



THE BOARD OF SUPERVISORS OF MARIN COUNTY

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August 7, 2007

Honorable Mark Leno
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0013

RE: AB 706 (Leno) – SUPPORT – Hearing Date: August 20, 2007

Dear Assembly Member Leno:

On behalf of the Marin County Board of Supervisors, we would like to express our support of AB 706, the California Furniture Safety and Fire Prevention Act that bans by January 1, 2010 the use of brominated fire retardants (BFRs) and chlorinated fire retardants (CFRs) in all seating furniture, mattresses, box springs, mattress sets, futons, other bedding products, and reupholstered furniture to which filling materials are added. By eliminating these toxic flame retardants from bedding and furniture products, your bill will reduce the threat from fires and health impacts caused by these retardants.

Beginning in 1975, California developed stringent fire safety standards for furniture and mattresses, and is now developing standards for bedding such as pillows and comforters. However, this regulation has led to tens of millions of pounds of BFRs and CFRs being put into products in contact with humans. Today, virtually every Californian tested has been found to have these fire retardants stored in their bodies, with babies showing the highest levels. Long-term exposure to these chemicals can cause a variety of health problems, including reproductive, neurological, and developmental problems. These chemicals can also cause health impacts to fire fighters, including elevated levels of various types of cancer.

Our Board recognizes the importance of ensuring fire safety as well as minimizing exposure to chemicals. However, your bill maintains fire safety by requiring the use of less toxic fire safety alternatives, such as inherently flame-resistant woods and metals, naturally-flame resistant barriers, and additives such as silicon, boric acid, or phosphates. These viable alternatives indicate that fire safety will be not compromised by eliminating these chemical fire retardants.

Along with our Fire Department, we join the many environmental, labor, and firefighting organizations supporting your bill and urge its passage to reduce toxic exposure and protect the health of our residents.

Respectfully submitted,

Steve Kinsey, President
Marin County Board of Supervisors

Charles McGlashan, Vice President
Marin County Board of Supervisors

Cc: Senator Carole Migden
Assembly Member Jared Huffman

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AMENDED IN SENATE JUNE 25, 2007
AMENDED IN ASSEMBLY JUNE 1, 2007
AMENDED IN ASSEMBLY MAY 17, 2007
AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 706

Introduced by Assembly Member Leno
(Coauthors: Assembly Members Bass, Berg, Brownley, DeSaulnier,
Hancock, Hayashi, Huffman, Jones, Lieber, Ruskin, and
Swanson)

February 22, 2007

An act to amend Sections 19161 and 19161.3 of the Business and Professions Code, and to add Chapter 11 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to fire retardants.

LEGISLATIVE COUNSEL'S DIGEST

AB 706, as amended, Leno. Fire retardants: toxic effects.

Existing law makes various findings related to the toxicity of certain fire retardants containing chemicals known as brominated fire retardants (BFRs) and chlorinated fire retardants (CFRs), and prohibits a person from manufacturing, processing, or distributing a flame-retardant part of a product containing more than one-tenth of 1% of prescribed retardants.

This bill would revise and extend the findings relating to fire retardants, and would, commencing January 1, 2010, require all seating, bedding, and furniture products to comply with certain requirements,

including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants, as defined. It would also require the Bureau of Home Furnishings and Thermal Insulation to enforce these provisions.

Existing law, the Home Furnishings and Thermal Insulation Act, requires all mattresses and box springs manufactured for sale in this state to be fire retardant. Existing law requires the bureau to adopt regulations requiring that fire retardant mattresses and box springs and other bedding products meet a specified resistance to open flame test.

This bill, commencing ~~March 1, 2009~~ *January 1, 2010*, would require the bureau to modify its standards for prescribed bedding products sold or offered for sale in this state, including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants and be labeled as prescribed.

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. This act shall be known, and may be cited, as the
2 “California Furniture Safety and Fire Prevention Act.”

