

AMENDED IN ASSEMBLY MAY 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 706

**Introduced by Assembly Member Leno
(Coauthor: Assembly Member Hancock)**

February 22, 2007

An act to amend Sections 19161 and 19161.3 of the Business and Professions Code, and to add Chapter 11 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to fire retardants.

LEGISLATIVE COUNSEL'S DIGEST

AB 706, as amended, Leno. Fire retardants: toxic effects.

Existing law makes various findings related to the toxicity of certain fire retardants containing chemicals known as brominated fire retardants (BFRs) and chlorinated fire retardants (CFRs), and prohibits a person from manufacturing, processing, or distributing a flame-retardant part of a product containing more than one-tenth of 1% of prescribed retardants.

This bill would revise and extend the findings relating to fire retardants, and would, commencing January 1, 2010, require all seating, bedding, and furniture products to comply with certain requirements, including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants, *as defined*. *It would also require the Bureau of Home Furnishings and Thermal Insulation to enforce these provisions.*

Existing law, the Home Furnishings and Thermal Insulation Act, requires all mattresses and box springs manufactured for sale in this state to be fire retardant. Existing law requires the ~~Bureau of Home Furnishings and Thermal Insulation~~ *bureau* to adopt regulations requiring that fire retardant mattresses and box springs and other bedding products meet a specified resistance to open flame test.

This bill, commencing March 1, 2009, would require the bureau to modify its standards for prescribed bedding products sold or offered for sale in this state, including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants and be labeled as prescribed.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 “California Furniture Safety and Fire Prevention Act.”

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) Chemicals known as brominated fire retardants (BFRs) and
5 chlorinated fire retardants (CFRs) are widely used in California.
6 To meet stringent fire safety standards, manufacturers add BFRs
7 and CFRs to a multitude of products, including, but not limited to,
8 the flexible polyurethane foam used in commercial, residential,
9 and institutional furniture. On June 1, 2006, two categories of fire
10 retardants known as penta brominated diphenyl ether (PentaBDE)
11 and octabrominated diphenyl ether (OctaBDE) were banned for
12 use at levels higher than one-tenth of 1 percent in virtually all new
13 products, including the plastic housing of electronics, computers,
14 and circuit boards as a result of legislation enacted in 2003 and
15 2004.

16 (b) Many fire retardants migrate in air, soil, or water, and
17 accumulate in people’s bodies and the environment. For example,
18 ~~Polybrominated~~ *polybrominated* diphenyl ether (PBDE), which is
19 a subcategory of BFRs, has increased fortyfold in human breast
20 milk since the 1970s. Women in North America on average have
21 10 times the levels of women in Europe or Asia. PBDE has the
22 potential to disrupt thyroid hormone balance and contribute to a
23 variety of developmental deficits, including low intelligence and
24 learning disabilities. PBDEs are structurally similar to dioxin,

1 furans, and polybrominated biphenyls which are known to cause
2 cancer. In addition to California's ban enacted in 2003, PentaBDE
3 and OctaBDE have been banned in several other states and in the
4 European Union.

5 (c) According to an American Public Health Association
6 Consensus Resolution, virtually all organo chlorides that have
7 been studied exhibit one or more serious toxic effects, including
8 endocrine dysfunction, developmental impairment, birth defects,
9 reproductive dysfunction, immunosuppression, and cancer, often
10 at extremely low doses. Organo bromides are known to exhibit
11 even more serious effects.

12 (d) Recent studies indicate that BFRs and CFRs have migrated
13 into the environment, and have been detected at high concentrations
14 in fish, as well as marine mammals, including, but not limited to,
15 dolphins and harbor seals, indicating that the chemicals are already
16 bioaccumulating in the food chain and in marine wildlife. Fish and
17 meat consumption are partly responsible for increasing levels of
18 some BFRs and CFRs in humans.

19 (e) Apart from toxic effects in humans and animals from direct
20 exposures, these chemical substances have been disposed of in
21 ways that contaminate soils, groundwater, drinking water, ambient
22 air, and natural ecosystems. Production and distribution of tens of
23 millions of pounds of these potentially toxic substances represents
24 an ongoing experiment with the health of the people and
25 environment of California without an adequate scientific
26 understanding of the long-term consequences of exposure to BFRs
27 and CFRs.

