



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

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1  
FOR  
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 25F. PROHIBITION ON HARMFUL FLAME RETARDANTS.

§ 2501F. 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. 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.

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

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

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

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

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

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

29 (5) "Mattress" means a ticking filled with a resilient material used alone or in combination with other  
30 products intended or promoted for sleeping upon. "Mattress" includes adult mattresses, youth mattresses, crib  
31 mattresses including portable crib mattresses, bunk bed mattresses, futons, water beds and air mattresses which  
32 contain upholstery material between the ticking and the mattress core, and any detachable mattresses used in any  
33 item of upholstered furniture such as convertible sofa bed mattresses, corner group mattresses, day bed mattresses,  
34 roll-a-way bed mattresses, high risers, and trundle bed mattresses as defined and not excluded under 16 C.F.R. §  
35 1632.1.

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

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39 foam, or other resilient filling has been replaced by a custom upholsterer and has not been sold since the time of  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

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

44 § 2502F. Flame retardant prohibitions.

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

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

50 (2) Children's products.

51           § 2503F. Organohalogen prohibitions.

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

55                   (1) Mattresses.

56                   (2) Electronic enclosures.

57           § 2504F. Exemptions.

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

59                   (1) Used upholstered furniture.

60                   (2) Used mattresses.

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

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

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

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

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

67           § 2505F. Enforcement.

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

70           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.

House Substitute No. 1 for House Bill No. 117 differs from House Bill No. 117 by making technical changes for internal consistency and for consistency with other provisions of the Code.