

HOUSE BILL 1264

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CF 9lr3111

By: **Delegates Cullison, Barron, Charkoudian, W. Fisher, Johnson, Kelly, Kerr,
R. Lewis, Rosenberg, Smith, Stewart, and K. Young**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Products Containing a Flame–Retardant Chemical – Prohibition**
3 **on Import or Sale**

4 FOR the purpose of prohibiting a person from importing, selling, or offering for sale any
5 juvenile product, mattress, upholstered furniture, or reupholstered furniture that
6 contains more than a certain amount of certain chemicals; repealing certain
7 provisions of law regarding the importing, sale, or offering for sale of any child care
8 product containing certain chemicals; establishing certain civil penalties;
9 authorizing a court to enjoin a certain action; authorizing the Secretary of Health to
10 suspend implementation of certain provisions of this Act under certain
11 circumstances; requiring the Maryland Department of Health to adopt certain
12 regulations on or before a certain date; providing for the application of certain
13 provisions of this Act; making conforming changes; defining certain terms; and
14 generally relating to products containing flame–retardant chemicals.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 24–306
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2018 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 24–306.1
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2018 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

24–306.

(a) (1) In this section the following words have the meanings indicated.

(2) (I) “Child care product” means a consumer product intended for use by a child under the age of 3 years[, including].

(II) “CHILD CARE PRODUCT” INCLUDES a baby product, toy, AND car seat[, nursing pillow, crib mattress, and stroller].

(III) “CHILD CARE PRODUCT” DOES NOT INCLUDE A PRODUCT REGULATED UNDER § 24–306.1 OF THIS SUBTITLE.

(3) “TCEP” means (tris (2–chloroethyl) phosphate).

(4) “TDCPP” means (tris (1, 3–dichloro–2–propyl) phosphate).

(b) This section does not apply to the sale or distribution of a child care product that is resold, offered for resale, or distributed by a consumer for consumer use.

(c) A person may not import, sell, or offer for sale any child care product that:

(1) Contains more than one–tenth of 1% of TCEP or TDCPP by mass; and

(2) Is intended for use by a child under the age of 3 years.

(d) (1) A person that violates this section is subject to:

(i) For a first violation, a civil penalty not exceeding \$1,000 and

(ii) For any subsequent violation, a civil penalty not exceeding \$2,500 for each violation.

(2) In addition to the civil penalties provided in paragraph (1) of this subsection, a court may enjoin an action prohibited by this section.

(e) The Secretary may suspend implementation of subsection (c) of this section if the Secretary determines that the fire safety benefits of TCEP or TDCPP are greater than the health risks associated with TCEP or TDCPP.

(f) On or before January 1, [2015] 2020, the Department shall adopt regulations to carry out this section.

24–306.1.

1 4. A PRODUCT REGULATED UNDER § 24-306 OF THIS
2 SUBTITLE.

3 (4) “MATTRESS” HAS THE MEANING STATED IN 16 C.F.R. § 1632.1.

4 (5) “REUPHOLSTERED FURNITURE” MEANS FURNITURE FOR WHICH
5 THE ORIGINAL FABRIC, PADDING, DECKING, BARRIER MATERIAL, FOAM, OR OTHER
6 RESILIENT FILLING HAS BEEN REPLACED, AND THAT HAS NOT BEEN SOLD SINCE THE
7 TIME OF REPLACEMENT.

8 (6) “UPHOLSTERED FURNITURE” MEANS FURNITURE THAT
9 CONTAINS FILLING MATERIALS OR COVER FABRICS.

10 (B) THIS SECTION DOES NOT APPLY TO THE SALE OR DISTRIBUTION OF A
11 JUVENILE PRODUCT, MATTRESS, UPHOLSTERED FURNITURE, OR REUPHOLSTERED
12 FURNITURE THAT IS RESOLD, OFFERED FOR RESALE, OR DISTRIBUTED BY A
13 CONSUMER FOR CONSUMER USE.

14 (C) (1) THIS SUBSECTION DOES NOT APPLY TO:

15 (I) AN ELECTRONIC COMPONENT, OR THE CASING FOR AN
16 ELECTRONIC COMPONENT, OF A JUVENILE PRODUCT, MATTRESS, UPHOLSTERED
17 FURNITURE, OR REUPHOLSTERED FURNITURE;

18 (II) A COMPONENT OF UPHOLSTERED OR REUPHOLSTERED
19 FURNITURE OTHER THAN COVER FABRIC, BARRIER MATERIAL, RESILIENT FILLING
20 MATERIAL, AND DECKING MATERIAL;

21 (III) THREAD OR FIBER WHEN USED FOR STITCHING MATTRESS
22 COMPONENTS TOGETHER; OR

23 (IV) EXCEPT FOR FOAM, A COMPONENT OF A MATTRESS
24 INTENDED FOR USE BY AN INDIVIDUAL AT LEAST 12 YEARS OLD.

25 (2) A PERSON MAY NOT IMPORT, SELL, OR OFFER FOR SALE ANY
26 JUVENILE PRODUCT, MATTRESS, UPHOLSTERED FURNITURE, OR REUPHOLSTERED
27 FURNITURE THAT CONTAINS MORE THAN ONE-TENTH OF 1% OF A
28 FLAME-RETARDANT CHEMICAL BY MASS.

29 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON
30 THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY:

- 1 **(I) FOR A FIRST VIOLATION, NOT EXCEEDING \$2,500;**
2 **(II) FOR A SECOND VIOLATION, NOT EXCEEDING \$5,000;**
3 **(III) FOR A THIRD VIOLATION, NOT EXCEEDING \$7,500; AND**
4 **(IV) FOR ANY SUBSEQUENT VIOLATION, NOT EXCEEDING**
5 **\$10,000 FOR EACH VIOLATION.**

6 **(2) EVERY 5 YEARS, THE SECRETARY SHALL ADJUST THE CIVIL**
7 **PENALTIES PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION FOR INFLATION, IN**
8 **ACCORDANCE WITH THE CONSUMER PRICE INDEX.**

9 **(3) IN ADDITION TO THE CIVIL PENALTIES PROVIDED IN PARAGRAPH**
10 **(1) OF THIS SUBSECTION, A COURT MAY ENJOIN AN ACTION PROHIBITED BY THIS**
11 **SECTION.**

12 **(E) THE SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C)**
13 **OF THIS SECTION IF THE SECRETARY DETERMINES THAT THE FIRE SAFETY**
14 **BENEFITS OF A FLAME-RETARDANT CHEMICAL ARE GREATER THAN THE HEALTH**
15 **RISKS ASSOCIATED WITH THE FLAME-RETARDANT CHEMICAL.**

16 **(F) ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ADOPT**
17 **REGULATIONS TO CARRY OUT THIS SECTION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2019.