

SENATE THIRD READING  
 SB 1019 (Leno)  
 As Amended August 22, 2014  
 Majority vote

SENATE VOTE: 29-6

ENVIRONMENTAL SAFETY	6-1	BUSINESS, PROFESSIONS	10-2
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Ayes: Alejo, Dahle, Bloom, Gomez,  
 Lowenthal, Ting

Ayes: Bonilla, Campos, Dickinson, Eggman,  
 Gordon, Hagman, Maienschein,  
 Mullin, Skinner, Ting

Nays: Donnelly

Nays: Jones, Wilk

APPROPRIATIONS	12-1
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Ayes: Gatto, Bigelow, Bradford,  
 Ian Calderon, Campos, Eggman,  
 Gomez, Holden, Linder, Pan, Quirk,  
 Weber

Nays: Ridley-Thomas

SUMMARY: Requires manufacturers of upholstered furniture to indicate on a label currently required by law whether or not the product contains added flame retardant chemicals.

Specifically, this bill:

- 1) Makes legislative findings about California's upholstered furniture flammability standards and the adverse public health and environmental impacts of flame retardant chemicals.
- 2) Defines terms, including "covered products," as any flexible polyurethane foam or upholstered or reupholstered furniture sold in California that is required to meet the test requirements set forth in Technical Bulletin (TB) 117-2013.
- 3) Requires a manufacturer of covered products to indicate whether or not the product contains added flame retardant chemicals on the label that is currently required by the California Code of Regulations (TB 117-2013).
- 4) Requires the manufacturer of a covered product sold in California to retain documentation to show whether flame retardant chemicals were added.
- 5) Requires Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation (BEARHFTI) to ensure compliance with the labeling and documentation requirements in this bill.
- 6) Specifies a method for detecting mislabeling, including testing, and requires fines for mislabeling to be assessed in increasing severity, depending on the frequency of the violation.

- 7) Requires BEARHFTI to assess specified fines for the failure of the manufacturer of the covered product to maintain or provide upon request specified documentation establishing the accuracy of the flame retardant chemical statement on the required label.

#### EXISTING LAW:

- 1) Requires protection of the public to be the highest priority for BEARHFTI in exercising its licensing, regulatory, and disciplinary functions. Requires, whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public to be paramount. (Business and Professions Code (BPC) Section 19004.1)
- 2) Requires all seating furniture sold or offered for sale by an importer, manufacturer, or wholesaler to be fire retardant and to be labeled in a manner specified by BEARHFTI. (BPC Section 19161)
- 3) Requires, pursuant to TB 117-2013, beginning January 1, 2015, all filling materials and cover fabrics contained in upholstered furniture sold in California to meet certain smolder resistant testing standards, and to be labeled as specified. (Article 13, Division 3, Title 4, California Code of Regulations Section 1374)

FISCAL EFFECT: According to the Assembly Appropriations Committee, enactment of this bill could result in ongoing special fund costs to BEARHFTI in the hundreds of thousands of dollars from the Home Furnishing and Thermal Insulation Fund for testing associated with enforcement.

#### COMMENTS:

*Need for the bill:* According to the author, "Consumers have the right to know whether the furniture they are buying contains added flame retardants. SB 1019 will provide consumers who are purchasing furniture easily accessible information on whether the product contains added flame retardant chemicals. California's BEARHFTI found that flame retardant chemicals in furniture do not provide a meaningful fire safety benefit. These chemicals are associated with a variety of health concerns. Current labeling law does not provide clear disclosure of the use of these chemicals even though many consumers would like such information... SB 1019 would require upholstered furniture manufacturers to disclose via modifying an existing law product label and specified point-of-sale information as to whether or not the furniture contains added flame retardant chemicals."

*Human health and environmental impacts of flame retardant chemicals:* Many flame retardant chemicals are persistent chemicals that bioaccumulate and biomagnify. Polybrominated diphenyl ethers (PBDEs), the most thoroughly studied of the flame retardant chemicals, have been found in birds, fish, shellfish, amphibians, marine mammals, sewage sludge, sediments, air samples, meats, dairy products, and even vegetables. There has been extensive animal research over the past decade indicating that PBDE exposure can lead to abnormalities in learning, memory, and neurodevelopment, and can lead to hyperactivity, endocrine disruption, and neurotoxic effects. More recent research has shown that PBDE exposure in humans may lead to endocrine disruption, reproductive difficulty, neurodevelopment issues, reduced IQ, and elevated thyroid levels.

*Upholstered furniture flammability standard:* In 1972, AB 2165 (Burton), Chapter 1183, required BEARHFTI to establish upholstered furniture flammability standards. BEARHFTI develops flammability standards in the form of Technical Bulletins (TBs) which are adopted through regulation. There are also a number of other federal flammability standards developed by the United States Consumer Product Safety Commission (CPSC) which are currently in effect nationwide. While CPSC has been studying a national residential upholstered furniture standard for several years, California remains the only state with a residential upholstered furniture flammability standard. However, since California is such a large portion of the national market, most manufacturers choose to meet California's standards in all of their products across the country.

*TB 117:* In October 1975, regulations were promulgated and resulted with the development of Technical Bulletin 117 (TB 117) entitled, *Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture*. This mandatory performance standard requires that the concealed filling materials and cover fabric of upholstered furniture undergo individual component testing to ensure that they pass open flame and cigarette smolder tests. Manufacturers meet this requirement, predominately, through using polyurethane foam treated with flame retardant chemicals, which must withstand exposure to a 12-second small open flame.

Recently, BEARHFTI determined that TB 117 did not adequately address the flammability performance of upholstered furniture performance of the upholstery cover fabric and its interactions with underlying filling materials, and that flame retardant foam can actually increase smolder propensity. In addition, concerns have been growing about the human health and environmental impacts of flame retardant chemicals. As a response, in 2012, Governor Brown directed BEARHFTI to revise flammability standards for upholstered furniture sold in the state.

*TB 117-2013:* In recognition of TB 117's inadequacy at addressing the flammability performance of upholstery cover fabric and its interactions with underlying filling materials, as well as noting the health concerns over the use of flame retardant chemicals, BEARHFTI published TB 117-2013 in November 2013. TB 117-2013 updates flammability standards from the open flame method of testing to a smoldering test and supersedes TB 117. Manufacturers have indicated that they can comply with TB 117-2013 without the use of flame retardant chemicals. TB 117-2013 became effective on January 1, 2014. Manufacturers will have a year to complete the transition and must come into full mandatory compliance on January 1, 2015. This bill requires additional information to be included in the currently mandated TB 117-2013 label.

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