

HOUSE No. 1245**The Commonwealth of Massachusetts**

PRESENTED BY:

Marjorie C. Decker*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act To protect children, families, and firefighters from harmful flame retardants.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>

<i>William Crocker</i>	<i>2nd Barnstable</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>

<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 1245

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 1245) of Marjorie C. Decker and others for the establishment of a chronic hazard advisory panel to study and make recommendations relative to children’s products and upholstered furniture containing certain flame retardants. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2119 OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act To protect children, families, and firefighters from harmful flame retardants.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. SHORT TITLE. This Act may be cited as the "Children and Firefighters
2 Protection Act of 2016."

3 SEC. 2. PROHIBITION ON SALE OF CERTAIN PRODUCTS CONTAINING
4 SPECIFIED FLAME RETARDANTS.

5 (a) DEFINITIONS.—In this section, the terms “chil- dren’s product”, “consumer
6 product”, “distribute in com- merce”, “distributor”, “import”, “manufacturer”, “re- tailer”,
7 and “United States” have the meanings given such terms in section 3(a) of the Consumer
8 Product Safe- ty Act (15 U.S.C. 2052(a)). (b) PROHIBITION.—It shall be unlawful for any
9 man- ufacturer, distributor, or retailer to sell, offer for sale, manufacture for sale, distribute in

commerce, or import into the United States any children's product or upholstered furniture that contains a flame retardant specified in subsection (c) that exceeds 1,000 parts per million total chemical content by weight for any part of the product or furniture. (c) SPECIFIED FLAME RETARDANTS.—The flame retardants specified in this subsection are the following: (1) Tris(1,3-dichloro-2-propyl)phosphate (TDCPP) (chemical abstracts service number 13674–87–8). (2) Tris(2-chloroethyl)phosphate (TCEP) (chemical abstracts service number 115–1496–8). (3) Tetrabromobisphenol A (TBBPA) (chemical abstracts service number 79–94–7). (4) Decabromodiphenyl ether (chemical abstracts service number 1163–19–5). (5) Antimony trioxide (chemical abstracts service number 1309–64–4). (6) Hexabromocyclododecane (HBCD) (chemical abstracts service number 25637–99–4). (7) Bis(2-Ethylhexyl)-3,4,5,6-tetrabromophthalate (TBPH) (chemical abstract service number 26040–51–7). (8) 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB) (chemical abstract service number 183658–27–7). (9) Chlorinated paraffins (chemical abstract services number 85535–84–8). (10) Tris (1-chloro-2-propyl) phosphate (TCPP) (chemical abstract service number 13674–84–5). (11) Such other chemical flame retardants as the Commission may specify by rule under subsection (d)(5). (d) CHRONIC HAZARD ADVISORY PANEL. (1) APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall appoint a chronic hazard advisory panel pursuant to the procedures of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) to study the effects on human health of all chemical flame retardants as used in children's products or upholstered furniture. (2) EXAMINATION. (A) IN GENERAL.—The panel shall, not later than 540 days after the date on which the panel is appointed under paragraph (1), complete an examination of the potential hazards and exposures for the full range of chemical flame retardants that may be used in children's products or upholstered

furniture to meet applicable fire safety standards and shall— (i) examine potential health effects of the chemical flame retardants, including age, (I) developmental toxicity; (II) carcinogenicity, genetic damage or reproductive toxicity; (III) endocrine disruption; (IV) toxicity related to the nervous system, immune system, or organs or cause other systemic toxicity; (V) whether they are (aa) persistent, bioaccumulative, and toxic; or (bb) very persistent and very bioaccumulative; (ii) consider the potential health effects of such chemical flame retardants, both in isolation and in combination with other flame retardants; (iii) examine biomonitoring studies that document existing levels and likely future levels of chemical flame retardants in children, pregnant women, firefighters (including combustion by-products of chemical flame retardants), and others; (iv) examine data and analysis regarding the chemical flame retardants in household dust, indoor air, or elsewhere in the home environment; (v) consider the cumulative effects of total exposure to flame retardants, both from children's products, upholstered furniture, and from other sources, such as food, commercial furniture, building insulation, and electronics; (vi) review all relevant data, including the most recent, best-available, peer-reviewed, scientific studies of these chemical flame retardants that employ objective data collection practices or employ other objective methods; (vii) consider the amounts of chemical flame retardants used in consumer products and the total volumes manufactured for use; and (viii) consider possible similar health effects of chemical flame retardants used in children's products or upholstered furniture. (3) DO NOVO.—The panel's examinations pursuant to this subsection shall be conducted de novo. The findings and conclusions of any previous chronic hazard advisory panel on chemical flame retardants and other studies conducted by the Commission shall be reviewed by the panel but shall not be considered determinative. (4) REPORT.—Not later than 180 days after completing its examination, the panel appointed under paragraph (1) shall submit to the

Commission a report on the results of the examination conducted under this section and shall make recommendations to the Commission regarding any chemical flame retardants (or combinations of chemical flame retardants) in addition to those identified in paragraphs (1) through (10) of subsection (c) that the panel determines should be prohibited under subsection (b).

(5) SPECIFICATION OF ADDITIONAL CHEMICAL FLAME RETARDANTS.—Not later than 180 days after receiving the report of the panel under paragraph (4), the Commission shall (A) evaluate the findings of the chronic hazard advisory panel regarding the examination carried out under paragraph (2); (B) evaluate the recommendations submitted by the chronic hazard advisory panel under paragraph (4); and (C) promulgate a final rule, based on the evaluations carried out under subparagraphs (A) and (B) of this paragraph, that specifies such chemical flame retardants that are not listed in paragraphs (1) through (10) of subsection (c) as the Commission determines that the presence of such chemical flame retardant in any part of a children's product or upholstered furniture may cause substantial personal injury or substantial illness, including (i) developmental or learning disabilities; (ii) cancer; (iii) endocrine disruption; (iv) reproductive harm; or (v) damage to the nervous system, immune system, or organs or cause other systemic toxicity.

(e) TREATMENT OF VIOLATION.—A violation of subsection (b) shall be treated as a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)).

(f) PRODUCT CERTIFICATION AND LABELING.—A product subject to subsection (b) of this section shall not be subject to section 14(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(2)) with respect to testing for compliance with the requirements of this section.

(g) RULE-MAKING. (1) IN GENERAL.—The Consumer Product Safety Commission shall promulgate rules to carry out this section in accordance with section 553 of title 5, United States Code.

(2) EXEMPTION FROM CERTAIN REQUIREMENTS.—The

79 requirements of sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056 and 2058)
80 shall not apply to a rule-making under this section. (h) RELATION TO STATE LAW.—This
81 section shall not annul, alter, or affect a provision of law of a State relating to the presence of a
82 chemical flame retardant in a children’s product or upholstered furniture except to the extent that
83 such provision of law is inconsistent with a provision of this section, and then only to the extent
84 of the inconsistency. For purposes of this section, a provision of law of a State is not inconsistent
85 with the provisions of this section if the protection such provision of law affords any person is
86 greater than the protection provided under this section. (i) EFFECTIVE DATE. (1) IN
87 GENERAL This Act shall take effect on the date of the enactment of this Act, except subsection
88 (b) shall take effect on the date that is 1 year after the date of the enactment of this Act. (2)
89 APPLICABILITY.—Subsection (b) shall apply with respect to children’s products and
90 upholstered furniture manufactured after the date that is 1 year after the date of the enactment of
91 this Act.