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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO HEALTH AND SAFETY -- PROTECTION OF CHILDREN, FAMILIES AND
FIREFIGHTERS--FLAME RETARDANTS

Introduced By: Representatives Kazarian, Casimiro, Alzate, Shanley, and Barros

Date Introduced: February 14, 2019

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 26.1

4 PROTECTION OF CHILDREN, FAMILIES AND FIREFIGHTERS FROM HARMFUL

5 FLAME RETARDANTS

6 **23-26.1-1. Definitions.**

7 As used in this chapter, the following words shall, unless the context clearly requires
8 otherwise, have the following meanings:

9 (1) "Bedding" means any residential or commercial bedding material including, but not
10 limited to, a mattress, mattress pad, mattress cover, sheeting, pillow, blanket, comforter, duvet
11 cover, sleeping bag or any other stuffed item intended to be used for reclining or sleeping.

12 (2) "Carpeting" means residential or commercial fabric floor covering, including carpet
13 padding.

14 (3) "Children's product" means a consumer product intended, made or marketed for use
15 by children twelve (12) years of age or under. For the purposes of this section, "children's
16 product" shall not include:

17 (i) Batteries;

18 (ii) Inaccessible components of a consumer product that, during a reasonably foreseeable

1 use and abuse of the children's product, would not come into direct contact with a child's skin or
2 mouth; and

3 (iii) Consumer electronic and electrical products, including, but not limited to, personal
4 computers, audio and video equipment, calculators, wireless telephones, game consoles, power
5 cords, electric chargers and hand-held devices incorporating a video screen used to access
6 interactive software and associated peripherals.

7 (4) "Covered product" means bedding, carpeting, children's product, residential
8 upholstered furniture or window treatment.

9 (5) "Department" means the department of business regulation.

10 (6) "Engineered nanoobject" means a material with one, two (2) or three (3) external
11 dimensions in the nanoscale.

12 (7) "Manufacturer" means a person or entity that produces, imports or distributes covered
13 products.

14 (8) "Nanoscale" means a size range from approximately one nanometer to one hundred
15 (100) nanometers.

16 (9) "Residential upholstered furniture" means seating or other upholstered products
17 intended for indoor or outdoor use in or at a home or other dwelling intended for residential
18 occupancy that consists in whole or in part of resilient cushioning materials enclosed within a
19 covering consisting of fabric or other textile. For the purposes of this chapter, "residential
20 upholstered furniture" shall not include furniture for which the core functionality depends upon
21 the utilization of electric or electronic components subject to various underwriters' laboratories
22 other comparable flammability standards, including, but not limited to, massage chairs, assisted
23 lift chairs and home theater seating.

24 (10) "Retailer" means a person or entity that offers a product for sale at retail through any
25 means including, but not limited to, remote offerings such as sales outlets, catalogs or the
26 Internet, but shall not include a sale that is a wholesale transaction with a distributor or a retailer.

27 (11) "Window treatment" means residential or commercial curtain materials, blinds or
28 shades.

29 **23-26.1-2. Prohibition of sale of products containing flame retardants.**

30 (a) A manufacturer or retailer shall not sell, offer or manufacture for sale, distribute in
31 commerce or import into this state a covered product, except for inventory manufactured prior to
32 January 1, 2020, that contains any of the following chemical flame retardants or a chemical
33 analogue the total weight of which exceeds one thousand parts per million (1,000 ppm) for any
34 component part of the covered product:

- 1 [\(1\) Tris\(1,3-dichloro-2-propyl\)phosphate \(TDCPP\) \(Chemical Abstracts Service number](#)
- 2 [13674-87-8\);](#)
- 3 [\(2\) Tris\(2-chloroethyl\)phosphate \(TCEP\) \(Chemical Abstracts Service number 115-](#)
- 4 [1496-8\);](#)
- 5 [\(3\) Antimony trioxide \(Chemical Abstracts Service number 1309-64-4\);](#)
- 6 [\(4\) Hexabromocyclododecane \(HBCD\) \(Chemical Abstracts Service number 25637-99-4;](#)
- 7 [\(5\) Bis\(2-Ethylhexyl\)-3,4,5,6- tetrabromophthalate \(TBPH\) \(Chemical Abstracts Service](#)
- 8 [number 26040-51-7\);](#)
- 9 [\(6\) 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate \(TBB\) \(Chemical Abstracts Service](#)
- 10 [number 183658- 27-7\);](#)
- 11 [\(7\) Chlorinated paraffins \(Chemical Abstracts Service number 85535-84-8\);](#)
- 12 [\(8\) Tris\(1-chloro-2-propyl\) phosphate \(TCPP\) \(Chemical Abstracts Service number](#)
- 13 [13674-84-5\);](#)
- 14 [\(9\) PentaBDE \(Chemical Abstracts Service number 32534-81-9\);](#)
- 15 [\(10\) OctaBDE \(Chemical Abstracts Service number 32536-52-0\);](#)
- 16 [\(11\) Tetrabromobisphenol A \(TBBPA\) \(Chemical Abstracts Service number 79-94-7\); or](#)
- 17 [\(12\) Any other chemical flame retardants specified by the department pursuant to § 23-](#)
- 18 [26.1-3.](#)

19 **23-26.1-3. Continuous monitoring required.**

20 [\(a\) Every three \(3\) years the department shall, in consultation with the department of](#)

21 [environmental management \(DEM\), review, identify and recommend other chemical flame](#)

22 [retardants that should be prohibited under § 23-26.1-2; provided, however, that the department](#)

