

SENATE BILL 447

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CF HB 424

By: **Senators Guzzone, Augustine, Beidle, Feldman, and Young**

Introduced and read first time: January 27, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Products Containing a Flame–Retardant Chemical**

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

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 24–306
16 Annotated Code of Maryland
17 (2019 Replacement Volume)

18 BY adding to
19 Article – Health – General
20 Section 24–306.1
21 Annotated Code of Maryland
22 (2019 Replacement Volume)

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

25 **Article – Health – General**

26 24–306.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) For any subsequent violation, a civil penalty not exceeding
18 \$2,500 for each violation.

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

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

24 (f) On or before January 1, [2015] 2021, the Department shall adopt regulations
25 to carry out this section.

26 **24–306.1.**

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

1 **(2) “ADULT MATTRESS” MEANS ANY MATTRESS OTHER THAN A**
2 **TODDLER MATTRESS, A CRIB MATTRESS, OR ANY OTHER INFANT SLEEP PRODUCT.**

3 **(3) “FLAME–RETARDANT CHEMICAL” MEANS A CHEMICAL THAT:**

4 **(I) IS USED TO RESIST OR INHIBIT THE SPREAD OF FIRE OR ACT**
5 **AS A SYNERGIST TO CHEMICALS THAT RESIST OR INHIBIT THE SPREAD OF FIRE,**
6 **INCLUDING ANY CHEMICAL FOR WHICH THE TERM “FLAME RETARDANT” APPEARS**
7 **ON A SAFETY DATA SHEET DEVELOPED IN ACCORDANCE WITH 29 C.F.R.**
8 **1910.1200(G); AND**

9 **(II) 1. CONTAINS ONE OR MORE HALOGEN ELEMENTS,**
10 **INCLUDING FLUORINE, CHLORINE, BROMINE, OR IODINE;**

11 **2. CONTAINS ONE OR MORE CARBON ELEMENTS AND**
12 **ONE OR MORE PHOSPHORUS ELEMENTS;**

13 **3. CONTAINS ONE OR MORE CARBON ELEMENTS AND**
14 **ONE OR MORE NITROGEN ELEMENTS; OR**

15 **4. IS A NANOSCALE CHEMICAL.**

16 **(4) (I) “JUVENILE PRODUCT” MEANS A CONSUMER PRODUCT**
17 **INTENDED FOR USE BY A CHILD UNDER THE AGE OF 12 YEARS.**

18 **(II) “JUVENILE PRODUCT” INCLUDES A BASSINET, A BOOSTER**
19 **SEAT, A CHANGING PAD, A CHILDREN’S NAP MAT, A FLOOR PLAYMAT, A HIGH CHAIR,**
20 **A HIGH CHAIR PAD, AN INFANT BOUNCER, AN INFANT CARRIER, AN INFANT SEAT, AN**
21 **INFANT SWING, AN INFANT WALKER, A NURSING PAD, A NURSING PILLOW, A**
22 **PLAYPEN SIDE PAD, A PLAY YARD, A PORTABLE HOOK–ON CHAIR, AND A STROLLER.**

23 **(III) “JUVENILE PRODUCT” DOES NOT INCLUDE:**

24 **1. A PRODUCT THAT IS NOT PRIMARILY INTENDED FOR**
25 **USE IN THE HOME, INCLUDING A PRODUCT THAT IS, OR IS A COMPONENT PART OF, A**
26 **MOTOR VEHICLE, A WATERCRAFT, AN AIRCRAFT, OR ANY OTHER VEHICLE;**

27 **2. A PRODUCT REGULATED UNDER 49 C.F.R. PART 571;**

28 **3. A CONSUMER ELECTRONIC PRODUCT; OR**

29 **4. A PRODUCT REGULATED UNDER § 24–306 OF THIS**

1 SUBTITLE.

2 (5) "MATTRESS" HAS THE MEANING STATED IN 16 C.F.R. § 1632.1.

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

7 (7) "UPHOLSTERED FURNITURE" MEANS FURNITURE THAT
8 INCLUDES FILLING MATERIALS, BARRIER MATERIALS, DECKING MATERIALS, OR
9 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 AN ADULT
24 MATTRESS.

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 0.1% OF A FLAME-RETARDANT CHEMICAL
28 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:

31 (I) FOR A FIRST VIOLATION, NOT EXCEEDING \$2,500;

1 **(II) FOR A SECOND VIOLATION, NOT EXCEEDING \$5,000;**

2 **(III) FOR A THIRD VIOLATION, NOT EXCEEDING \$7,500; AND**

3 **(IV) FOR ANY SUBSEQUENT VIOLATION, NOT EXCEEDING**
4 **\$10,000 FOR EACH VIOLATION.**

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

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

11 **(E) ON OR BEFORE JANUARY 1, 2021, THE DEPARTMENT SHALL ADOPT**
12 **REGULATIONS TO CARRY OUT THIS SECTION.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2020.