

HOUSE No. 2119

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 prohibit the distribution in commerce of children's products and upholstered furniture containing certain flame retardants, and for other purposes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>

Chris Walsh
Paul R. Heroux

6th Middlesex
2nd Bristol

HOUSE No. 2119

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 2119) of Marjorie C. Decker and others to prohibit the distribution in commerce of children's products and upholstered furniture containing certain flame retardants, and for other purposes. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to prohibit the distribution in commerce of children's products and upholstered furniture containing certain flame retardants, and for other purposes.

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 2014."

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
10 commerce, or import into the United States any children’s product or uphol- stered furniture that
11 contains a flame retardant specified in subsection (c) that exceeds 1,000 parts per million total

12 chemical content by weight for any part of the product or furniture. (c) SPECIFIED FLAME
13 RETARDANTS.—The flame retardants specified in this subsection are the following: (1)
14 Tris(1,3-dichloro-2-propyl)phosphate (TDCPP) (chemical abstracts service number
15 13674–87–8). (2) Tris(2-chloroethyl)phosphate (TCEP) (chemical abstracts service number
16 115–1496–8). (3) Tetrabromobisphenol A (TBBPA) (chemical abstracts service number
17 79–94–7). (4) Decabromodiphenyl ether (chemical abstracts service number 1163–19–5). (5)
18 Antimony trioxide (chemical abstracts service number 1309–64–4). (6)
19 Hexabromocyclododecane (HBCD) (chemical abstracts service number 25637–99–4). (7)
20 Bis(2-Ethylhexyl)-3,4,5,6-tetrabromophthalate (TBPH) (chemical abstract service number
21 26040–51–7). (8) 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB) (chemical abstract service
22 number 183658–27–7). (9) Chlorinated paraffins (chemical abstract services number
23 85535–84–8). (10) Tris (1-chloro-2-propyl) phosphate (TCPP) (chemical abstract service number
24 13674–84–5). (11) Such other chemical flame retardants as the Commission may specify by rule
25 under sub-section (d)(5). (d) CHRONIC HAZARD ADVISORY PANEL. (1)
26 APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the
27 Commission shall appoint a chronic hazard advisory panel pursuant to the procedures of section
28 28 of the Consumer Product Safety Act (15 U.S.C. 2077) to study the effects on human health of
29 all chemical flame retardants as used in children’s products or upholstered furniture. (2)
30 EXAMINATION. (A) IN GENERAL.—The panel shall, not later than 540 days after the date on
31 which the panel is appointed under paragraph (1), complete an examination of the potential
32 hazards and exposures for the full range of chemical flame retardants that may be used in
33 children’s products or upholstered furniture to meet applicable fire safety standards and shall—
34 (i) examine potential health effects of the chemical flame retardants, including age, (I)

35 developmental toxicity; (II) carcinogenicity, genetic dam- or reproductive toxicity; (III)
36 endocrine disruption; (IV) toxicity related to the nervous system, immune system, or organs or
37 cause other systemic toxicity; (V) whether they are (aa) persistent, bio accumulative, and toxic;
38 or (bb) very persistent and very bio accumulative; (ii) consider the potential health effects of
39 such chemical flame retardants, both in isolation and in combination with other flame retardants;
40 (iii) examine bio monitoring studies that document existing levels and likely future levels of
41 chemical flame retardants in children, pregnant women, firefighters (including combustion by-
42 products of chemical flame retardants), and others; (iv) examine data and analysis regard- ing the
43 chemical flame retardants in house- hold dust, indoor air, or elsewhere in the home environment;
44 (v) consider the cumulative effects of total exposure to flame retardants, both from children's
45 products, upholstered furniture, and from other sources, such as food, commercial furniture,
46 building insulation, and electronics; (vi) review all relevant data, including the most recent, best-
47 available, peer-reviewed, scientific studies of these chemical flame retardants that employ
48 objective data collection practices or employ other objective methods; (vii) consider the amounts
49 of chemical flame retardants used in consumer products and the total volumes manufactured for
50 use; and (viii) consider possible similar health effects of chemical flame retardants used in
51 children's products or upholstered furniture. (3) DO NOVO.—The panel's examinations
52 pursuant to this subsection shall be conducted de novo. The findings and conclusions of any
53 previous chronic hazard advisory panel on chemical flame retardants and other studies conducted
54 by the Commission shall be reviewed by the panel but shall not be considered determinative. (4)
55 REPORT.—Not later than 180 days after completing its examination, the panel appointed under
56 paragraph (1) shall submit to the Commission a report on the results of the examination
57 conducted under this section and shall make recommendations to the Commission regarding any

58 chemical flame retardants (or combinations of chemical flame retardants) in addition to those
59 identified in paragraphs (1) through (10) of subsection (c) that the panel determines should be
60 prohibited under subsection (b). (5) SPECIFICATION OF ADDITIONAL CHEMICAL FLAME
61 RETARDANTS.—Not later than 180 days after receiving the report of the panel under
62 paragraph (4), the Commission shall (A) evaluate the findings of the chronic hazard advisory
63 panel regarding the examination carried out under paragraph (2); (B) evaluate the
64 recommendations submitted by the chronic hazard advisory panel under paragraph (4); and (C)
65 promulgate a final rule, based on the evaluations carried out under subparagraphs (A) and (B) of
66 this paragraph, that specifies such chemical flame retardants that are not listed in paragraphs (1)
67 through (10) of subsection (c) as the Commission determines that the presence of such chemical
68 flame retardant in any part of a children’s product or upholstered furniture may cause substantial
69 personal injury or substantial illness, including (i) developmental or learning disabilities; (ii)
70 cancer; (iii) endocrine disruption; (iv) reproductive harm; or (v) damage to the nervous system,
71 immune system, or organs or cause other systemic toxicity. (e) TREATMENT OF
72 VIOLATION.—A violation of subsection (b) shall be treated as a violation of section 19(a)(1) of
73 the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)). (f) PRODUCT CERTIFICATION
74 AND LABELING.—A product subject to subsection (b) of this section shall not be subject to
75 section 14(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(2)) with respect to
76 testing for compliance with the requirements of this section. (g) RULE-MAKING. (1) IN
77 GENERAL.—The Consumer Product Safety Commission shall promulgate rules to carry out this
78 section in accordance with section 553 of title 5, United States Code. (2) EXEMPTION FROM
79 CERTAIN REQUIRE- MENTS.—The requirements of sections 7 and 9 of the Consumer
80 Product Safety Act (15 U.S.C. 2056 and 2058) shall not apply to a rule-making under this

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