

AMENDED IN SENATE APRIL 22, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1291

Introduced by Senator Leno

February 19, 2010

An act to add Article 15 (commencing with Section 25257.5) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous chemicals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as amended, Leno. Chemicals of concern: flame retardants.

(1) Existing law requires the Department of Toxic ~~Substance~~ *Substances* Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. The regulations are required to ~~adopt regulations that~~ specify actions that the department may take following the completion of the analysis. A violation of the hazardous waste control law is a crime.

Existing law, the Home Furnishings and Thermal Insulation Act, administered by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, imposes specified flame retardant requirements.

This bill would require the department to evaluate any chemical that is used, or is proposed to be used, as a flame retardant, as defined, in accordance with those regulations and to identify and prioritize those flame retardants that may be considered as being chemicals of concern.

The bill would prohibit a person from using a new flame retardant in the manufacture of, or otherwise in connection with, any upholstered furniture, bedding and filling materials, until the department completes this evaluation of that new flame retardant.

The bill would require the department *and the bureau*, in consultation with ~~the specified~~ *any other* state agencies and interdepartmental workgroups, to ~~perform a comparative risk assessment that compares the benefits and risks of the regulations adopted by, or technical bulletins issued by, the bureau with the benefits and risks of those flame retardants the department identifies as chemicals of concern~~ *jointly evaluate the current technical bulletins issued by the bureau and determine whether appropriate changes to those bulletins are warranted.*

The bill would require a person to use a flame retardant in accordance with the regulatory responses adopted by the department.

By creating new prohibitions, the violation of which would be a crime, this bill would impose a state-mandated local program.

(2) 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. Article 15 (commencing with Section 25257.5)
2 is added to Chapter 6.5 of Division 20 of the Health and Safety
3 Code, to read:

4
5 Article 15. Toxic Flame Retardants

6
7 25257.5. For purposes of this article, the following definitions
8 shall apply:

9 (a) "Bedding" has the same meaning as defined in Section 19007
10 of the Business and Profession Code.

11 (b) "Bureau" means the Bureau of Electronic and Appliance
12 Repair, Home Furnishings, and Thermal Insulation, as established
13 in Section 9810 of the Business and Professions Code.

1 (c) “Filling material” means cotton, wool, kapok, feathers,
2 downs, hair, liquid, or any other material, substance, or any
3 combination thereof, loose or in batting, pads, or any other
4 prefabricated form, concealed or not concealed, to be used or that
5 could be used in articles of bedding or upholstered furniture.

6 (d) “Flame retardant” means a chemical that is, or is proposed
7 to be, used to comply with any regulation adopted by, or technical
8 bulletin issued by, the bureau pursuant to Chapter 3 (commencing
9 with Section 19000) of Division 8 of the Business and Professions
10 Code to implement the requirements of Section 19161 of the
11 Business and Professions Code.

12 (e) “New flame retardant” means a chemical that is a flame
13 retardant and that is first used on or after January 1, 2011, for
14 purposes of complying with the regulations or technical bulletins
15 specified in subdivision (d).

16 (f) “Upholstered furniture” has the same meaning as defined in
17 Section 19006 of the Business and Professions Code.

18 (g) All other terms used in this article shall have the same
19 meaning as defined in Article 14 (commencing with Section
20 25251).

21 25257.6. (a) The department shall evaluate any chemical that
22 is used, or is proposed to be used, as a flame retardant in
23 accordance with the regulations adopted pursuant to Section 25252
24 and shall identify and prioritize the chemicals that are used, or
25 proposed to be used, as flame retardants that the department
26 considers as being chemicals of concern, in accordance with the
27 review process specified in Section 25252.5.

28 (b) (1) After completing the evaluation pursuant to subdivision
29 (a), the department shall subsequently evaluate any flame retardant
30 that the department has identified as a chemical of concern by
31 determining how best to limit exposure or reduce the level of
32 hazard posed by that flame retardant, in accordance with the
33 regulations adopted pursuant to subdivision (a) of Section 25253.

34 (2) In addition to evaluating the potential alternatives and
35 potential hazards pursuant to the requirements of the regulations
36 specified in paragraph (2) of subdivision (a) of Section 25253, the
37 ~~department shall, in consultation with the bureau, the office, and~~
38 ~~any other state agencies or interdepartmental workgroups, perform~~
39 ~~a comparative risk assessment that compares the benefits and risks~~
40 ~~of the regulations adopted by, or technical bulletins issued by, the~~

1 bureau pursuant to Chapter 3 (commencing with Section 19000)
2 of Division 8 of the Business and Professions Code to implement
3 the requirements of Section 19161 of the Business and Professions
4 Code, with the benefits and risks of those flame retardants that the
5 department has identified as chemicals of concern. *department*
6 *and the bureau shall jointly, in consultation with the office and*
7 *any other state agencies or interdepartmental workgroups, evaluate*
8 *the current technical bulletins issued by the bureau pursuant to*
9 *Chapter 3 (commencing with Section 19000) of Division 8 of the*
10 *Business and Professions Code to implement the requirements of*
11 *Section 19161 of the Business and Professions Code and determine*
12 *whether appropriate changes to those bulletins are warranted*
13 *based on the evaluations of flame retardants made by the*
14 *department pursuant to this section.*

15 (3) The department may, after completing the process specified
16 in paragraphs (1) and (2), take any of the regulatory responses
17 specified in subdivision (b) of Section 25253.

18 25257.7. (a) A person shall not use a new flame retardant in
19 the manufacture of, or otherwise in connection with, any
20 upholstered furniture or bedding and filling materials until the
21 department has completed the evaluation of that new flame
22 retardant pursuant to subdivision (a) of Section 25257.6.

23 (b) If the department identifies a flame retardant as a chemical
24 of concern pursuant to Section 25257.6, a person may use the flame
25 retardant only in accordance with the regulatory responses adopted
26 by the department pursuant to subdivision (b) of Section 25257.6.

27 25257.8. The requirements of the article are in addition to, and
28 shall not otherwise affect the authority of the department pursuant
29 to, Article 14 (commencing with Section 25251).

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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