

Amendment to SB 193-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Chapter; Sale of Furniture with Flame Retardant Chemicals. Amend RSA by inserting
4 after chapter 359-P the following new chapter:

5 CHAPTER 359-Q

6 SALE OF FURNITURE

7 WITH FLAME RETARDANT CHEMICALS

8 359-Q:1 Definitions. In this chapter:

9 I. "Flame-retardant chemical" means a chemical or chemical compound for which a
10 functional use is to resist or inhibit the spread of fire. "Flame-retardant chemical" includes, but is
11 not limited to, halogenated, phosphorus-based, nitrogen-based and nanoscale flame retardants and
12 any chemical or chemical compound for which "flame retardant" appears on the substance safety
13 data sheet required under 29 C.F.R. section 1910.1200(g).

14 II. "Mattress" has the same definition as in 16 C.F.R. section 1632.1.

15 III. "Upholstered furniture" means residential furniture intended for indoor use in a home
16 or other dwelling intended for residential occupancy that consists in whole or in part of resilient
17 cushioning materials enclosed within a covering consisting of fabric or related materials.

18 359-Q:2 Prohibition.

19 I. No person shall import for sale or ship to a customer in this state, nor shall any person
20 manufacture for sale in this state, upholstered furniture containing in its fabric or other covering or
21 in its cushioning materials more than 0.1 percent of a flame-retardant chemical or more than 0.1
22 percent of a mixture that includes flame-retardant chemicals.

23 II. No person shall sell, offer to sell, or distribute for promotional purposes, upholstered
24 furniture if in receipt of the notice sent by a manufacturer in accordance with RSA 359-Q:3, II.

25 359-Q:3 Certificate of Compliance. In addition to any other remedies and procedures
26 authorized by this chapter, the attorney general may request that a manufacturer of upholstered
27 furniture distributed for sale in this state provide the attorney general with a certificate of
28 compliance with this chapter. Within 30 days of receipt of request for a certificate of compliance,
29 the manufacturer shall:

30 I. Provide the attorney general with a certificate declaring that its product complies with
31 the requirements of this chapter; or

32 II. Notify retailers who sell in this state a product of the manufacturer that does not comply

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1 with this chapter that sale of the product is prohibited in New Hampshire. The manufacturer shall
2 submit to the attorney general the names and addresses of those notified.

3 359-Q:4 Retailer Indemnification. If a retailer takes delivery of upholstered furniture from a
4 manufacturer that is subsequently found to contain one or more flame-retardant chemicals, the
5 retailer is entitled to a full refund, including shipping and other related costs, from the
6 manufacturer.

7 359-Q:5 Violations; Consumer Protections. Any violation of the provisions of this chapter is an
8 unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right, remedy, or power
9 set forth in RSA 358-A, including those set forth in RSA 358-A:4, may be used to enforce the
10 provisions of this chapter.

11 359-Q:6 Confidentiality. Information submitted to the department of justice pursuant to this
12 chapter may be designated as confidential by the submitting party and not subject to disclosure
13 under RSA 91-A, except during an enforcement action brought forward by the attorney general.

14 359-Q:7 Exemptions.

15 I. The prohibition in RSA 359-Q:2 shall not apply to the following upholstered furniture
16 products containing flame-retardant chemicals:

17 (a) Used upholstered furniture, including antique upholstered furniture.

18 (b) Upholstered furniture purchased for public use in public facilities, including, but not
19 limited to, schools, jails, and hospitals, that is required by the state or by local fire codes to meet
20 specific flammability standards which cannot reasonably be met without the use of flame
21 retardants.

22 (c) New upholstered furniture otherwise subject to the prohibition in RSA 359-Q:2 that
23 is sold, offered for sale, or distributed for promotional purposes in the state by a retailer or
24 wholesaler on or after January 1, 2021 and that was imported into the state or otherwise purchased
25 or acquired by the retailer or wholesaler for sale or distribution in the state prior to January 1,
26 2021.

27 (d) New upholstered furniture otherwise subject to the prohibition in RSA 359-Q:2 that
28 is manufactured prior to January 1, 2020.

29 (e) Upholstered furniture which includes electronic or electric components.

30 (f) Mattresses.

31 II. Products that meet the following requirements shall be deemed in compliance with this
32 chapter:

33 (a) Upholstered furniture bearing a label or accompanied by a certificate indicating
34 compliance with California BPC section 19101, as amended.

35 (b) Upholstered furniture bearing a label, as prescribed by California BPC section 19094
36 (2014), indicating that the product's upholstery materials "contain NO added flame retardant
37 chemicals."

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1 2 Effective Date. This act shall take effect upon its passage.