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

4 (a) Chemicals known as brominated fire retardants (BFRs) and
5 chlorinated fire retardants (CFRs) are widely used in California.
6 To meet stringent fire safety standards, manufacturers add BFRs
7 and CFRs to a multitude of products, including, but not limited to,
8 the flexible polyurethane foam used in commercial, residential,
9 and institutional furniture. On June 1, 2006, two categories of fire
10 retardants known as penta brominated diphenyl ether (PentaBDE)
11 and octabrominated diphenyl ether (OctaBDE) were banned for
12 use at levels higher than one-tenth of 1 percent in virtually all new
13 products, including the plastic housing of electronics, computers,
14 and circuit boards as a result of legislation enacted in 2003 and
15 2004.

16 (b) Many fire retardants migrate in air, soil, or water, and
17 accumulate in people’s bodies and the environment. For example,
18 polybrominated diphenyl ether (PBDE), which is a subcategory
19 of BFRs, has increased fortyfold in human breast milk since the
20 1970s. Women in North America on average have 10 times the
21 levels of women in Europe or Asia. PBDE has the potential to

1 disrupt thyroid hormone balance and contribute to a variety of
2 developmental deficits, including low intelligence and learning
3 disabilities. PBDEs are structurally similar to dioxin, furans, and
4 polybrominated biphenyls which are known to cause cancer. In
5 addition to California's ban enacted in 2003, PentaBDE and
6 OctaBDE have been banned in several other states and in the
7 European Union.

8 (c) According to an American Public Health Association
9 Consensus Resolution, virtually all organo chlorides that have
10 been studied exhibit one or more serious toxic effects, including
11 endocrine dysfunction, developmental impairment, birth defects,
12 reproductive dysfunction, immunosuppression, and cancer, often
13 at extremely low doses. Organo bromides are known to exhibit
14 even more serious effects.

15 (d) Recent studies indicate that BFRs and CFRs have migrated
16 into the environment, and have been detected at high concentrations
17 in fish, as well as marine mammals, including, but not limited to,
18 dolphins and harbor seals, indicating that the chemicals are already
19 bioaccumulating in the food chain and in marine wildlife. Fish and
20 meat consumption are partly responsible for increasing levels of
21 some BFRs and CFRs in humans.

22 (e) Apart from toxic effects in humans and animals from direct
23 exposures, these chemical substances have been disposed of in
24 ways that contaminate soils, groundwater, drinking water, ambient
25 air, and natural ecosystems. Production and distribution of tens of
26 millions of pounds of these potentially toxic substances represents
27 an ongoing experiment with the health of the people and
28 environment of California without an adequate scientific
29 understanding of the long-term consequences of exposure to BFRs
30 and CFRs.

31 (f) According to the federal Centers for Disease Control and
32 Prevention, infants and children are particularly prone to absorb
33 BFRs and CFRs through direct physical or oral contact with these
34 compounds in furniture, inhalation of furniture dust containing
35 BFRs and CFRs, and via ingestion of these substances from their
36 mothers' milk and from their diets. Rates of pediatric health
37 problems, such as leukemia and brain cancer in children, testicular
38 cancer in adolescents, birth defects, and neurodevelopmental
39 disorders, including, but not limited to, dyslexia, mental retardation,

1 attention deficit/hyperactivity disorder (ADHD), and autism, are
2 steadily rising.

3 (g) Over the last 30 years, there have been hundreds of scientific
4 journal articles and reviews citing these and other negative health
5 impacts in people and in animals resulting from exposure to
6 brominated and chlorinated fire retardants.

7 (h) Substantial efforts to eliminate CFRs and BFRs, including,
8 but not limited to, PBDE and OBDE from products have been
9 made throughout the world, including the private and public
10 sectors. These efforts have made available alternatives safe to
11 human health while meeting fire safety standards.

12 (i) Fire safety education, smoke detectors, building sprinkler
13 systems, decreasing numbers of smokers, and mandated “fire-safe”
14 cigarettes with lower ignition propensity have greatly reduced the
15 fire risk posed by furniture and mattresses.

