

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 603

Introduced by Assembly Member Dutra

February 22, 2001

An act to amend ~~and repeal Section 19161 of, and to add and repeal Section 19161.2 of, Sections 19089.5, 19161, and 19170 of the Business and Professions Code, relating to home furnishings.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 603, as amended, Dutra. Home furnishings.

(1) The Home Furnishings and Thermal Insulation Act, which establishes the Bureau of Home Furnishings and Thermal Insulation, requires, among other matters, that all mattresses manufactured for sale in this state as well as specified furniture sold or offered for sale for use in a place of public accommodation in this state and specified reupholstered furniture be fire retardant. Under the act, the failure to comply with these provisions is a crime.

This bill would require, on and after January 1, ~~2003~~ 2004, that all mattresses *and box springs* manufactured for sale in this state, except in specified establishments with automatic fire extinguishing systems ~~and mattresses required to higher requirements~~, be resistant to an open flame under a standard specified by the bureau. The bill would provide that this requirement is ~~repealed upon the enactment of a federal open flame resistance standard unless it is less stringent~~ *may be made applicable to other bedding products if the bureau concludes that they contribute to mattress fires. The bill would make these regulations inoperative if a flame resistance standard for mattresses and box*

springs is adopted under federal law and would require the bureau to report to the Legislature on its progress in developing these regulations.

(2) Existing provisions of the act authorize the chief of the bureau to set license fees not exceeding specified amounts for licenses under the act.

This bill would increase the maximum fees that could be set for an importer’s license and a furniture and bedding manufacturer’s license under the act.

(3) Because a violation of the bill’s expanded fire protection standard applicable to mattresses would be a crime, this bill would impose a state-mandated local program by expanding the scope of an existing crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) On average, 28,000 residential mattress fires occur
4 annually in the United States, killing 571 people, severely injuring
5 3,000 others, and causing three hundred thirty-four million dollars
6 (\$334,000,000) in property damage. Many of these victims are
7 young children. Nearly one-half of these fires, 13,000, are caused
8 by small open flame sources.

9 (2) The single greatest ignition factor in mattress and bedding
10 fires is a child playing with matches or a lighter. Children under
11 the age of five years start one-third of all mattress fires, and
12 children under the age of 14 years caused two-thirds of the open
13 flame mattress ignitions. On average, 75 percent of all fire deaths
14 are caused by smoke inhalation.

15 (3) The resistance of residential mattresses to smoldering
16 cigarettes was regulated in 1973 by the United States Consumer
17 Product Safety Commission (CPSC) under the federal Flammable



1 Fabrics Act (15 U.S.C. Sec. 1191 et seq.). However, the CPSC
2 standard in Sections 1632 and following of Title 16 of the Code of
3 Federal Regulations did not address the risk of open flame ignition
4 of mattresses or their specific components.

5 (4) Despite the CPSC regulations, the death rate per thousand
6 attributed to open flame mattress fires has actually increased since
7 the adoption of these regulations in 1973. The unregulated, yet
8 highly combustible, foam cushioning components in residential
9 mattresses constitute the primary fuel in a mattress fire. The foam
10 components in the mattress burn rapidly enough to prevent escape
11 and to cause severe burn or inhalation injuries before emergency
12 personnel can respond. There exists no tangible evidence of the
13 effect of CPSC regulations on open flame mattress ignition, or
14 with regard to the foam cushioning fuel component.

15 (5) The State of California recognizes that a proportionate
16 number of the deaths and injuries described in paragraph (1) from
17 mattress fires occur annually in this state. The severe burn victims
18 tend to be members of lower socioeconomic populations and are
19 treated at state-funded burn units under the Medi-Cal program.
20 The cost to initially treat a severely burned child in a state-funded
21 burn unit exceeds two hundred fifty thousand dollars (\$250,000)
22 per month, and this treatment lasts two to four months.