23 [shall demonstrate that the chemical flame retardant is known to:](#)

- 24 [\(1\) Harm the normal development of a fetus or child or cause other developmental](#)
- 25 [toxicity;](#)
- 26 [\(2\) Cause cancer, genetic damage or reproductive harm;](#)
- 27 [\(3\) Disrupt the endocrine system;](#)
- 28 [\(4\) Damage the nervous system, immune system or an organ or cause other systemic](#)
- 29 [toxicity; or](#)
- 30 [\(5\) Is found to be a persistent, bioaccumulative and toxic.](#)

31 [\(b\) If the department determines that a chemical flame retardant meets the conditions of](#)

32 [this section, it shall promulgate rules to restrict the manufacture, sale, distribution in commerce or](#)

33 [importation of any children's product or residential upholstered furniture containing the chemical](#)

34 [flame retardant within nine \(9\) months after making such determination. A manufacturer or](#)

1 retailer shall not sell, offer or manufacture for sale, distribute in commerce or import into this
2 state any covered product, except for inventory manufactured prior to the effective date of the
3 promulgated rule, that contains the chemical flame retardant in a total weight that exceeds one
4 thousand parts per million (1,000 ppm) for any component part of the covered product; provided,
5 however, that if the chemical flame retardant is an engineered nanoobject, a manufacturer or
6 retailer shall not sell, offer or manufacture for sale, distribute in commerce or import into this
7 state any covered product, except for inventory manufactured prior to the effective date of the
8 promulgated rule, that contains the chemical flame retardant in any amount.

9 **23-26.1-4. Applicability.**

10 (a) This chapter shall not apply to:

11 (1) Motor vehicles, watercraft, aircraft, all-terrain vehicles, off-highway motorcycles or
12 any component parts; or

13 (2) The sale or purchase of any previously-owned product containing a chemical flame
14 retardant prohibited under this chapter.

15 (b) Sections 23-26.1-1 through 23-26.1-3, inclusive, shall not apply to the sale, purchase,
16 lease, distribution or use of any covered product manufactured before January 1, 2020, or any
17 covered product that contains chemicals prohibited under this chapter due to the presence of
18 recycled materials used during the manufacture of the product covered.

19 **23-26.1-5. Penalties.**

20 (a) A manufacturer or retailer who violates the provisions of § 23-26.1-2, or any
21 regulations promulgated thereunder, shall be subject to the following civil penalties:

22 (1) For the first violation, a fine of not more than one hundred dollars (\$100) per covered
23 product, not to exceed a total of five thousand dollars (\$5,000);

24 (2) For the second violation, a fine of not more than two hundred fifty dollars (\$250) per
25 covered product, not to exceed a total of twenty-five thousand dollars (\$25,000); and

26 (3) For the third or subsequent violation, a fine of not more than one thousand dollars
27 (\$1,000) per covered product, not to exceed a total of fifty thousand dollars (\$50,000).

28 (b) For purposes of calculating a penalty under subsection (a) of this section, a collection
29 of covered products that are sold as a set shall constitute one covered product.

30 (c) A manufacturer or retailer who knowingly violates the provisions of this chapter shall
31 be subject to a civil penalty equal to three (3) times the amount of the fine imposed for such
32 violation pursuant to subsection (a) of this section.

33 (d) A civil penalty for a violation of the provisions of this chapter imposed pursuant to
34 subsection (a) of this section shall be waived by the department if the department determines that

1 a manufacturer or retailer acted in good faith to be in compliance with this chapter, pursued
2 compliance with due diligence and promptly corrected any noncompliance after discovery of the
3 violation.

4 **23-26.1-6. Rules and regulations.**

5 The department may promulgate such rules and regulations as it deems necessary to
6 implement this chapter.

7 **23-26.1-7. Labeling.**

8 The department may establish a labeling program for any covered product that meets
9 relevant fire safety standards and does not contain a chemical flame retardant prohibited by § 23-
10 26.1-2.

11 **23-26.1-8. Notice to retailers.**

12 A manufacturer of a covered product as defined in § 23-26.1-1 that contains a chemical
13 flame retardant prohibited by § 23-26.1-2 shall provide notice to retailers and other persons that
14 sell covered products in this state of the contents of this chapter on or before September 1, 2019.

15 SECTION 2. Chapter 23-26 of the General Laws entitled "Bedding and Upholstered
16 Furniture" is hereby amended by adding thereto the following section:

17 **23-26-3.2. Sale prohibition. [Effective January 1, 2020.].**

18 (a) Beginning on January 1, 2020, no manufacturer, wholesaler, or retailer may
19 manufacture, knowingly sell, offer for sale, or distribute for use in this state any residential
20 upholstered bedding or furniture, which contains one thousand parts per million (1,000 ppm) or
21 greater of any organohalogen flame retardant chemical. This class includes any chemical
22 containing the element bromine or chlorine bonded to carbon that is added to a plastic, foam, or
23 textile.

24 (b) A manufacturer of products that are banned from sale under this section must notify
25 persons or entities that sell the manufactured products in this state about the provisions of this
26 section on or before September 1, 2019.

27 SECTION 3. This act shall take effect on January 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- PROTECTION OF CHILDREN, FAMILIES AND
FIREFIGHTERS--FLAME RETARDANTS

1 This act would protect the health and safety of children, families and firefighters from
2 exposure to harmful flame retardants contained in bedding, carpeting, children's products,
3 residential upholstered furniture or window treatments.

4 This act would take effect on January 1, 2020.

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