28 (f) According to the federal Centers for Disease Control and
29 Prevention, infants and children are particularly prone to absorb
30 BFRs and CFRs through direct physical or oral contact with these
31 compounds in furniture, inhalation of furniture dust containing
32 BFRs and CFRs, and via ingestion of these substances from their
33 mothers' milk and from their diets. Rates of pediatric health
34 problems, such as leukemia and brain cancer in children, testicular
35 cancer in adolescents, birth defects, and neurodevelopmental
36 disorders, including, but not limited to, dyslexia, mental retardation,
37 attention deficit/hyperactivity disorder (ADHD), and autism, are
38 steadily rising.

39 (g) Over the last 30 years, there have been hundreds of scientific
40 journal articles and reviews citing these and other negative health

1 impacts in people and in animals resulting from exposure to
2 brominated and chlorinated fire retardants.

3 (h) Substantial efforts to eliminate CFRs and BFRs, including,
4 but not limited to, PBDE and OBDE from products have been
5 made throughout the world, including the private and public
6 sectors. These efforts have made available alternatives safe to
7 human health while meeting fire safety standards.

8 (i) Fire safety education, smoke detectors, building sprinkler
9 systems, decreasing numbers of smokers, and mandated “fire-safe”
10 cigarettes with lower ignition propensity have greatly reduced the
11 fire risk posed by furniture and mattresses.

12 (j) In order to protect the public health, worker safety, wildlife,
13 and the environment, the Legislature believes it is necessary for
14 the state to prohibit the use of chlorinated and brominated fire
15 retardants in applications, including, but not limited to, commercial,
16 residential, and institutional furniture, mattresses, box springs,
17 futons, and bedding products including pillows, comforters, and
18 blankets, where the probability of human exposure and improper
19 disposal are high, ~~especially when there are practical~~ *if there are*
20 *technologically* and economically feasible alternatives that can
21 maintain similar or superior fire retardancy. For these and other
22 reasons, in 2003 the Legislature asserted that it is necessary for
23 the state to develop a precautionary approach regarding the
24 production, use, storage, and disposal of products containing two
25 specific BFRs. The Legislature hereby expands its concern to
26 include all BFRs and CFRs in furniture, mattresses, and bedding.

27 SEC. 3. Section 19161 of the Business and Professions Code,
28 as added by Section 14 of Chapter 760 of the Statutes of 2006, is
29 amended to read:

30 19161. (a) All mattresses and mattress sets manufactured for
31 sale in this state shall be fire retardant. “Fire retardant,” as used in
32 this section, means a product that meets the standards for resistance
33 to open-flame test adopted by the United States Consumer Product
34 Safety Commission and set forth in ~~Section 1633 and following~~
35 *Part 1633* of Title 16 of the Code of Federal Regulations. The
36 bureau may adopt regulations it deems necessary to implement
37 those standards.

38 (b) All other bedding products that the bureau determines
39 contribute to mattress bedding fires shall comply with regulations

1 adopted by the bureau specifying the degree of fire or flame
2 retardance.

3 (c) All seating furniture sold or offered for sale by an importer,
4 manufacturer, or wholesaler for use in this state, including any
5 seating furniture sold to or offered for sale for use in a hotel, motel,
6 or other place of public accommodation in this state, and
7 reupholstered furniture to which filling materials are added, shall
8 comply with the regulations adopted by the bureau specifying the
9 degree of fire or flame retardance, shall be labeled in a manner
10 specified by the bureau, and shall comply with Section 108931 of
11 the Health and Safety Code. This does not include furniture used
12 exclusively for the purpose of physical fitness and exercise.

13 (d) Regulations adopted by the bureau for other bedding
14 products shall not apply to any hotel, motel, bed and breakfast,
15 inn, or similar transient lodging establishment that has an automatic
16 fire extinguishing system that conforms to the specifications
17 established in Section 904.1 of Title 24 of the California Code of
18 Regulations.

19 (e) This section shall become operative on July 1, 2007.