23 (6) The United Kingdom banned the use of foam in residential
24 mattresses in 1988. In the United States, many state and federal
25 facilities, including military facilities, dormitories, prisons,
26 mental health care facilities, and other state institutional buildings
27 are required to be furnished with flame retardant mattresses. The
28 state, therefore, recognizes that an elimination of the fire hazard
29 necessarily requires that the foam cushioning be either flame
30 retardant or isolated from ignition sources through the use of a fire
31 blocking layer known as a barrier. For more than 10 years,
32 mattresses have been made open flame resistant through the use of
33 modified foams and barriers.

34 (7) The State of California, therefore, recognizes that no
35 applicable federal flammability standard exists that either
36 addresses the open flame mattress fire risk or the open flame foam
37 cushioning risk. Further, the state of the art technology in open
38 flame resistant mattress components has advanced to the point that
39 these very risks can be minimized or eliminated by the inclusion
40 of this technology in residential mattresses. The federal cigarette



1 standard in Part 1632 of Title 16 of the Code of Federal
2 Regulations has not been revised in accordance with this
3 technology in either open flame mattress fire performance or in
4 open flame foam cushioning fire performance.

5 (b) The Legislature declares that because of an absence of
6 federal regulation, this act establishes an open flame flammability
7 standard for foam cushioning used in residential mattresses
8 manufactured for sale in the State of California.

9 SEC. 2. *Section 19089.5 of the Business and Professions*
10 *Code is amended to read:*

11 19089.5. Any upholstered furniture or mattress which is made
12 from or contains nonflame retardant cellular foam shall be labeled
13 in a manner approved by the chief. *On and after January 1, 2004,*
14 *all bedding that is made from or contains nonflame retardant*
15 *cellular foam shall also be labeled in a manner approved by the*
16 *chief.*

17 SEC. 3. Section 19161 of the Business and Professions Code
18 is amended to read:

19 19161. (a) All mattresses *and box springs* manufactured for
20 sale in this state, ~~including any mattress manufactured for sale for~~
21 ~~use in a hotel, motel, or other place of public accommodation in~~
22 ~~this state, shall~~ shall be fire retardant. *The bureau shall adopt*
23 *regulations no later than January 1, 2004, requiring that fire*
24 *retardant mattresses and box springs meet the resistance to open*
25 *flame test that uses a pass or fail performance criteria based on a*
26 *test method developed by the bureau or that is based on ASTM E*
27 *1590. If the bureau concludes that other bedding products*
28 *contribute to mattress fires, the regulations shall require the other*
29 *bedding products to be flame retardant under the resistance to*
30 *open flame test. If feasible, the bureau regulations shall permit a*
31 *manufacturer to comply with the resistance to open flame test by*
32 *testing a small scale version of its product. In developing these*
33 *regulations, the bureau may contract, cooperate, or otherwise*
34 *share resources with other government agencies, private*
35 *organizations, or independent contractors that it considers*
36 *appropriate for purposes of reviewing test criteria and methods,*
37 *equipment specifications, and other relevant subjects. These*
38 *regulations shall become inoperative upon the effective date of any*
39 *federal law or regulation establishing an open flame resistance*
40 *standard for mattresses and box springs. The bureau shall submit*



1 two reports to the Legislature on its progress in developing these
2 regulations. The bureau shall submit the first report on or before
3 July 1, 2002, and the second report on or before July 1, 2003.

4 (b) Requirements for flame resistant mattresses, box springs, or
5 other bedding products shall not apply to any hotel, motel, bed and
6 breakfast, inn, or similar transient lodging establishment that has
7 an automatic fire extinguishing system that conforms to the
8 specifications established in Section 904.1 of Title 24 of the
9 California Code of Regulations.

10 (c) All seating furniture sold or offered for sale by an importer,
11 manufacturer, or wholesaler for use in this state, including any
12 seating furniture sold to or offered for sale for use in a hotel, motel,
13 or other place of public accommodation in this state, and
14 reupholstered furniture to which filling materials are added, shall
15 be fire retardant and shall be labeled in a manner specified by the
16 bureau. “Fire

17 (d) “Fire retardant,” as used in this section, means a product
18 that meets the regulations adopted by the bureau. This does not
19 include furniture used exclusively for the purpose of physical
20 fitness and exercise.

