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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 77

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:

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

3 CHAPTER 25G. PROHIBITION ON HARMFUL FLAME RETARDANTS.

4 § 2501G. Definitions.

5 For purposes of this chapter:

6 (1) “Electronic enclosure” means the plastic housing that encloses electronic components and includes the
7 electronic components.

8 (2) “Children’s product” means product designed for residential use by infants and children under 12 years
9 old. “Children’s product” includes a bassinets, booster seat, changing pad, floor play mat, highchair pad, infant bouncer,
10 infant carrier, infant seat, infant swing, infant walker, nursing pad, nursing pillow, playpen side pad, playard, portable
11 hook-on chair, stroller, mattress, and children’s nap mat. “Children’s product” does not mean an electronic enclosure
12 inside a product or a consumer electronic product.

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

14 a. 2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB), chemical abstracts service number 183658-27-7.

15 b. Antimony, chemical abstracts service number 7440-36-0.

16 c. Bis(2-ethylhexyl) tetrabromophthalate (TBPH), chemical abstracts service number 26040-51-7.

17 d. Chlorinated paraffins, chemical abstracts service number 85535-84-8.

18 e. Decabromodiphenyl ether, chemical abstracts service number 1163-19-5.

19 f. Hexabromocyclododecane (HBCD), chemical abstracts service number 25637-99-4.

20 g. Tetrabromobisphenol A (TBBPA), chemical abstracts service number 79-94-7.

21 h. Tris(1,3-dichloro-2-propyl)phosphate (TDCPP), chemical abstracts service number 13674-87-8.

22 i. Tris(2-chloroethyl)phosphate (TCEP), chemical abstracts service number 115-96-8.

23 j. Tris(1-chloro-2-propyl)phosphate (TCPP), chemical abstracts service number 13674-84-5.

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

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

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

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

38 (8) “Upholstered furniture” means residential furniture intended for indoor use in a home or other dwelling
39 intended for residential occupancy that consists in whole or in part of resilient cushioning materials enclosed within a
40 covering consisting of fabric or related materials. “Upholstered furniture” does not mean an electronic enclosure inside
41 residential furniture.

42 § 2502G. Flame retardant prohibitions.

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

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

48 (2) Children's products.

49 § 2503G. Organohalogen prohibitions.

50 A person may not manufacture, sell, offer to sell, or distribute any of the following products if the product contains
51 or has a constituent component that contains more than 0.1% of an organohalogen or more than 0.1% of a mixture that
52 includes 1 or more organohalogen:

53 (1) Mattresses.

54 (2) Electronic enclosures.

55 § 2504G. Exemptions.

56 (a) Section 2502G of this title does not apply to any of the following products:

57 (1) Used upholstered furniture.

58 (2) Used mattresses.

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

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

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

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

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

65 (6) A commodity transferred to a vehicle at a warehouse or distribution center for delivery in another state to
66 any of the following:

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

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

69 (b) Section 2503G of this title does not apply to a commodity transferred to a vehicle at a warehouse or
70 distribution center for delivery in another state to any of the following:

71 (1) A location under the same ownership as the warehouse or distribution center.

72 (2) A person acquiring the product for resale in another state.

73 § 2505G. Enforcement.

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

76 Section 2. This Act takes effect on July 1, 2021.

SYNOPSIS

This Act prohibits the manufacture, sale, or distribution of children's products, upholstered furniture used in residences, and mattresses that contain harmful flame retardant chemicals. These flame retardants have been found to cause cancer, particularly to firefighters who are extinguishing fires that involve products that contain these chemicals. This Act does not apply to any of the following:

1. The sale of used products.
 2. Furniture purchased for public use in public facilities
 3. Thread or fiber used for stitching mattress components.
 4. Children's products that are not primarily intended for use in the home.
 5. Products being transferred to a vehicle at a warehouse or distribution center for delivery in another state.
 6. Electronic components.
- This Act takes effect on July 1, 2021.