

ASSEMBLY BILL

No. 2197

Introduced by Assembly Member Mitchell
(Principal coauthor: Senator Leno)
(Coauthors: Assembly Members Bonilla and Butler)

February 23, 2012

An act to amend, repeal, and add Section 19161 of the Business and Professions Code, relating to furniture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2197, as introduced, Mitchell. Seating furniture: flammability.

Existing law, the Home Furnishings and Thermal Insulation Act, requires all seating furniture sold or offered for sale, as specified, to be fire retardant and labeled.

The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation has adopted, by regulation, a flame retardance test of the filling materials of residential upholstered furniture.

This bill, effective September 1, 2013, would revise these provisions to instead require all seating furniture sold or offered for sale to meet a smolder flammability test rather than an open flame-test. The bill would make legislative findings and declarations in that regard.

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

1 (a) The great majority of injuries and deaths related to ignition
2 of upholstered furniture in homes occur as a result of smolder
3 ignition.

4 (b) The rate of injury and deaths in the United States attributed
5 to open flame ignition of household furniture is very low.

6 (c) Flammability standards based on whether furniture can
7 withstand open flame ignition do not protect against the majority
8 of injuries due to ignition of upholstered furniture in homes.

9 (d) Recent studies establish that the use of filling that meets the
10 open flame test in the Bureau of Electronic and Appliance Repair,
11 Home Furnishings, and Thermal Insulation's Technical Bulletin
12 117 of March 2000 (TB 117) does not reduce the severity of a fire
13 involving upholstered furniture. In those studies, the filling treated
14 to make it compliant with TB 117 ignited in the same amount of
15 time as the nontreated filling covered by the same fabric. TB
16 117-compliant filling also did not affect flame spread.

17 (e) The United States Consumer Product Safety Commission
18 (CPSC) has extensively studied the optimal way to reduce injury
19 and death due to ignition of household furniture. It has concluded
20 that it is most critical for flammability standards for upholstered
21 furniture to reduce the risk of residential fires resulting from
22 smoldering ignitions of upholstered furniture because this type of
23 fire accounts for a substantial majority of the addressable deaths,
24 injuries, and property losses due to fire.

25 (f) Not only is the focus on smolder ignition in the CPSC
26 standard the optimal means for reducing the most common cause
27 of injuries due to ignition of upholstered furniture, it also enables
28 furniture manufacturers to ensure fire safety without adding
29 chemical flame retardants to furniture filling.

30 (g) The chemicals currently used to comply with TB 117 are
31 not sealed in consumer products, but instead migrate from the
32 product to the larger environment. Flame retardant chemicals are
33 found in household dust and indoor air, and wastewater transports
34 these chemicals into the outdoor environment where they have
35 been detected in California's surface waters, sediments and
36 wildlife. Flame retardant chemicals used to meet TB 117 have
37 been found in the body fluids of nearly all Californians tested.
38 California children have some of the highest levels in the world
39 of flame retardant chemicals in their bodies.

1 (h) Common chemical flame retardants present serious health
2 risks to humans and wildlife. In general, human studies have shown
3 associations between increased flame retardant body levels and
4 reduced IQ in children, reduced fertility, endocrine and thyroid
5 disruption, changes in male hormone levels, adverse birth
6 outcomes, and impaired development. The high levels of exposure
7 of children to these chemicals is of particular concern because the
8 exposure occurs when their rapidly developing brains and
9 reproductive organs are most vulnerable. One of the chemical
10 flame retardants commonly used to bring upholstered furniture
11 into compliance with TB 117 has been listed as a carcinogen in
12 California under Proposition 65 by the California Carcinogen
13 Identification Committee.

14 (i) The Legislature is persuaded by the reasoning of the CPSC's
15 proposed smolder flammability standard for seating furniture (73
16 Fed. Reg. 11702, as published in the Federal Register on March
17 4, 2008). California can better protect the public from the dangers
18 of ignition of household furniture and the risks posed by chemical
19 flame retardants by adopting a comprehensive smolder ignition
20 standard for upholstered furniture to replace the current open flame
21 standard.

22 (j) For these reasons, the Legislature is amending Section 19161
23 of the Business and Professions Code with the intent that the
24 Bureau of Electronic and Appliance Repair, Home Furnishings,
25 and Thermal Insulation shall revise TB 117 and model the revised
26 standard on the draft smolder flammability standard published by
27 CPSC.

28 SEC. 2. Section 19161 of the Business and Professions Code
29 is 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 of Title 16 of the Code of Federal Regulations. The bureau may
36 adopt regulations it deems necessary to implement those standards.

37 (b) All other bedding products that the bureau determines
38 contribute to mattress bedding fires shall comply with regulations
39 adopted by the bureau specifying that those products be resistant
40 to open-flame ignition.

1 (c) All seating furniture sold or offered for sale by an importer,
 2 manufacturer, or wholesaler for use in this state, including any
 3 seating furniture sold to or offered for sale for use in a hotel, motel,
 4 or other place of public accommodation in this state, and
 5 reupholstered furniture to which filling materials are added, shall
 6 be fire retardant and shall be labeled in a manner specified by the
 7 bureau. This does not include furniture used exclusively for the
 8 purpose of physical fitness and exercise.

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

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

16 *(e) This section shall become inoperative on September 1, 2013,*
 17 *and, as of January 1, 2014, is repealed, unless a later enacted*
 18 *statute, that becomes operative on or before January 1, 2014,*
 19 *deletes or extends the dates on which it becomes inoperative and*
 20 *is repealed.*

21 SEC. 3. Section 19161 is added to the Business and Professions
 22 Code, to read:

23 19161. (a) All mattresses and mattress sets manufactured for
 24 sale in this state shall be fire retardant. "Fire retardant," as used in
 25 this section, means a product that meets the standards for resistance
 26 to open-flame test adopted by the United States Consumer Product
 27 Safety Commission and set forth in Section 1633 and following
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34 (c) All seating furniture sold or offered for sale by an importer,
 35 manufacturer, or wholesaler for use in this state, including any
 36 seating furniture sold to or offered for sale for use in a hotel, motel,
 37 or other place of public accommodation in this state, and
 38 reupholstered furniture to which filling materials are added, shall
 39 meet a smolder flammability test. Seating furniture shall be labeled
 40 in a manner specified by the bureau. This does not include furniture

1 used exclusively for the purpose of physical fitness and exercise.
2 The smolder flammability test shall replace the open flame test in
3 the bureau's Technical Bulletin 117 (as adopted in March 2000)
4 as the flammability standard for seating furniture subject to this
5 subdivision.

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

12 (e) This section shall become operative on September 1, 2013.