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HOUSE BILL NO. 1129

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend the Code of Virginia by adding in Title 3.2 a subtitle numbered VI, containing a chapter numbered 66, consisting of sections numbered 3.2-6600, 3.2-6601, and 3.2-6602, relating to product safety; flame retardants; civil penalty.

Patron—Lopez

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a subtitle numbered VI, containing a chapter numbered 66, consisting of sections numbered 3.2-6600, 3.2-6601, and 3.2-6602, as follows:

SUBTITLE VI.
PRODUCT SAFETY.
CHAPTER 66.

PRODUCTS CONTAINING FLAME RETARDANTS.

§ 3.2-6600. Virginia Product Safety Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Product Safety Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All penalties collected pursuant to § 3.2-6602 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of increasing the safety of consumer products in the Commonwealth. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-6601. Regulations.

The Board shall adopt regulations to (i) carry out the provisions of this chapter and (ii) impose the prohibitions of § 3.2-6602 upon other consumer products when such products are sold for indoor use in a residence, child care facility, office, or school where a child under 12 years of age or a woman who is pregnant is expected to have direct physical contact with the product.

§ 3.2-6602. Flame-retardant chemicals; children's products; residential upholstered furniture; penalty.

A. Beginning July 1, 2021, no manufacturer, wholesaler, or retailer in the Commonwealth shall manufacture, sell, offer for sale, distribute for sale, or distribute in the Commonwealth any product that contains any prohibited flame-retardant chemical listed in subsection B and is (i) intended to be worn by, be used by, or come into close and prolonged contact with a person under 12 years old or (ii) a piece of upholstered furniture intended for use in a residence.

B. The flame-retardant chemicals whose presence in certain products is prohibited under subsection A are: TDCPP (tris(1,3-dichloro-2-propyl)phosphate), Chemical Abstracts Service number 13674-87-8; TCEP (tris(2-chloroethyl)phosphate), Chemical Abstracts Service number 115-96-8; tetrabromobisphenol A, Chemical Abstracts Service number 79-94-7; decabromodiphenyl ether, Chemical Abstracts Service number 1163-19-5; hexabromocyclododecane, Chemical Abstracts Service number 25637-99-4; TBPH (bis(2-ethylhexyl)-3,4,5,6-tetrabromophthalate), Chemical Abstracts Service number 26040-51-7; TBB (2-ethylhexyl-2,3,4,5-tetrabromobenzoate), Chemical Abstracts Service number 183658-27-7; TCPP (tris(1-chloro-2-propyl)phosphate), Chemical Abstracts Service number 13674-84-5; TPP (triphenyl phosphate), Chemical Abstracts Service Number 115-86-6; V6 (bis(chloromethyl) propane-1,3-diyltetrakis (2-chloroethyl) bisphosphate), Chemical Abstracts Service Number 385051-10-4; and IPTPP (isopropylated triphenyl phosphate), Chemical Abstracts Service number 68937-41-7.

C. Any manufacturer in the Commonwealth that manufactures a product that is prohibited pursuant to this section shall notify any person who sells the product in the Commonwealth of the prohibition by March 31, 2021.

D. Any manufacturer that produces, sells, or distributes a product that is prohibited by this chapter shall recall the product by March 31, 2021, and reimburse the retailer or any other purchaser for the product.

E. The sale or purchase of any previously owned product containing a chemical restricted under this

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59 *chapter made in a casual or isolated sale or by a nonprofit organization is exempt from the provisions*
60 *of this chapter.*

61 *F. Any manufacturer that manufactures a product intended for use by a child in violation of any*
62 *provision of this chapter shall be subject to a civil penalty not to exceed \$5,000 for each violation in*
63 *the case of a first offense. A second or subsequent violation shall subject the manufacturer to a civil*
64 *penalty not to exceed \$10,000 for each repeat offense. Penalties collected under this section shall be*
65 *deposited in the Virginia Product Safety Fund created in § 3.2-6600.*