OLR Bill Analysis
sHB 7197

AN ACT CONCERNING LABELING AND RESTRICTING THE USE OF FLAME RETARDANTS.

SUMMARY

Starting January 1, 2020, this bill requires consumer product manufacturers to include a label on a product intended for sale or use in the state that (1) is clearly visible to the consumer before purchase and (2) indicates whether the product contains added flame retardant chemicals by including the following statement:

“The materials in this product:

__ contain an added flame retardant chemical

__ contain NO added flame retardant chemicals

The State of Connecticut has determined that the fire safety requirements for this product can be met without adding flame retardant chemicals. The state has identified many flame retardant chemicals as being known to, or strongly suspected of, adversely impacting human health or development.”

Under the bill, the manufacturer must place an “X” next to the appropriate flame retardant chemical statement.

Also starting by this date, the bill prohibits wholesale and retail businesses and manufacturers of children’s products from knowingly selling, offering for sale, or distributing a children’s product that contains added flame retardant chemicals. The bill excludes individuals who, for personal, family, or household purposes, use, resell, or distribute children’s products.

Lastly, the bill requires the consumer protection commissioner to enforce the bill’s provisions and adopt implementing regulations that
must establish the minimum penalty for manufacturer violations.

EFFECTIVE DATE: October 1, 2019

DEFINITIONS

Children’s Product
The bill defines a “children’s product” as a product or a product component designed or intended primarily for use by or for children ages 12 or younger, including clothing, toys, nursing pillows, crib mattresses, changing pads, and strollers.

The bill excludes from the definition:

1. food, beverages, dietary supplements, pharmaceutical products, and biologics;

2. consumer electronics;

3. off-highway motorcycles and all-terrain vehicles;

4. children’s toys that contain electronic components or are subject to the most recent version of the American Society for Testing and Materials (ASTM) F963 Standard Consumer Safety Specification for Toy Safety (see BACKGROUND);

5. devices, as defined by the federal Food, Drug, and Cosmetic Act (see BACKGROUND); or

6. products, such as infant and child car seats, governed by federal motor vehicle standards on child restraint systems and the flammability of interior materials used in the occupant compartments of motor vehicles.

Consumer Product
Under the bill, a “consumer product” means upholstered furniture or any article, excluding a children’s product, used primarily for personal, family, or household purposes.

Flame Retardant Chemicals
The bill defines a “flame retardant chemical” as a chemical or chemical compound for which functional use is to inhibit or resist the spread of fire. It includes halogenated, phosphorous-based, nitrogen-based and nanoscale flame retardants, as well as chemicals or chemical compounds listed as flame retardants on the federal Occupational Safety and Health Administration’s substance safety data sheet.

Under the bill, an “added flame retardant chemical” is a flame retardant chemical present in a children’s or consumer product at levels exceeding 1,000 parts per million.

BACKGROUND

**Definition of Device**

The federal Food, Drug, and Cosmetic Act generally defines a device as an instrument, apparatus, implement, machine, contrivance, implant, in-vitro reagent, or any of their components or accessories that are:

1. recognized in the National Formulary or the United States Pharmacopeia, or any of their supplements;

2. intended for use in diagnosing diseases or other conditions or curing, mitigating, treating or preventing disease in humans or animals; or

3. intended to affect the structure or function of a human or animal body and is not dependent on being metabolized to achieve its intended purpose or does not achieve it through a chemical action within or on the body.

The definition also excludes certain software functions (21 USC 321(h)).

**ASTM International Standard Consumer Safety F963 Specification for Toy Safety**

Federal law requires toys for children under age 14 to comply with the standards of ASTM’s F963 Toy Safety Specification. These toys include, among others, plush toys, balls, games, dolls and action
figures, infant and preschool toys, battery-operated toys, ride-on toys, and projectile toys.

The standards establish requirements and testing methods related to small parts, sharp points and edges, chemical and material safety, ingestion, battery overheating, use and abuse, and other potential hazards.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute
Yea 13 Nay 8 (03/22/2019)