SENATE BILL 902

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9lr3111 CF HB 1264

By: **Senator Hayes** Introduced and read first time: February 14, 2019 Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of prohibiting a person from importing, selling, or offering for sale any $\mathbf{5}$ 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 product containing certain chemicals; establishing certain civil penalties; 8 9 authorizing a court to enjoin a certain action; authorizing the Secretary of Health to suspend implementation of certain provisions of this Act under certain 10 11 circumstances; requiring the Maryland Department of Health to adopt certain 12regulations 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:
- 27

Article - Health - General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.



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1	24–306.	
2	(a)	(1) In this section the following words have the meanings indicated.
$\frac{3}{4}$	by a child u	(2) (I) "Child care product" means a consumer product intended for use nder the age of 3 years[, including].
$5 \\ 6$	car seat[, nı	(II) "CHILD CARE PRODUCT" INCLUDES a baby product, toy, AND ursing pillow, crib mattress, and stroller].
7 8	REGULATE	(III) "CHILD CARE PRODUCT" DOES NOT INCLUDE A PRODUCT D UNDER § 24–306.1 OF THIS SUBTITLE.
9		(3) "TCEP" means (tris (2–chloroethyl) phosphate).
10		(4) "TDCPP" means (tris (1, 3–dichloro–2–propyl) phosphate).
$\begin{array}{c} 11 \\ 12 \end{array}$	(b) that is resol	This section does not apply to the sale or distribution of a child care product d, offered for resale, or distributed by a consumer for consumer use.
13	(c)	A person may not import, sell, or offer for sale any child care product that:
14		(1) Contains more than one-tenth of 1% of TCEP or TDCPP by mass; and
15		(2) Is intended for use by a child under the age of 3 years.
16	(d)	(1) A person that violates this section is subject to:
17		(i) For a first violation, a civil penalty not exceeding \$1,000 and
18 19	\$2,500 for ea	(ii) For any subsequent violation, a civil penalty not exceeding ach violation.
$\begin{array}{c} 20\\ 21 \end{array}$	subsection,	(2) In addition to the civil penalties provided in paragraph (1) of this a court may enjoin an action prohibited by this section.
$22 \\ 23 \\ 24$		The Secretary may suspend implementation of subsection (c) of this section if ry determines that the fire safety benefits of TCEP or TDCPP are greater than isks associated with TCEP or TDCPP.
$\frac{25}{26}$	(f) to carry out	On or before January 1, [2015] 2020 , the Department shall adopt regulations this section.

24–306.1.

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1 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS (1) $\mathbf{2}$ **INDICATED.** "FLAME-RETARDANT CHEMICAL" MEANS A CHEMICAL: 3 (2) 4 **(I)** THAT IS USED TO RESIST OR INHIBIT THE SPREAD OF FIRE $\mathbf{5}$ OR ACT AS A SYNERGIST TO CHEMICALS THAT RESIST OR INHIBIT THE SPREAD OF 6 FIRE: AND 7 **(II)** 1. FOR WHICH THE TERM "FLAME RETARDANT" APPEARS ON A SAFETY DATA SHEET DEVELOPED IN ACCORDANCE WITH 29 C.F.R. 8 **1910.1200(G);** 9 10 2. THAT CONTAINS ONE OR MORE HALOGEN ELEMENTS, 11 INCLUDING FLUORINE, CHLORINE, BROMINE, OR IODINE; 123. THAT CONTAINS ONE OR MORE CARBON ELEMENTS 13 AND ONE OR MORE PHOSPHOROUS ELEMENTS; 14**4**. THAT CONTAINS ONE OR MORE CARBON ELEMENTS 15AND ONE OR MORE NITROGEN ELEMENTS; OR 5. 16 THAT IS A NANOSCALE CHEMICAL. "JUVENILE PRODUCT" MEANS A CONSUMER PRODUCT 17(3) **(I)** INTENDED FOR USE BY A CHILD UNDER THE AGE OF 12 YEARS. 18 (II) "JUVENILE PRODUCT" INCLUDES A BASSINET, BOOSTER 19SEAT, CHANGING PAD, CHILDREN'S NAP MAT, FLOOR PLAYMAT, HIGH CHAIR, HIGH 20CHAIR PAD, INFANT BOUNCER, INFANT CARRIER, INFANT SEAT, INFANT SWING, 2122INFANT WALKER, NURSING PAD, NURSING PILLOW, PLAYPEN SIDE PAD, PLAY YARD, 23PORTABLE HOOK-ON CHAIR, AND STROLLER. (III) "JUVENILE PRODUCT" DOES NOT INCLUDE: 24251. A PRODUCT THAT IS NOT PRIMARILY INTENDED FOR USE IN THE HOME, INCLUDING A PRODUCT THAT IS, OR IS A COMPONENT PART OF, A 26 27MOTOR VEHICLE, A WATERCRAFT, AN AIRCRAFT, OR ANY OTHER VEHICLE; 282. A PRODUCT REGULATED UNDER 49 C.F.R. PART 571; 293. A CONSUMER ELECTRONIC PRODUCT; OR

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1	4. A PRODUCT REGULATED UNDER § 24–306 OF THIS
$\frac{1}{2}$	SUBTITLE.
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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.
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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;
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18 19	(II) A COMPONENT OF UPHOLSTERED OR REUPHOLSTERED FURNITURE OTHER THAN COVER FABRIC, BARRIER MATERIAL, RESILIENT FILLING
19 20	MATERIAL, AND DECKING MATERIAL;
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21	(III) THREAD OR FIBER WHEN USED FOR STITCHING MATTRESS
22	COMPONENTS TOGETHER; OR
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$\frac{23}{24}$	(IV) EXCEPT FOR FOAM, A COMPONENT OF A MATTRESS INTENDED FOR USE BY AN INDIVIDUAL AT LEAST 12 YEARS OLD.
2 4	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.
00	(b) (1) CUDIECT TO DADAGDADU (0) OF TWO CUDODCTON A PROCESS
29 20	(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY:
30	INAL VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY:
31	(I) FOR A FIRST VIOLATION, NOT EXCEEDING \$2,500;

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(II) 1 FOR A SECOND VIOLATION, NOT EXCEEDING \$5,000; $\mathbf{2}$ (III) FOR A THIRD VIOLATION, NOT EXCEEDING \$7,500; AND (IV) FOR ANY SUBSEQUENT VIOLATION, NOT EXCEEDING 3 \$10,000 FOR EACH VIOLATION. 4 $\mathbf{5}$ (2) EVERY 5 YEARS, THE SECRETARY SHALL ADJUST THE CIVIL PENALTIES PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION FOR INFLATION, IN 6 7 ACCORDANCE WITH THE CONSUMER PRICE INDEX. 8 (3) IN ADDITION TO THE CIVIL PENALTIES PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A COURT MAY ENJOIN AN ACTION PROHIBITED BY THIS 9 10 SECTION. THE SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) 11 **(E)** OF THIS SECTION IF THE SECRETARY DETERMINES THAT THE FIRE SAFETY 1213 BENEFITS OF A FLAME-RETARDANT CHEMICAL ARE GREATER THAN THE HEALTH 14RISKS ASSOCIATED WITH THE FLAME-RETARDANT CHEMICAL. ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ADOPT 15**(F) REGULATIONS TO CARRY OUT THIS SECTION.** 16

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