



SPONSOR: Rep. Kowalko & Sen. Ennis & Sen. Lawson
Reps. Bolden, Heffernan, Mitchell; Sen. Hansen

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 117

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 25E. PROHIBITION ON HARMFUL FLAME RETARDANTS.

§ 2501E. Definitions.

For purposes of this chapter:

(1) “Electronic enclosure” means the plastic housing that encloses the electronic components of upholstered furniture.

(2) “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, highchair pad, infant bouncer, infant carrier, infant seat, infant swing, infant walker, nursing pad, nursing pillow, playpen side pad, playard, portable hook-on chair, stroller, mattress, and children’s nap mat.

(3) “Flame-retardant chemical” means a chemical that has the functional use to resist or inhibit the spread of fire or as a synergist to chemicals that resist or inhibit the spread of fire, including, a chemical for which the term “flame retardant” appears on the Occupational Safety and Health Administration substance safety data sheet under 29 C.F.R. § 19100.1200(g) and all of the following:

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

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

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

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

e. Antimony, chemical abstracts service number 7440-36-0.

f. Hexabromocyclododecane, chemical abstracts service number 25637-99-4.

g. Bis(2-ethylhexyl)-3,4,5,6-tetrabromophthalate (TBPH), chemical abstracts service number 26040-51-7.

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

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

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

(4) “Manufacturer” means a person who makes a product or imports or distributes a product in the United States if the person who manufactured or assembled the product or whose brand name is affixed to the product does not do business in the United States.

(5) “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.

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

(7) “Retailer” means a person who sells a product other than for resale and who did not manufacture or distribute the product.

(8) “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.

(9) “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.

§ 2502E. Flame retardant prohibitions.

(a) 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 one or more flame-retardant chemicals:

(1) Upholstered furniture, if the chemicals under this subsection are in the fabric, barrier or decking materials, covering, or cushioning materials.

(2) Children's products.

§ 2503E. Organohalogen prohibitions.

(a) 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 an organohalogen flame-retardant chemical or more than 0.1% of a mixture that includes one or more organohalogen flame-retardant chemicals:

(1) Mattresses.

(2) Electronic enclosures.

§ 2504E. Exemptions.

The prohibition in § 2502E of this section does not apply to any of the following products:

(1) Used upholstered furniture.

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

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

(4) 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.

§ 2505E. Penalties.

(a) A violation of this chapter is punished as follows:

(1) For a first violation, a fine not more than \$1,000.

(2) For a subsequent violation, a fine not more than \$5,000.

(b) Fines collected under this section must be deposited in the General Fund.

§ 2506E. Enforcement.

The Attorney General shall enforce this chapter. The Attorney General shall undertake all enforcement actions in accordance with Chapter 25 of Title 29.

Section 2. This Act takes effect on July 1, 2020.

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. This Act does not apply to the resale of these items. 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 takes effect on July 1, 2020.