

Assembly Bill No. 603

CHAPTER 199

An act to amend Sections 19089.5, 19161, and 19170 of the Business and Professions Code, relating to home furnishings.

[Approved by Governor August 12, 2001. Filed with
Secretary of State August 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 603, Dutra. Home furnishings.

(1) The Home Furnishings and Thermal Insulation Act, which establishes the Bureau of Home Furnishings and Thermal Insulation, requires, among other matters, that all mattresses manufactured for sale in this state as well as specified furniture sold or offered for sale for use in a place of public accommodation in this state and specified reupholstered furniture be fire retardant. Under the act, the failure to comply with these provisions is a crime.

This bill would require, on and after January 1, 2004, that all mattresses and box springs manufactured for sale in this state, except in specified establishments with automatic fire extinguishing systems, be resistant to an open flame under a standard specified by the bureau. The bill would require that this requirement be made applicable to other bedding if the bureau concludes that they contribute to mattress fires. The bill would make these regulations inoperative if a flame resistance standard for these products is adopted under federal law and would require the bureau to report to the Legislature summarizing its regulatory findings.

(2) Existing provisions of the act authorize the chief of the bureau to set license fees not exceeding specified amounts for licenses under the act.

This bill would increase the maximum fees that could be set for an importer's license and a furniture and bedding manufacturer's license under the act.

(3) Because a violation of the bill's expanded fire protection standard applicable to mattresses would be a crime, this bill would impose a state-mandated local program by expanding the scope of an existing crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Mattresses are currently subject to federal and state flammability requirements. In the early 1970's, the United States Consumer Product Safety Commission (the CPSC) established the Federal Mattress Flammability Standard, which requires that mattresses resist ignition by smoldering cigarettes. In addition, the bureau and the mattress industry developed California Technical Bulletin 129 (TB-129), which establishes an open-flame standard for mattresses used in high-occupancy institutional settings such as prisons, dormitories, and hospitals. TB-129, in turn, provided the impetus for ASTM E 1590, a consensus standard promulgated by the American Society for Testing and Materials to establish product performance test methods for mattresses used in institutional settings.

(b) Beginning in the 1990's, national fire statistics indicated that the Federal Mattress Flammability Standard did not materially affect the incidence of residential mattress fires ignited by small open flames. More recent research conducted by the CPSC, the fire safety community, and private industry also shows that in many mattress fires involving open-flame ignitions, the bedding, which includes the pillow, comforter, and bedspread, is the first product to ignite, as opposed to the mattress itself.

(c) As a result, the mattress industry commissioned the National Institute of Standards and Technology (NIST) to conduct scientific research into the interaction between ignited bedding and a mattress. In 2000, NIST published the results of its initial research, which indicate that bedding and box springs, also known as the mattress foundation, have a material impact on the rate at which a mattress ignites and the resulting fire spreads, as well as the fire's intensity and the risk that it will spread beyond the bedroom. NIST's continuing research will use computer models to estimate the number of fire-related casualties that can be avoided if the fire size and spread rate for bedding and mattress-related fires are reduced to specified levels.

(d) Although Section 19161 of the Business and Professions Code, within the Home Furnishings and Thermal Insulation Act (Chapter 3 (commencing with Section 19000) of Division 8 of the Business and Professions Code), requires that all mattresses sold in this state be fire retardant, it does not authorize the bureau to set flammability standards for bedding or box springs. This act would authorize the bureau to better



protect the public from open-flame ignited mattress fires by establishing flammability standards for not only mattresses, but also for box springs and bedding, as the bureau considers appropriate.

SEC. 2. Section 19089.5 of the Business and Professions Code is amended to read:

19089.5. Any upholstered furniture or mattress that is made from or contains nonflame retardant cellular foam shall be labeled in a manner approved by the chief. On and after January 1, 2004, all bedding that is made from or contains nonflame retardant cellular foam shall also be labeled in a manner approved by the chief. Notwithstanding the provisions of this section, no label is required for a product that complies with the regulations required by Section 19161 or with applicable federal flammability regulations.

SEC. 3. Section 19161 of the Business and Professions Code is amended to read:

19161. (a) All mattresses and box springs manufactured for sale in this state shall be fire retardant. The bureau shall adopt regulations no later than January 1, 2004, requiring that fire retardant mattresses and box springs meet a resistance to open-flame test that uses a pass or fail performance criteria based on a test method developed by the bureau or that is based on ASTM E 1590. If the bureau concludes that other bedding contributes to mattress fires, the regulations shall require the other bedding to be flame retardant under the resistance to open-flame test. If feasible, the bureau's regulations shall permit a manufacturer to comply with the resistance to open-flame test by testing a small scale version of its product. In developing these regulations, the bureau may contract, cooperate, or otherwise share resources with other government agencies, private organizations, or independent contractors that it considers appropriate for purposes of reviewing test criteria and methods, equipment specifications, and other relevant subjects. These regulations shall become inoperative upon the effective date of any federal law or regulation establishing an open-flame resistance standard for these products. The bureau shall submit a report to the Legislature on or before January 1, 2004, summarizing its regulatory findings.

(b) Requirements for flame resistant mattresses, box springs, or other bedding products shall not apply to any hotel, motel, bed and breakfast, inn, or similar transient lodging establishment that has an automatic fire extinguishing system that conforms to the specifications established in Section 904.1 of Title 24 of the California Code of Regulations.

(c) All seating furniture sold or offered for sale by an importer, manufacturer, or wholesaler for use in this state, including any seating furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to



which filling materials are added, shall be fire retardant and shall be labeled in a manner specified by the bureau.

(d) “Fire retardant,” as used in this section, means a product that meets the regulations adopted by the bureau. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

SEC. 4. Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer’s license	\$750	\$120
Furniture and bedding manufacturer’s license	750	120
Wholesale furniture and bedding dealer’s license	540	120
Supply dealer’s license	540	120
Custom upholsterer’s license	360	80
Sanitizer’s license	360	80
Retail furniture and bedding dealer’s license	240	40
Retail furniture dealer’s license	120	20
Retail bedding dealer’s license	120	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell “used” and “antique” furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

