

SENATE BILL 902

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CF HB 1264

By: **Senator Hayes**

Introduced and read first time: February 14, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Products Containing a Flame–Retardant Chemical – Prohibition**
3 **on Import or Sale**

4 FOR the purpose of prohibiting a person from importing, selling, or offering for sale any
5 juvenile product, mattress, upholstered furniture, or reupholstered furniture that
6 contains more than a certain amount of certain chemicals; repealing certain
7 provisions of law regarding the importing, sale, or offering for sale of any child care
8 product containing certain chemicals; establishing certain civil penalties;
9 authorizing a court to enjoin a certain action; authorizing the Secretary of Health to
10 suspend implementation of certain provisions of this Act under certain
11 circumstances; requiring the Maryland Department of Health to adopt certain
12 regulations on or before a certain date; providing for the application of certain
13 provisions of this Act; making conforming changes; defining certain terms; and
14 generally relating to products containing flame–retardant chemicals.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 24–306
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2018 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 24–306.1
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2018 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 24–306.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) (I) “Child care product” means a consumer product intended for use
4 by a child under the age of 3 years[, including].

5 (II) “CHILD CARE PRODUCT” INCLUDES a baby product, toy, AND
6 car seat[, nursing pillow, crib mattress, and stroller].

7 (III) “CHILD CARE PRODUCT” DOES NOT INCLUDE A PRODUCT
8 REGULATED UNDER § 24–306.1 OF THIS SUBTITLE.

9 (3) “TCEP” means (tris (2–chloroethyl) phosphate).

10 (4) “TDCPP” means (tris (1, 3–dichloro–2–propyl) phosphate).

11 (b) This section does not apply to the sale or distribution of a child care product
12 that is resold, offered for resale, or distributed by a consumer for consumer use.

13 (c) A person may not import, sell, or offer for sale any child care product that:

14 (1) Contains more than one–tenth of 1% of TCEP or TDCPP by mass; and

15 (2) Is intended for use by a child under the age of 3 years.

16 (d) (1) A person that violates this section is subject to:

17 (i) For a first violation, a civil penalty not exceeding \$1,000 and

18 (ii) For any subsequent violation, a civil penalty not exceeding
19 \$2,500 for each violation.

20 (2) In addition to the civil penalties provided in paragraph (1) of this
21 subsection, a court may enjoin an action prohibited by this section.

22 (e) The Secretary may suspend implementation of subsection (c) of this section if
23 the Secretary determines that the fire safety benefits of TCEP or TDCPP are greater than
24 the health risks associated with TCEP or TDCPP.

25 (f) On or before January 1, [2015] 2020, the Department shall adopt regulations
26 to carry out this section.

27 24–306.1.

1 4. **A PRODUCT REGULATED UNDER § 24-306 OF THIS**
2 **SUBTITLE.**

3 (4) **“MATTRESS” HAS THE MEANING STATED IN 16 C.F.R. § 1632.1.**

4 (5) **“REUPHOLSTERED FURNITURE” MEANS FURNITURE FOR WHICH**
5 **THE ORIGINAL FABRIC, PADDING, DECKING, BARRIER MATERIAL, FOAM, OR OTHER**
6 **RESILIENT FILLING HAS BEEN REPLACED, AND THAT HAS NOT BEEN SOLD SINCE THE**
7 **TIME OF REPLACEMENT.**

8 (6) **“UPHOLSTERED FURNITURE” MEANS FURNITURE THAT**
9 **CONTAINS FILLING MATERIALS OR COVER FABRICS.**

10 (b) **THIS SECTION DOES NOT APPLY TO THE SALE OR DISTRIBUTION OF A**
11 **JUVENILE PRODUCT, MATTRESS, UPHOLSTERED FURNITURE, OR REUPHOLSTERED**
12 **FURNITURE THAT IS RESOLD, OFFERED FOR RESALE, OR DISTRIBUTED BY A**
13 **CONSUMER FOR CONSUMER USE.**

14 (c) (1) **THIS SUBSECTION DOES NOT APPLY TO:**

15 (i) **AN ELECTRONIC COMPONENT, OR THE CASING FOR AN**
16 **ELECTRONIC COMPONENT, OF A JUVENILE PRODUCT, MATTRESS, UPHOLSTERED**
17 **FURNITURE, OR REUPHOLSTERED FURNITURE;**

18 (ii) **A COMPONENT OF UPHOLSTERED OR REUPHOLSTERED**
19 **FURNITURE OTHER THAN COVER FABRIC, BARRIER MATERIAL, RESILIENT FILLING**
20 **MATERIAL, AND DECKING MATERIAL;**

21 (iii) **THREAD OR FIBER WHEN USED FOR STITCHING MATTRESS**
22 **COMPONENTS TOGETHER; OR**

23 (iv) **EXCEPT FOR FOAM, A COMPONENT OF A MATTRESS**
24 **INTENDED FOR USE BY AN INDIVIDUAL AT LEAST 12 YEARS OLD.**

25 (2) **A PERSON MAY NOT IMPORT, SELL, OR OFFER FOR SALE ANY**
26 **JUVENILE PRODUCT, MATTRESS, UPHOLSTERED FURNITURE, OR REUPHOLSTERED**
27 **FURNITURE THAT CONTAINS MORE THAN ONE-TENTH OF 1% OF A**
28 **FLAME-RETARDANT CHEMICAL BY MASS.**

29 (d) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON**
30 **THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY:**

31 (i) **FOR A FIRST VIOLATION, NOT EXCEEDING \$2,500;**

1 (II) FOR A SECOND VIOLATION, NOT EXCEEDING \$5,000;

2 (III) FOR A THIRD VIOLATION, NOT EXCEEDING \$7,500; AND

3 (IV) FOR ANY SUBSEQUENT VIOLATION, NOT EXCEEDING
4 \$10,000 FOR EACH VIOLATION.

5 (2) EVERY 5 YEARS, THE SECRETARY SHALL ADJUST THE CIVIL
6 PENALTIES PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION FOR INFLATION, IN
7 ACCORDANCE WITH THE CONSUMER PRICE INDEX.

8 (3) IN ADDITION TO THE CIVIL PENALTIES PROVIDED IN PARAGRAPH
9 (1) OF THIS SUBSECTION, A COURT MAY ENJOIN AN ACTION PROHIBITED BY THIS
10 SECTION.

11 (E) THE SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C)
12 OF THIS SECTION IF THE SECRETARY DETERMINES THAT THE FIRE SAFETY
13 BENEFITS OF A FLAME-RETARDANT CHEMICAL ARE GREATER THAN THE HEALTH
14 RISKS ASSOCIATED WITH THE FLAME-RETARDANT CHEMICAL.

15 (F) ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ADOPT
16 REGULATIONS TO CARRY OUT THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2019.