

113TH CONGRESS
2D SESSION

S. 2811

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2014

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children and Fire-
5 fighters Protection Act of 2014”.

1 **SEC. 2. PROHIBITION ON SALE OF CERTAIN PRODUCTS**
2 **CONTAINING SPECIFIED FLAME RETAR-**
3 **DANTS.**

4 (a) DEFINITIONS.—In this section, the terms “chil-
5 dren’s product”, “consumer product”, “distribute in com-
6 merce”, “distributor”, “import”, “manufacturer”, “re-
7 tailer”, and “United States” have the meanings given
8 such terms in section 3(a) of the Consumer Product Safe-
9 ty Act (15 U.S.C. 2052(a)).

10 (b) PROHIBITION.—It shall be unlawful for any man-
11 ufacturer, distributor, or retailer to sell, offer for sale,
12 manufacture for sale, distribute in commerce, or import
13 into the United States any children’s product or uphol-
14 stered furniture that contains a flame retardant specified
15 in subsection (c) that exceeds 1,000 parts per million total
16 chemical content by weight for any part of the product
17 or furniture.

18 (c) SPECIFIED FLAME RETARDANTS.—The flame
19 retardants specified in this subsection are the following:

20 (1) Tris(1,3-dichloro-2-propyl)phosphate
21 (TDCPP) (chemical abstracts service number
22 13674–87–8).

23 (2) Tris(2-chloroethyl)phosphate (TCEP)
24 (chemical abstracts service number 115–1496–8).

25 (3) Tetrabromobisphenol A (TBBPA) (chemical
26 abstracts service number 79–94–7).

1 (4) Decabromodiphenyl ether (chemical ab-
2 stracts service number 1163-19-5).

3 (5) Antimony trioxide (chemical abstracts serv-
4 ice number 1309-64-4).

5 (6) Hexabromocyclododecane (HBCD) (chem-
6 ical abstracts service number 25637-99-4).

7 (7) Bis(2-Ethylhexyl)-3,4,5,6-
8 tetrabromophthalate (TBPH) (chemical abstract
9 service number 26040-51-7).

10 (8) 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate
11 (TBB) (chemical abstract service number 183658-
12 27-7).

13 (9) Chlorinated paraffins (chemical abstract
14 services number 85535-84-8).

15 (10) Tris (1-chloro-2-propyl) phosphate (TCPP)
16 (chemical abstract service number 13674-84-5).

17 (11) Such other chemical flame retardants as
18 the Commission may specify by rule under sub-
19 section (d)(5).

20 (d) CHRONIC HAZARD ADVISORY PANEL.—

21 (1) APPOINTMENT.—Not later than 180 days
22 after the date of the enactment of this Act, the
23 Commission shall appoint a chronic hazard advisory
24 panel pursuant to the procedures of section 28 of
25 the Consumer Product Safety Act (15 U.S.C. 2077)

1 to study the effects on human health of all chemical
2 flame retardants as used in children's products or
3 upholstered furniture.

4 (2) EXAMINATION.—

5 (A) IN GENERAL.—The panel shall, not
6 later than 540 days after the date on which the
7 panel is appointed under paragraph (1), com-
8 plete an examination of the potential hazards
9 and exposures for the full range of chemical
10 flame retardants that may be used in children's
11 products or upholstered furniture to meet appli-
12 cable fire safety standards and shall—

13 (i) examine potential health effects of
14 the chemical flame retardants, including—

15 (I) developmental toxicity;

16 (II) carcinogenicity, genetic dam-
17 age, or reproductive toxicity;

18 (III) endocrine disruption;

19 (IV) toxicity related to the nerv-
20 ous system, immune system, or organs
21 or cause other systemic toxicity; and

22 (V) whether they are—

23 (aa) persistent, bioaccumula-
24 tive, and toxic; or

1 (bb) very persistent and very
2 bioaccumulative;

3 (ii) consider the potential health ef-
4 fects of such chemical flame retardants,
5 both in isolation and in combination with
6 other flame retardants;

7 (iii) examine biomonitoring studies
8 that document existing levels and likely fu-
9 ture levels of chemical flame retardants in
10 children, pregnant women, firefighters (in-
11 cluding combustion by-products of chem-
12 ical flame retardants), and others;

13 (iv) examine data and analysis regard-
14 ing the chemical flame retardants in house-
15 hold dust, indoor air, or elsewhere in the
16 home environment;

