
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)