21 ~~(b) This section shall remain in effect only until January 1,~~
22 ~~2003, and as of that date is repealed, unless a later enacted statute,~~
23 ~~that is enacted before January 1, 2003, deletes or extends that date.~~

24 ~~SEC. 3. Section 19161.2 is added to the Business and~~
25 ~~Professions Code, to read:~~

26 ~~19161.2. (a) All mattresses manufactured for sale in this state~~
27 ~~shall be resistant to open flame pursuant to the California~~
28 ~~Technical Bulletin 129 Test Method as issued by the California~~
29 ~~Bureau of Home Furnishings, or any other standard as the bureau~~
30 ~~may establish or adopt.~~

31 ~~(b) This section shall not apply to the following:~~

32 ~~(1) Any hotel, motel, bed and breakfast, inn, or similar~~
33 ~~transient lodging establishment that has an automatic fire~~
34 ~~extinguishing system that conforms to the specifications~~
35 ~~established in Section 904.1 of Title 24 of the California Code of~~
36 ~~Regulations.~~

37 ~~(2) Any mattresses required by federal, state, or municipal law~~
38 ~~to possess a greater level of open flame resistance than that~~
39 ~~specified in subdivision (a).~~



1 ~~(c) The bureau shall develop regulations that permit a mattress~~
2 ~~manufacturer to comply with the provisions of this section by~~
3 ~~testing a small-scale version of its product.~~

4 ~~(d) This section shall become operative on January 1, 2003.~~

5 ~~(e) This section shall become inoperative and is repealed upon~~
6 ~~the effective date of any federal law or regulation establishing an~~
7 ~~open flame resistance standard for finished mattresses, unless the~~
8 ~~federal law or regulation provides for an open flame resistance~~
9 ~~standard that is less stringent than the standard established or~~
10 ~~adopted by the bureau pursuant to subdivision (a).~~

11 *SEC. 4. Section 19170 of the Business and Professions Code*
12 *is amended to read:*

13 19170. (a) The fee imposed for the issuance and for the
14 biennial renewal of each license granted under this chapter shall
15 be set by the chief, with the approval of the director, at a sum not
16 more nor less than that shown in the following table:

	Maximum	Minimum
	fee	fee
18		
19		
20	\$540	\$120
21	\$750	
22		
23	540	120
24	750	
25		
26		
27	540	120
28	360	80
29	360	80
30	240	40
31	120	20
32	120	20

33
34 (b) Individuals who, in their own homes and without the
35 employment of any other person, make, sell, advertise, or contract
36 to make pillows, quilts, quilted pads, or comforters are exempt
37 from the fee requirements imposed by subdivision (a). However,
38 these individuals shall comply with all other provisions of this
39 chapter.



1 (c) Retailers who only sell “used” and “antique” furniture as
2 defined in Sections 19008.1 and 19008.2 are exempt from the fee
3 requirements imposed by subdivision (a). Those retailers are also
4 exempt from the other provisions of this chapter.

5 (d) A person who makes, sells, or advertises upholstered
6 furniture and bedding as defined in Sections 19006 and 19007, and
7 who also makes, sells, or advertises furniture used exclusively for
8 the purpose of physical fitness and exercise, shall comply with the
9 fee requirements imposed by subdivision (a).

10 ~~(e) It is the intent of the Legislature that upon the enactment of~~
11 ~~the amendments to this section, the two hundred twenty-four~~
12 ~~thousand dollars (\$224,000) unallocated reduction proposed in the~~
13 ~~1993-94 Governor’s Budget shall be restored to the Bureau of~~
14 ~~Home Furnishings and Thermal Insulation Fund.~~

15 ~~SEC. 4.~~

16 *SEC. 5.* No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