17 (v) consider the cumulative effects of
18 total exposure to flame retardants, both
19 from children's products, upholstered fur-
20 niture, and from other sources, such as
21 food, commercial furniture, building insula-
22 tion, and electronics;

23 (vi) review all relevant data, including
24 the most recent, best-available, peer-re-
25 viewed, scientific studies of these chemical

1 flame retardants that employ objective
2 data collection practices or employ other
3 objective methods;

4 (vii) consider the amounts of chemical
5 flame retardants used in consumer prod-
6 ucts and the total volumes manufactured
7 for use; and

8 (viii) consider possible similar health
9 effects of chemical flame retardants used
10 in children's products or upholstered fur-
11 niture.

12 (3) DO NOVO.—The panel's examinations pur-
13 suant to this subsection shall be conducted de novo.
14 The findings and conclusions of any previous chronic
15 hazard advisory panel on chemical flame retardants
16 and other studies conducted by the Commission shall
17 be reviewed by the panel but shall not be considered
18 determinative.

19 (4) REPORT.—Not later than 180 days after
20 completing its examination, the panel appointed
21 under paragraph (1) shall submit to the Commission
22 a report on the results of the examination conducted
23 under this section and shall make recommendations
24 to the Commission regarding any chemical flame
25 retardants (or combinations of chemical flame

1 retardants) in addition to those identified in para-
2 graphs (1) through (10) of subsection (c) that the
3 panel determines should be prohibited under sub-
4 section (b).

5 (5) SPECIFICATION OF ADDITIONAL CHEMICAL
6 FLAME RETARDANTS.—Not later than 180 days
7 after receiving the report of the panel under para-
8 graph (4), the Commission shall—

9 (A) evaluate the findings of the chronic
10 hazard advisory panel regarding the examina-
11 tion carried out under paragraph (2);

12 (B) evaluate the recommendations sub-
13 mitted by the chronic hazard advisory panel
14 under paragraph (4); and

15 (C) promulgate a final rule, based on the
16 evaluations carried out under subparagraphs
17 (A) and (B) of this paragraph, that specifies
18 such chemical flame retardants that are not
19 listed in paragraphs (1) through (10) of sub-
20 section (c) as the Commission determines that
21 the presence of such chemical flame retardant
22 in any part of a children's product or uphol-
23 stered furniture may cause substantial personal
24 injury or substantial illness, including—

- 1 (i) developmental or learning disabil-
2 ities;
3 (ii) cancer;
4 (iii) endocrine disruption;
5 (iv) reproductive harm; or
6 (v) damage to the nervous system, im-
7 mune system, or organs or cause other sys-
8 temic toxicity.

9 (e) TREATMENT OF VIOLATION.—A violation of sub-
10 section (b) shall be treated as a violation of section
11 19(a)(1) of the Consumer Product Safety Act (15 U.S.C.
12 2068(a)(1)).

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

18 (g) RULEMAKING.—

19 (1) IN GENERAL.—The Consumer Product
20 Safety Commission shall promulgate rules to carry
21 out this section in accordance with section 553 of
22 title 5, United States Code.

23 (2) EXEMPTION FROM CERTAIN REQUIRE-
24 MENTS.—The requirements of sections 7 and 9 of
25 the Consumer Product Safety Act (15 U.S.C. 2056

1 and 2058) shall not apply to a rulemaking under
2 this section.

3 (h) RELATION TO STATE LAW.—This section shall
4 not annul, alter, or affect a provision of law of a State
5 relating to the presence of a chemical flame retardant in
6 a children’s product or upholstered furniture except to the
7 extent that such provision of law is inconsistent with a
8 provision of this section, and then only to the extent of
9 the inconsistency. For purposes of this section, a provision
10 of law of a State is not inconsistent with the provisions
11 of this section if the protection such provision of law af-
12 fords any person is greater than the protection provided
13 under this section.

14 (i) EFFECTIVE DATE.—

15 (1) IN GENERAL.—This Act shall take effect on
16 the date of the enactment of this Act, except sub-
17 section (b) shall take effect on the date that is 1
18 year after the date of the enactment of this Act.

19 (2) APPLICABILITY.—Subsection (b) shall apply
20 with respect to children’s products and upholstered
21 furniture manufactured after the date that is 1 year
22 after the date of the enactment of this Act.

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