16 (j) In order to protect the public health, worker safety, wildlife,
17 and the environment, the Legislature believes it is necessary for
18 the state to prohibit the use of chlorinated and brominated fire
19 retardants in applications, including, but not limited to, commercial,
20 residential, and institutional furniture, mattresses, box springs,
21 futons, and bedding products including pillows, comforters, and
22 other filled blanket products, where the probability of human
23 exposure and improper disposal are high, especially if there are
24 technologically and economically feasible alternatives that can
25 maintain similar or superior fire retardancy. For these and other
26 reasons, in 2003 the Legislature asserted that it is necessary for
27 the state to develop a precautionary approach regarding the
28 production, use, storage, and disposal of products containing two
29 specific BFRs. The Legislature hereby expands its concern to
30 include all BFRs and CFRs in furniture, mattresses, and bedding.

31 SEC. 3. Section 19161 of the Business and Professions Code,
32 as added by Section 14 of Chapter 760 of the Statutes of 2006, is
33 amended to read:

34 19161. (a) All mattresses and mattress sets manufactured for
35 sale in this state shall be fire retardant. “Fire retardant,” as used in
36 this section, means a product that meets the standards for resistance
37 to open-flame test adopted by the United States Consumer Product
38 Safety Commission and set forth in Part 1633 of Title 16 of the
39 Code of Federal Regulations. The bureau may adopt regulations
40 it deems necessary to implement those standards.

1 (b) All other bedding products that the bureau determines
2 contribute to mattress bedding fires shall comply with regulations
3 adopted by the bureau specifying ~~the degree of fire or flame~~
4 ~~retardance~~ *that those products be resistant to open-flame ignition,*
5 *except in the case that the bureau finds that resistance to*
6 *open-flame ignition cannot be achieved without using components*
7 *or chemicals prohibited pursuant to Chapter 11 (commencing with*
8 *Section 108930) of Part 3 of Division 104 of the Health and Safety*
9 *Code.*

10 (c) All seating furniture sold or offered for sale by an importer,
11 manufacturer, or wholesaler for use in this state, including any
12 seating furniture sold to or offered for sale for use in a hotel, motel,
13 or other place of public accommodation in this state, and
14 reupholstered furniture to which filling materials are added, shall
15 comply with the regulations adopted by the bureau specifying the
16 degree of fire or flame retardance, shall be labeled in a manner
17 specified by the bureau, and shall comply with Section 108931 of
18 the Health and Safety Code. This does not include furniture used
19 exclusively for the purpose of physical fitness and exercise.

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

26 SEC. 4. Section 19161.3 of the Business and Professions Code
27 is amended to read:

28 19161.3. All flexible polyurethane foam in the form of slabs,
29 blocks, or sheets, or which is shredded (loose or packaged), except
30 polyurethane foam sold for use as carpet underlayment and
31 polyurethane foam which cannot reasonably be expected to be
32 used in or as an article of furniture or a mattress, that is offered
33 for sale to the general public at retail outlets in this state for
34 noncommercial or nonmanufacturing purposes, shall comply with
35 the regulations adopted by the bureau specifying the degree of fire
36 or flame retardance.

37 SEC. 5. Chapter 11 (commencing with Section 108930) is
38 added to Part 3 of Division 104 of the Health and Safety Code, to
39 read:

1 CHAPTER 11. BROMINATED AND CHLORINATED FIRE
2 RETARDANTS
3

4 108930. The definitions within Chapter 3 (commencing with
5 Section 19000) of Division 6 of the Business and Professions Code
6 shall apply to this chapter. In addition, the following definitions
7 shall apply for purposes of this chapter:

8 (a) "Brominated fire retardant" means an organobromine
9 chemical or organobromide used as a fire or flame retardant. *It*
10 *does not include inherently fire or flame resistant fiber used in*
11 *seating furniture, mattresses, or other bedding products.*

