



Senate

General Assembly

File No. 144

February Session, 2022

Substitute Senate Bill No. 255

Senate, March 28, 2022

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING FLAME RETARDANTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2022*) (a) As used in this section:
- 2 (1) "Children's product" means a product, or article used as a
3 component of a product, designed or intended primarily for use by or
4 for children twelve years of age or younger, including, but not limited
5 to, clothing, toys, nursing pillows, crib mattresses, changing pads and
6 strollers. "Children's product" shall not include food, beverages, dietary
7 supplements, pharmaceutical products, biologics, consumer electronics,
8 off-highway motorcycles, all-terrain vehicles, children's toys that
9 contain electronic components or are subject to the most recent version
10 of the American Society for Testing and Materials F963, Standard
11 Consumer Safety Specification for Toy Safety, devices as defined by the
12 federal Food, Drug and Cosmetic Act, 21 USC 321(h) or products, such
13 as infant and child car seats, governed by federal motor vehicle
14 standards contained in 49 CFR 571.213 and 49 CFR 571.302, as amended

15 from time to time;

16 (2) "Consumer product" means upholstered furniture or any article,
17 except a children's product or a mattress, used primarily for personal,
18 family or household purposes;

19 (3) "Flame retardant chemical" means any chemical or chemical
20 compound for which a functional use is to resist or inhibit the spread of
21 fire. "Flame retardant chemical" includes, but is not limited to,
22 halogenated, phosphorous-based, nitrogen-based and nanoscale flame
23 retardants, and any chemical or chemical compound for which "flame
24 retardant" appears on the substance safety data sheet pursuant to 29
25 CFR 1910.1200(g), as amended from time to time; and

26 (4) "Added flame retardant chemical" means a flame retardant
27 chemical that is present in any children's product or consumer product
28 at levels above one thousand parts per million.

29 (b) On and after January 1, 2023, a manufacturer of a consumer
30 product intended for sale or use in the state shall include a label on such
31 consumer product that (1) is clearly visible to the consumer prior to
32 purchase, and (2) indicates whether or not the product contains any
33 added flame retardant chemical by including the following flame
34 retardant chemical statement:

35 "The materials in this product:

36 ___contain an added flame retardant chemical

37 ___contain NO added flame retardant chemicals

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

43 A manufacturer of consumer products shall indicate the absence or

44 presence of an added flame retardant chemical by placing an "X" in the
45 appropriate blank of such flame retardant chemical statement.

46 (c) On and after January 1, 2023, no wholesale or retail business or
47 manufacturer of a children's product may knowingly sell, offer for sale
48 or distribute for use in this state any children's product that contains any
49 added flame retardant chemical. The provisions of this subsection shall
50 not apply to an individual who, for personal, family or household
51 purposes, uses, offers for resale, resells or distributes children's
52 products.

53 (d) The Department of Consumer Protection shall enforce the
54 provisions of this section. The Commissioner of Consumer Protection
55 shall adopt regulations, in accordance with chapter 54 of the general
56 statutes, to implement the provisions of this section. The regulations
57 shall establish minimum penalties for a manufacturer's failure to
58 comply with such provisions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section

PH Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Consumer Protection, Dept.	GF - Cost	53,509	51,509
State Comptroller - Fringe Benefits ¹	GF - Cost	13,357	13,357

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires certain labeling of consumer products that contain flame retardant chemicals and requires the Department of Consumer Protection (DCP) to enforce the requirements resulting in a cost to the state of \$66,866 in FY 23 and \$64,866 in FY 24. As the agency does not currently conduct similar testing, DCP would need \$3,000 to purchase product samples, \$8,000 to test the products, \$32,957 for a part-time inspector to carry out the tests, and \$13,357 for associated fringe benefits for the inspector.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

OLR Bill Analysis**sSB 255*****AN ACT CONCERNING FLAME RETARDANTS.*****SUMMARY**

Starting January 1, 2023, this bill requires consumer product manufacturers of specified products 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 on 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 for use in the state 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, 2022

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 (a) child restraint systems and (b) 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 used primarily for personal, family, or household purposes, excluding mattresses and children's products.

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***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 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.

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.

A device cannot (1) be dependent on being metabolized to achieve its intended purpose or (2) achieve it through a chemical action within or on the body.

The definition also excludes certain software functions (21 U.S.C. § 321(h)).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 27 Nay 4 (03/11/2022)