

## §1609-A. Residential upholstered furniture

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Flame-retardant chemical" means a chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. "Flame-retardant chemical" includes, but is not limited to, halogenated, phosphorus-based, nitrogen-based and nanoscale flame retardants and any chemical or chemical compound for which "flame retardant" appears on the substance safety data sheet required under 29 Code of Federal Regulations, Section 1910.1200(g) (2015). [PL 2017, c. 311, §1 (NEW).]

B. "Upholstered furniture" means residential furniture intended for indoor use in a home or other dwelling intended for residential occupancy that consists in whole or in part of resilient cushioning materials enclosed within a covering consisting of fabric or related materials. [PL 2017, c. 311, §1 (NEW).]

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**2. Sales prohibition.** Except as otherwise provided in section 1609, subsection 4, beginning January 1, 2019, a person may not sell or offer to sell or distribute for promotional purposes upholstered furniture containing in its fabric or other covering or in its cushioning materials more than 0.1% of a flame-retardant chemical or more than 0.1% of a mixture that includes flame-retardant chemicals.

[PL 2017, c. 311, §1 (NEW).]

**3. Exemptions.** The restrictions in subsection 2 do not apply to the following upholstered furniture products containing flame-retardant chemicals:

A. Used upholstered furniture; [PL 2017, c. 311, §1 (NEW).]

B. Upholstered furniture purchased for public use in public facilities, including, but not limited to, schools, jails and hospitals, that is required by the State of California to meet the flammability standard in California Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation Technical Bulletin 133, "Flammability Test Procedure for Seating Furniture for Use in Public Occupancies," dated January 1991; [PL 2021, c. 221, §1 (AMD).]

C. New upholstered furniture otherwise subject to the prohibition in subsection 2 that is sold, offered for sale or distributed for promotional purposes in the State by a retailer or wholesaler on or after January 1, 2019 and that was imported into the State or otherwise purchased or acquired by the retailer or wholesaler for sale or distribution in the State prior to January 1, 2019; and [PL 2021, c. 221, §2 (AMD).]

D. Electronic components and associated electronic component casings of upholstered furniture that is subject to the prohibition in subsection 2. [PL 2021, c. 221, §3 (NEW).]

[PL 2021, c. 221, §§1-3 (AMD).]

**3-A. Retailer indemnification.** If upholstered furniture delivered to a retailer in the State by the manufacturer of the upholstered furniture is subsequently determined to contain flame-retardant chemicals such that it is prohibited from sale or distribution in the State under subsection 2, the retailer is entitled to a full refund from the manufacturer with respect to that upholstered furniture, including shipping and other related costs.

[PL 2021, c. 221, §4 (NEW).]

**4. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 311, §1 (NEW).]

### SECTION HISTORY

PL 2017, c. 311, §1 (NEW). PL 2021, c. 221, §§1-4 (AMD).

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