

Calendar No. 630

116TH CONGRESS
2D SESSION

S. 1341

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2019

Mr. WICKER (for himself, Mr. BLUMENTHAL, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 15, 2020

Reported by Mr. WICKER, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safer Occupancy Fur-
3 niture Flammability Act” or the “SOFFA Act”.

4 **SEC. 2. ADOPTION OF CALIFORNIA FLAMMABILITY STAND-**
5 **ARD AS A FEDERAL STANDARD.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “bedding product” means—

8 (A) an item that is used for sleeping or
9 sleep-related purposes; or

10 (B) any component or accessory with re-
11 spect to an item described in subparagraph (A),
12 without regard to whether the component or ac-
13 cessory, as applicable, is used—

14 (i) alone; or

15 (ii) along with, or contained within,
16 that item;

17 (2) the term “California standard” means the
18 standard set forth by the Bureau of Electronic and
19 Appliance Repair, Home Furnishings and Thermal
20 Insulation of the Department of Consumer Affairs of
21 the State of California in Technical Bulletin 117–
22 2013, entitled “Requirements, Test Procedure and
23 Apparatus for Testing the Smolder Resistance of
24 Materials Used in Upholstered Furniture”, originally
25 published June 2013, as in effect on the date of en-
26 actment of this Act;

1 (3) the terms “foundation” and “mattress”
 2 have the meanings given those terms in section
 3 1633.2 of title 16, Code of Federal Regulations, as
 4 in effect on the date of enactment of this Act; and

5 (4) the term “upholstered furniture”—

6 (A) means an article of seating furniture
 7 that—

8 (i) is intended for indoor use;

9 (ii) is movable or stationary;

10 ~~(iii) is constructed with a contiguous~~
 11 ~~upholstered—~~

12 ~~(I) seat; and~~

13 ~~(II)(aa) back; or~~

14 ~~(bb) arm;~~

15 *(iii) is constructed with an upholstered*
 16 *seat, back, or arm;*

17 (iv) is—

18 (I) made or sold with a cushion
 19 or pillow, without regard to whether
 20 that cushion or pillow, as applicable,
 21 is attached or detached with respect
 22 to the article of furniture; or

23 (II) stuffed or filled, or able to be
 24 stuffed or filled, in whole or in part,
 25 with any material, including a sub-

1 stance or material that is hidden or
 2 concealed by fabric or another cov-
 3 ering, including a cushion or pillow
 4 belonging to, or forming a part of, the
 5 article of furniture; and

6 (v) together with the structural units
 7 of the article of furniture, any filling mate-
 8 rial, and the container and covering with
 9 respect to those structural units and that
 10 filling material, can be used as a support
 11 for the body of an individual, or the limbs
 12 and feet of an individual, when the indi-
 13 vidual sits in an upright or reclining posi-
 14 tion;

15 (B) includes an article of furniture that is
 16 intended for use by a child; and

17 (C) does not include—

- 18 (i) a mattress;
- 19 (ii) a foundation;
- 20 (iii) any bedding product; or
- 21 (iv) furniture that is used exclusively
 22 for the purpose of physical fitness and ex-
 23 ercise.

24 (b) ADOPTION OF STANDARD.—

1 (1) IN GENERAL.—Beginning on the date that
 2 is 180 days after the date of enactment of this Act,
 3 and except as provided in paragraph (2), the Cali-
 4 fornia standard shall be considered to be a flamma-
 5 bility standard promulgated by the Consumer Prod-
 6 uct Safety Commission under section 4 of the Flam-
 7 mable Fabrics Act (15 U.S.C. 1193).

8 (2) TESTING AND CERTIFICATION.—A fabric,
 9 related material, or product to which the California
 10 standard applies as a result of paragraph (1) shall
 11 not be subject to section 14(a) of the Consumer
 12 Product Safety Act (15 U.S.C. 2063(a)) *with respect*
 13 *to that standard.*

14 (3) CERTIFICATION LABEL.—*Each manufacturer*
 15 *of a product that is subject to the California standard*
 16 *as a result of paragraph (1) shall include the state-*
 17 *ment “Complies with U.S. CPSC requirements for*
 18 *upholstered furniture flammability” on a permanent*
 19 *label located on the product, which shall be considered*
 20 *to be a certification that the product complies with*
 21 *that standard.*

22 (c) PREEMPTION.—

23 (1) IN GENERAL.—Notwithstanding section 16
 24 of the Flammable Fabrics Act (15 U.S.C. 1203) and
 25 section 231 of the Consumer Product Safety Im-

1 provement Act of 2008 (15 U.S.C. 2051 note), and
2 except as provided in subparagraphs (B) and (C) of
3 paragraph (2), no State or any political subdivision
4 of a State may establish or continue in effect any
5 provision of a flammability law, regulation, code,
6 standard, or requirement that is designed to protect
7 against the risk of occurrence of fire, or to slow or
8 prevent the spread of fire, with respect to uphol-
9 stered furniture.

10 (2) PRESERVATION OF CERTAIN STATE LAW.—
11 Nothing in this Act or the Flammable Fabrics Act
12 (15 U.S.C. 1191 et seq.) may be construed to pre-
13 empt or otherwise affect—

14 (A) any State or local law, regulation,
15 code, standard, or requirement that—

16 (i) concerns health risks associated
17 with upholstered furniture; and

18 (ii) is not designed to protect against
19 the risk of occurrence of fire, or to slow or
20 prevent the spread of fire, with respect to
21 upholstered furniture;

22 (B) sections 1374 through 1374.3 of title
23 4, California Code of Regulations (except for
24 subsections (b) and (c) of section 1374 of that

1 title), as in effect on the date of enactment of
2 this Act; or
3 (C) the California standard.

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