

California General Assembly Passes New Furniture Labeling Law

August 27, 2014 - SACRAMENTO, CA - The California General Assembly has approved a new furniture labeling law requiring manufacturers to identify upholstered products that contain added flame retardant chemicals.

After weeks of negotiations with California officials, the American Home Furnishings Alliance succeeded in having the law amended to include a definition of "flame retardant chemical" to give manufacturers more clarity in complying with the measure.

Since it was amended, the measure must now return to the Senate, where it was previously approved in May. If the Senate approves the amended bill, it will be forwarded to California Governor Jerry Brown.

California Senator Mark Leno introduced Senate Bill 1019 in March in an effort to provide consumers in his state with easily accessible information on whether upholstered furniture contains flame retardant chemicals or not.

The proposal followed the release of the state's new flammability standard, Technical Bulletin 117-2013, which replaces an open flame test for upholstered furniture with a smolder test. Upholstery products can pass the new test without using flame retardant chemicals, which were added to upholstery foam in the 1970s in order to meet the previous open flame test in California. Although the new standard can be met without the use of flame retardant chemicals, it does not prohibit their use.

Leno wants California shoppers to be able to distinguish furniture that contains added flame retardants from furniture that does not contain these chemicals. His bill requires manufacturers to modify the TB 117-2013 compliance label, which is currently required on all upholstered furniture offered for sale in California. In the new section of the label, manufacturers must specify whether the product "contains added flame retardant chemicals" or "contains NO added flame retardant chemicals." This is done by checking a box on the label next to the appropriate statement.

"The problem with the bill as it was proposed was that it didn't contain a definition for 'flame retardant chemical,'" explained Bill Perdue, AHFA's vice president of regulatory affairs. "Manufacturers had no definitive criteria on which to base their decision to check one box or the other. We attempted to solve this problem by proposing an amendment to define 'flame retardant chemical.'"

Without a definition, AHFA maintained the bill was not enforceable and provided no clarity for California consumers.

Working with a coalition that included the North American Home Furnishings Association, the Polyurethane Foam Association, the Upholstered Furniture Action Council and the California Furniture Manufacturers Association, AHFA drafted a proposed definition that was then modified by California officials before being finalized last week. The definition now reads:

"Flame retardant chemical" means any chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. Flame retardant chemicals include, but are not

limited to, halogenated, phosphorous-based, nitrogen-based, and nanoscale flame retardants; flame retardant chemicals listed as “designated chemicals” pursuant to Section 105440 of the Health and Safety Code; and any chemical or chemical compound for which “flame retardant” appears on the substance Safety Data Sheet (SDS) pursuant to 29 CFR 1910.1200(g).

“This definition is helpful but does not completely solve the problem of ambiguity in the law,” Perdue noted. “Our attention will now shift to working with the California Department of Toxic Substances Control to determine which specific chemicals will be included in their enforcement testing.”

AHFA and the home furnishings coalition achieved additional modifications to the proposed law, including:

- Removing a provision that would have required point-of-sale signs for any covered product shipped to California. The signs, like the label, would have had to include the “does contain/does not contain” statement.
- Removing a provision that would have allowed the state to charge manufacturers with perjury if they checked the “does not contain” box on the label and their product was later found to contain an FR chemical.