

AMENDED IN SENATE JUNE 1, 2010
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 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 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~~ *include, as a chemical under consideration as being a chemical of concern,* 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 review process established by the department.*

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~~ *has considered and determined whether the new flame retardant is a chemical of concern.*

The bill would require the department and the bureau, in consultation with any other state agencies and interdepartmental workgroups, to 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~~ *Professions 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.

14 (c) "*Chemical under consideration*" means a chemical on the
15 list of chemicals that the department is considering whether to

1 *include as a chemical of concern for purposes of Article 14*
2 *(commencing with Section 25251).*

3 ~~(e)~~

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

9 ~~(d)~~

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

16 ~~(e)~~

17 (f) “New flame retardant” means a chemical that is a flame
18 retardant and that is first used on or after January 1, 2011, for
19 purposes of complying with the regulations or technical bulletins
20 specified in subdivision ~~(d)~~ (e).

21 ~~(f)~~

22 (g) “Upholstered furniture” has the same meaning as defined
23 in Section 19006 of the Business and Professions Code.

24 ~~(g)~~

25 (h) All other terms used in this article shall have the same
26 meaning as defined in Article 14 (commencing with Section
27 25251).

28 25257.6. (a) The department shall ~~evaluate~~ *include, as a*
29 *chemical under consideration*, any chemical that is used, or is
30 proposed to be used, as a flame retardant in accordance with the
31 regulations adopted pursuant to Section 25252 ~~and shall identify~~
32 ~~and prioritize the chemicals that are used, or proposed to be used,~~
33 ~~as flame retardants that the department considers as being~~
34 ~~chemicals of concern, in accordance with the review process~~
35 ~~specified in Section 25252.5. and in accordance with the review~~
36 ~~process established pursuant to Section 25252.5.~~

37 ~~(b) (1) After completing the evaluation pursuant to subdivision~~
38 ~~(a), the department shall subsequently evaluate any flame retardant~~
39 ~~that the department has identified as a chemical of concern by~~
40 ~~determining how best to limit exposure or reduce the level of~~

1 ~~hazard posed by that flame retardant, in accordance with the~~
2 ~~regulations adopted pursuant to subdivision (a) of Section 25253.~~

3 ~~(2)~~

4 *(b) (1)* In addition to evaluating the potential alternatives and
5 potential hazards *of a chemical deemed to be a chemical of*
6 *concern*, pursuant to the requirements of the regulations specified
7 in paragraph (2) of subdivision (a) of Section 25253, the
8 department and the bureau shall jointly, in consultation with the
9 office and any other state agencies or interdepartmental
10 workgroups, evaluate the current technical bulletins issued by the
11 bureau pursuant to Chapter 3 (commencing with Section 19000)
12 of Division 8 of the Business and Professions Code to implement
13 the requirements of Section 19161 of the Business and Professions
14 Code and determine whether appropriate changes to those bulletins
15 are warranted based on the evaluations of flame retardants made
16 by the department pursuant to this section.

17 ~~(3)~~

18 (2) The department may, after completing the process specified
19 in ~~paragraphs (1) and (2)~~ *paragraph (1)*, take any of the regulatory
20 responses specified in subdivision (b) of Section 25253.

21 25257.7. (a) A person shall not use a new flame retardant in
22 the manufacture of, or otherwise in connection with, any
23 upholstered furniture or bedding and filling materials until the
24 ~~department has completed the evaluation of that new flame~~
25 ~~retardant pursuant to subdivision (a) of Section 25257.6.~~
26 *department has considered and determined whether the new flame*
27 *retardant is a chemical of concern pursuant to Section 25257.6.*

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

32 25257.8. The requirements of the article are in addition to, and
33 shall not otherwise affect the authority of the department pursuant
34 to, Article 14 (commencing with Section 25251).

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

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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