

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB1861

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Lopez

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Product safety; flame retardants; regulations; fund; civil penalty.

5. Summary: The bill prohibits a manufacturer, wholesaler, or retailer in the Commonwealth from manufacturing, distributing for sale, distributing, selling, or offering for sale in the Commonwealth, beginning July 1, 2018, upholstered furniture intended for residential use or any product that is intended to be worn by, be used by, or come into close or prolonged contact with a person younger than 12 years of age if such upholstered furniture or product contains any of the flame-retardant chemicals listed in the bill. The bill requires the manufacturer of any prohibited product to notify sellers in the Commonwealth of the prohibition by March 31, 2018, and requires a manufacturer to recall by March 31, 2018, any products that it has sold that are in violation of the prohibition and reimburse the retailer or any other purchaser for the product. Casual or isolated sales or purchases or sales by a nonprofit organization of previously owned products containing the listed chemicals are exempted from the prohibition. The bill subjects any manufacturer in the Commonwealth that manufactures a product in violation of the provisions of the bill to a civil penalty of \$5,000 for a first offense or \$10,000 for a second or subsequent offense. The funds collected are directed to the Virginia Product Safety Fund, which is created by this bill. The bill directs the Board of Agriculture and Consumer Services to adopt regulations to carry out the provisions of the chapter and to impose the chemical prohibition on products that are to be sold for indoor use in a residence, child care facility, office, or school where children under the age of 12 or a woman who is pregnant is expected to have a direct physical contact with the prohibited product.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate. See item 8.

8. Fiscal Implications: This bill will have an indeterminate fiscal impact on the Department of Agriculture and Consumer Services (VDACS). The number of complaints that VDACS will receive as a result of this bill and the associated investigative work required to bring civil action against violators of the prohibitions in this bill cannot be determined. In addition, actions against manufacturers for non-compliance could result in an expenditure impact by the Office of the Attorney General or VDACS for the use of outside counsel; the costs associated with these expenses cannot be determined.

The bill establishes a \$5,000 penalty for each violation in the case of a first offense and a \$10,000 penalty for a second or subsequent violation; penalties are assessed against the manufacturer of a prohibited product. The revenue associated with these penalties cannot be determined. The bill requires that any penalties collected in accordance with the bill be deposited into a newly created Virginia Product Safety Fund. It is unclear whether VDACS is allowed to charge administration expenses to the Fund. If program administration is not an allowable expense, the bill may result in an indeterminate general fund impact to VDACS.

9. Specific Agency or Political Subdivisions Affected: Department of Agriculture and Consumer Services, Office of the Attorney General, judicial system.

10. Technical Amendment Necessary: No.

11. Other Comments: None.