20 SEC. 4. Section 19161.3 of the Business and Professions Code
21 is amended to read:

22 19161.3. All flexible polyurethane foam in the form of slabs,
23 blocks, or sheets, or which is shredded (loose or packaged), except
24 polyurethane foam sold for use as carpet underlayment and
25 polyurethane foam which cannot reasonably be expected to be
26 used in or as an article of furniture or a mattress, that is offered
27 for sale to the general public at retail outlets in this state for
28 noncommercial or nonmanufacturing purposes, shall comply with
29 the regulations adopted by the bureau specifying the degree of fire
30 or flame retardance.

31 SEC. 5. Chapter 11 (commencing with Section 108930) is
32 added to Part 3 of Division 104 of the Health and Safety Code, to
33 read:

34
35 CHAPTER 11. BROMINATED AND CHLORINATED FIRE
36 RETARDANTS
37

38 108930. For purposes of this chapter, the following definitions
39 apply:

1 (a) “Brominated fire retardant” means an organobromine
2 chemical or organobromide used as a fire or flame retardant.

3 (b) “Chlorinated fire retardant” means an organochlorine
4 chemical or organochloride used as a fire or flame retardant.

5 108931. (a) Commencing January 1, 2010, all seating furniture,
6 mattresses, box springs, mattress sets, futons, and other bedding
7 products including, but not limited to, pillows, comforters, blankets,
8 and sleeping bags that are sold or offered for sale by an importer,
9 manufacturer, or wholesaler for use in this state, including any
10 seating furniture, mattresses, box springs, mattress sets, futons,
11 and other bedding products including, but not limited to, pillows,
12 comforters, blankets, and sleeping bags sold to or offered for sale
13 for use in a hotel, motel, or other place of public accommodation
14 in this state, and reupholstered furniture to which filling materials
15 are added, shall comply with the following:

16 (1) Shall not contain brominated fire retardants or chlorinated
17 fire retardants.

18 (2) Shall be labeled with a permanent label attachment in a
19 manner specified by the Bureau of Home Furnishings and Thermal
20 Insulation.

21 (b) All permanent label attachments required pursuant to
22 subdivision (a) shall comply with the following:

23 (1) Use plain language understandable to consumers, and in
24 sufficient size as to be readily visible and legible.

25 ~~(2) Specify any chemical or chemicals added to achieve fire or~~
26 ~~flame retardancy required by the Bureau of Home Furnishings and~~
27 ~~Thermal Insulation, but shall not include the proportions of fire or~~
28 ~~flame retardant chemicals, so as not to threaten proprietary~~
29 ~~concerns.~~

30 (2) *Include the following statement, “DOES NOT CONTAIN*
31 *BROMINATED OR CHLORINATED FIRE RETARDANTS.”*

32 (3) Include other markings or language specified by the Bureau
33 of Home Furnishings and Thermal Insulation.

34 (c) By March 1, 2009, the Bureau of Home Furnishings and
35 Thermal Insulation shall modify Technical Bulletins 116 and 117
36 with product performance standards for furniture that shall achieve
37 fire retardancy properties comparable to existing standards,
38 sufficient to protect human health and safety, but without the use
39 of brominated fire retardants and chlorinated fire retardants and
40 without significant increases in costs to the consumer.

1 (d) The Bureau of Home Furnishings and Thermal Insulation
2 in consultation with the California Office of Health Hazards
3 Assessment may review relevant scientific and medical literature
4 as well as the findings, rulings, and regulations of the United States
5 Consumer Product Safety Commission, the federal Centers for
6 Disease Control and Prevention, the United States Environmental
7 Protection Agency, the European Union, and other international,
8 federal, and state agencies, to assess the potential health and
9 environmental impacts of fire retardants that may be used to meet
10 fire retardancy standards.

11 (e) The Bureau of Home Furnishings and Thermal Insulation,
12 in consultation with the California Office of Environmental Health
13 Hazard Assessment, may adopt regulations that protect human
14 health and safety, and the environment and may prohibit in
15 products under its jurisdiction the use of chemicals for which the
16 safety to human or animal health cannot be clearly established.

17 (f) *The Bureau of Home Furnishings and Thermal Insulation*
18 *shall enforce this chapter.*

19 SEC. 6. The provisions of this act are severable. If any
20 provision of this act or its application is held invalid, that invalidity
21 shall not affect other provisions or applications that can be given
22 effect without the invalid provision or application.