

SB 193-FN - AS AMENDED BY THE HOUSE

02/14/2019 0382s
02/14/2019 0510s
8May2019... 1741h

2019 SESSION

19-0249
05/04

SENATE BILL ***193-FN***

AN ACT prohibiting the sale of certain furniture and carpeting with flame retardant chemicals.

SPONSORS: Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Cavanaugh, Dist 16; Sen. Kahn, Dist 10; Sen. Chandley, Dist 11; Sen. Levesque, Dist 12; Sen. Hennessey, Dist 5; Rep. Goley, Hills. 8; Rep. Danielson, Hills. 7; Rep. Doucette, Rock. 8; Rep. Luneau, Merr. 10

COMMITTEE: Commerce

ANALYSIS

This bill prohibits the sale of certain furniture and carpeting with flame retardant chemicals.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT prohibiting the sale of certain furniture and carpeting with flame retardant chemicals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Sale of Furniture with Flame Retardant Chemicals. Amend RSA by inserting after chapter 359-P the following new chapter:

CHAPTER 359-Q
SALE OF FURNITURE
WITH FLAME RETARDANT CHEMICALS

359-Q:1 Definitions. In this chapter:

I. "Flame-retardant chemical" means a chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. "Flame-retardant chemical" includes, but is not limited to, halogenated, phosphorus-based, nitrogen-based and nanoscale flame retardants and any chemical or chemical compound for which "flame retardant" appears on the substance safety data sheet required under 29 C.F.R. section 1910.1200(g).

II. "Mattress" has the same definition as in 16 C.F.R. section 1632.1.

III. "Upholstered furniture" means residential furniture intended for indoor use in a home or other dwelling intended for residential occupancy that consists in whole or in part of resilient cushioning materials enclosed within a covering consisting of fabric or related materials.

359-Q:2 Prohibition.

I. No person shall import for sale or ship to a customer in this state, nor shall any person manufacture for sale in this state, upholstered furniture containing in its fabric or other covering or in its cushioning materials more than 0.1 percent of a flame-retardant chemical or more than 0.1 percent of a mixture that includes flame-retardant chemicals.

II. No person shall sell, offer to sell, or distribute for promotional purposes, upholstered furniture if in receipt of the notice sent by a manufacturer in accordance with RSA 359-Q:3, II.

359-Q:3 Certificate of Compliance. In addition to any other remedies and procedures authorized by this chapter, the attorney general may request that a manufacturer of upholstered furniture distributed for sale in this state provide the attorney general with a certificate of compliance with this chapter. Within 30 days of receipt of request for a certificate of compliance, the manufacturer shall:

I. Provide the attorney general with a certificate declaring that its product complies with the requirements of this chapter; or

II. Notify retailers who sell in this state a product of the manufacturer that does not comply with this chapter that sale of the product is prohibited in New Hampshire. The manufacturer shall submit to the attorney general the names and addresses of those notified.

359-Q:4 Retailer Indemnification. If a retailer takes delivery of upholstered furniture from a manufacturer that is subsequently found to contain one or more flame-retardant chemicals, the retailer is entitled to a full refund, including shipping and other related costs, from the manufacturer.

359-Q:5 Violations; Consumer Protections. Any violation of the provisions of this chapter is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy, or power set forth in RSA 358-A, including those set forth in RSA 358-A:4, may be used to enforce the provisions of this chapter.

359-Q:6 Confidentiality. Information submitted to the department of justice pursuant to this chapter may be designated as confidential by the submitting party and not subject to disclosure under RSA 91-A, except during an enforcement action brought forward by the attorney general.

359-Q:7 Exemptions.

I. The prohibition in RSA 359-Q:2 shall not apply to the following upholstered furniture products containing flame-retardant chemicals:

(a) Used upholstered furniture, including antique upholstered furniture.

(b) Upholstered furniture purchased for public use in public facilities, including, but not limited to, schools, jails, and hospitals, that is required by the state or by local fire codes to meet specific flammability standards which cannot reasonably be met without the use of flame retardants.

(c) New upholstered furniture otherwise subject to the prohibition in RSA 359-Q:2 that is sold, offered for sale, or distributed for promotional purposes in the state by a retailer or wholesaler on or after January 1, 2021 and that was imported into the state or otherwise purchased or acquired by the retailer or wholesaler for sale or distribution in the state prior to January 1, 2021.

(d) New upholstered furniture otherwise subject to the prohibition in RSA 359-Q:2 that is manufactured prior to January 1, 2020.

(e) Upholstered furniture which includes electronic or electric components.

(f) Mattresses.

II. Products that meet the following requirements shall be deemed in compliance with this chapter:

(a) Upholstered furniture bearing a label or accompanied by a certificate indicating compliance with California BPC section 19101, as amended.

(b) Upholstered furniture bearing a label, as prescribed by California BPC section 19094 (2014), indicating that the product's upholstery materials "contain NO added flame retardant chemicals."

2 Effective Date. This act shall take effect upon its passage.

LBAO

19-0249

Amended 2/22/19

SB 193-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2019-0382s and #2019-0510s)

AN ACT prohibiting the sale of certain furniture and carpeting with flame retardant chemicals.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$67,000	\$71,000	\$75,000	\$79,000
Funding Source:	☒ General ☐ Education ☐ Highway ☐ Other			

METHODOLOGY:

This bill would regulate and prohibit the sale of certain furniture and carpeting with flame retardant chemicals. Under this bill, the Department of Justice is authorized to request a manufacturer of upholstered furniture or carpeting distributed for sale in NH to provide a certificate of compliance with the provisions of this bill. Within 30 days of the request, manufacturers may either: 1) inform the Department they have complied with this bill; or 2) notify retailers what is prohibited by this bill and submit to the Department a list of all retailers notified. The Department anticipates this bill will require them to hire a Legal Assistant for implementation, due to the increased demand for administrative support staff. The Department estimates the salary, benefits and other expenses associated with the position to be \$67,000 in FY 2020, \$71,000 in FY 2021, \$75,000 in FY 2022 and \$79,000 in FY 2023.

The Department of Safety states this bill would have no impact on its revenues or expenditures.

AGENCIES CONTACTED:

Department of Justice and Department of Safety