

SENATE BILL 1049

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 131, relative to flame retardants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 131, is amended by adding the following new part:

68-131-501.

For purposes of this part:

(1) "Children's product" means a consumer product designed or intended primarily for children twelve (12) years of age or younger, including, but not limited to, clothing, accessories, jewelry, decorative objects, candy, food, dietary supplements, and other edible or chewable items, toys, and furniture;

(2) "Consumer product" means any article used primarily for personal, family, or household purposes;

(3) "Department" means the department of agriculture;

(4) "Manufacturer" means any person that produces children's products or upholstered furniture, or an importer or domestic distributor of children's products or upholstered furniture;

(5) "Retailer" means a person who offers for sale or sells children's products or upholstered furniture to the general public;

(6) "Upholstered furniture" means seating products intended for indoor use in a home or other dwelling intended for occupancy composed, in whole or in part, of resilient cushioning materials enclosed within a covering manufactured from fabric or similar materials; if the resilient cushioning materials are sold with

the item of seating products, and the seating products are constructed with a contiguous upholstered seat and back that may include arms; and

(7) "Wholesaler" means a person who offers for sale or sells children's products or upholstered furniture to a retailer.

68-131-502.

(a) No manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state children's products or upholstered furniture containing, in greater amounts than 1000 ppm:

(1) TDCPP (tris(1,3-dichloro-2-propyl)phosphate), Chemical Abstracts Service number 13674-87-8;

(2) TCEP (tris(2-chloroethyl)phosphate), Chemical Abstracts Service number 115-96-8;

(3) Tetrabromobisphenol A, Chemical Abstracts Service number 79-94-7;

(4) Decabromodiphenyl ether, Chemical Abstracts Service number 1163-19-5;

(5) Antimony, Chemical Abstracts Service number 7440-36-0;

(6) Hexabromocyclododecane, Chemical Abstracts Service number 25637-99-4;

(7) Tetrabromo phthalate (TBPH), Chemical Abstract Service number 26040-51-7;

(8) Tetrabromo benzoate (TBB), Chemical Abstract Service number 183658-27-7;

(9) Chlorinated paraffins, Chemical Abstract Service number 85535-84-8;

(10) Tris (1-chloro-2-propyl)phosphate (TCPP), Chemical Abstract Service number 13674-84-5; or

(11) Pentabromodiphenyl ether, Chemical Abstract Services number 32534-81-9.

(b) In addition to children's products or upholstered furniture, the department may promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, requiring other consumer products that are sold for commercial use to comply with the restrictions in this part if:

(1) The consumer products are sold for indoor use in a residence, child care facility, office, or school; and

(2) A child twelve (12) years of age or younger or a pregnant woman may have direct contact with the consumer product.

68-131-503.

(a) If restrictions have been placed on the consumer products of a manufacturer of consumer products under this part, the manufacturer must notify persons that sell the manufacturer's restricted consumer products in this state of the prohibitions of this part no less than ninety (90) days prior to the effective date of the restrictions.

(b) If restrictions have been placed on the consumer products of a manufacturer of consumer products under this part, the manufacturer must recall the consumer product and reimburse the retailer or any other purchaser of the consumer product sold in this state.

(c) A manufacturer who violates this part is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each children's product, consumer product, or upholstered furniture manufactured, sold, offered for sale, distributed for sale, or distributed for use in this state. Penalties collected under this part must be used to administer this part.

(d) The department shall send any person against whom a violation of this section is alleged written notice setting forth the violation. The person has ten (10) days from the date the notice is sent to request a hearing. If a hearing is requested, it must

be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

68-131-504.

The sale of any previously owned product containing a chemical restricted under this part made in casual or isolated sales or by a nonprofit organization is exempt from this part.

68-131-505.

A manufacturer shall not use or replace a chemical if the chemical's use is prohibited under § 68-131-502 with a chemical identified on the basis of credible scientific evidence by a state, federal, or international agency as being known or suspected to:

- (1) Harm the normal development of a fetus or child twelve (12) years of age or younger or cause other developmental toxicity;
- (2) Cause cancer, genetic damage, or reproductive harm;
- (3) Disrupt the endocrine system;
- (4) Damage the nervous system, immune system, or organs or cause other systemic toxicity;
- (5) Be persistent, bioaccumulative, and toxic; and
- (6) Result in exposure through the following ways:
 - (A) The chemical has been found through biomonitoring studies in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids;
 - (B) The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) The chemical has been added to or is present in a consumer product used or present in the home.

68-131-506.

(a) All upholstered commercial furniture manufactured or sold in this state must have the following label that must be checked according to subsection (b):

The upholstery materials in this product:

_____ **contain added flame retardant chemicals**

_____ **contain NO added flame retardant chemicals**

(b) Manufacturers and retailers shall mark an "X" next to the applicable statement in subsection (a). For purposes of the required disclosure in this subsection (b), a product contains added flame retardant chemicals if the chemical is present in amounts above 10 ppm. Manufacturers and retailers shall maintain documentation showing whether a product has added flame retardant chemicals.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it; for all other purposes, this act shall take effect July 1, 2018, the public welfare requiring it.