. Part 571 regarding parts and products used in vehicles and aircraft.

(6) Components of an adult mattress other than foam.

(7) Electronic components of a children’s product, mattress, or upholstered furniture, or any associated enclosure or casing for the electronic components.

(8) A product transferred to a vehicle at a warehouse or distribution center for delivery in another state to any of the following:

a. A location under the same ownership as the warehouse or distribution center.

b. A person acquiring the product for resale in another state.

(b) This chapter does not apply to mattresses or upholstered furniture that can be sold or distributed in commerce in California.

§ 2505G. Enforcement.

A violation of this chapter shall be deemed an unlawful practice under § 2513 of this title and a violation of Subchapter II of Chapter 25 of this title.

Section 2. This Act takes effect on July 1, 2023.

Approved August 4, 2022