12 (b) "Chlorinated fire retardant" means an organochlorine
13 chemical or organochloride used as a fire or flame retardant. *It*
14 *does not include inherently fire or flame resistant fiber used in*
15 *seating furniture, mattresses, or other bedding products*

16 (c) *"Inherently fire or flame resistant fiber" means a polymeric*
17 *fiber or mixture of polymeric fibers, where one or more fibers is*
18 *comprised of a polymer with covalently attached fire retarding*
19 *chemical groups built directly into the molecular structure of some*
20 *or all of the repeating structural units. Nothing in this definition*
21 *shall be construed to limit the authority of the bureau to prohibit*
22 *the use of components or chemicals pursuant to subdivision (e) of*
23 *Section 108931.*

24 108931. (a) Commencing January 1, 2010, all seating furniture,
25 mattresses, box springs, mattress sets, futons, and other bedding
26 products including, but not limited to, pillows, comforters, other
27 filled blanket products, and sleeping bags that are sold or offered
28 for sale by an importer, manufacturer, or wholesaler for use in this
29 state, including any seating furniture, mattresses, box springs,
30 mattress sets, futons, and other bedding products including, but
31 not limited to, pillows, comforters, other filled blanket products,
32 and sleeping bags sold to or offered for sale for use in a hotel,
33 motel, or other place of public accommodation in this state, and
34 reupholstered furniture to which filling materials are added, shall
35 comply with the following:

36 (1) Shall not contain brominated fire retardants or chlorinated
37 fire retardants.

38 (2) Shall be labeled with a permanent label attachment in a
39 manner specified by the Bureau of Home Furnishings and Thermal
40 Insulation.

1 (b) All permanent label attachments required pursuant to
2 subdivision (a) shall comply with the following:

3 (1) Use plain language understandable to consumers, and in
4 sufficient size as to be readily visible and legible.

5 (2) Include the following statement, "DOES NOT CONTAIN
6 BROMINATED OR CHLORINATED FIRE RETARDANTS."

7 (3) Include other markings or language specified by the Bureau
8 of Home Furnishings and Thermal Insulation.

9 (c) ~~By March 1, 2009~~ January 1, 2010, the Bureau of Home
10 Furnishings and Thermal Insulation shall modify Technical
11 Bulletins 116 and 117 with product standards for furniture that
12 shall achieve fire retardancy properties comparable to existing
13 standards, sufficient to protect human health and safety, but without
14 the use of brominated fire retardants and chlorinated fire retardants
15 and without significant increases in costs to the consumer.

16 (d) The Bureau of Home Furnishings and Thermal Insulation
17 in consultation with the ~~California Office of Health Hazards~~ *Office*
18 *of Environmental Health Hazard* Assessment may review relevant
19 scientific and medical literature as well as the findings, rulings,
20 and regulations of the United States Consumer Product Safety
21 Commission, the federal Centers for Disease Control and
22 Prevention, the United States Environmental Protection Agency,
23 the European Union, and other international, federal, and state
24 agencies, to assess the potential health and environmental impacts
25 of fire retardants that may be used to meet fire retardancy standards.

26 (e) The Bureau of Home Furnishings and Thermal Insulation,
27 in consultation with the California Office of Environmental Health
28 Hazard Assessment, may adopt regulations that protect human
29 health and safety, and the environment, and may prohibit in
30 products under its jurisdiction the use of *components or* chemicals
31 for which the safety to human or animal health cannot be clearly
32 established.

33 (f) The Bureau of Home Furnishings and Thermal Insulation
34 shall enforce this chapter pursuant to Chapter 3 (commencing with
35 Section 19000) of Division 6 of the Business and Professions Code.

36 SEC. 6. The provisions of this act are severable. If any
37 provision of this act or its application is held invalid, that invalidity

- 1 shall not affect other provisions or applications that can be given
- 2 effect without the invalid provision or application.