

House Bill 1072

By: Representatives Schofield of the 60<sup>th</sup> and Drenner of the 85<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 15 of Title 25 of the Official Code of Georgia Annotated, relating to other  
2 safety inspections and regulations, so as to prohibit the use of certain chemical flame  
3 retardants; to provide for procedures, conditions, and limitations; to provide for an effective  
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 15 of Title 25 of the Official Code of Georgia Annotated, relating to other safety  
8 inspections and regulations, is amended by adding a new article to read as follows:

9 "ARTICLE 6

10 25-15-115.

11 (a) As used in this Code section, the term:

12 (1) 'Bedding' means any residential or commercial bedding material, including, but not  
13 limited to, a mattress, mattress pad, mattress cover, sheeting, pillow, blanket, comforter,  
14 duvet cover, sleeping bag, or any other stuffed item intended to be used for reclining or  
15 sleeping.

16 (2) 'Carpeting' means a residential or commercial fabric floor covering, including carpet  
17 padding.

18 (3) 'Children's product' means a consumer product intended, made, or marketed for use  
19 by children up to 12 years old. For the purposes of this Code section, the term shall not  
20 include:

21 (A) Batteries;

22 (B) Inaccessible components of a consumer product that, during a reasonably  
23 foreseeable use and abuse of the children's product, would not come into direct contact  
24 with a child's skin or mouth; and

25 (C) Consumer electronic and electrical products, including, but not limited to, personal  
26 computers, audio and video equipment, calculators, wireless telephones, game consoles,  
27 power cords, electric chargers, and hand-held devices incorporating a video screen used  
28 to access interactive software and associated peripherals.

29 (4) 'Covered product' means bedding, carpeting, children's product, residential  
30 upholstered furniture, or window treatment.

31 (5) 'Engineered nanoobject' means a material with 1, 2, or 3 external dimensions in the  
32 nanoscale.

33 (6) 'Manufacturer' means a person or entity that produces, imports, or distributes covered  
34 products.

35 (7) 'Nanoscale' means a size range from approximately 1 nanometer to 100 nanometers.

36 (8) 'Office' means the office of Safety Fire Commissioner.

37 (9) 'Residential upholstered furniture' means seating or other upholstered products  
38 intended for indoor or outdoor use in or at a home or other dwelling intended for  
39 residential occupancy that consists in whole or in part of resilient cushioning materials  
40 enclosed within a covering consisting of fabric or other textile. For the purposes of this  
41 Code section, the term shall not include furniture for which the core functionality depends  
42 upon the utilization of electric or electronic components subject to various underwriters  
43 laboratories other comparable flammability standards, including, but not limited to,  
44 massage chairs, assisted lift chairs, and home theater seating.

45 (10) 'Retailer' means a person or entity that offers a product for sale at retail through any  
46 means, including, but not limited to, remote offerings such as sales outlets, catalogs, or  
47 the internet but shall not include a sale that is a wholesale transaction with a distributor  
48 or a retailer.

49 (11) 'Window treatment' means residential or commercial curtain materials, blinds, or  
50 shades.

51 (b) A manufacturer or retailer shall not sell, offer, or manufacture for sale, distribute in  
52 commerce, or import into the state a covered product, except for inventory manufactured  
53 prior to January 1, 2020, that contains any of the following chemical flame retardants or  
54 a chemical analogue the total weight of which exceeds 1,000 parts per million for any  
55 component part of the covered product:

56 (1) Tris(1,3-dichloro-2-propyl)phosphate (TDCPP) (Chemical Abstracts Service number  
57 13674-87-8);

58 (2) Tris(2-chloroethyl)phosphate (TCEP) (Chemical Abstracts Service number  
59 115-1496-8);

60 (3) Antimony trioxide (Chemical Abstracts Service number 1309-64-4);

- 61 (4) Hexabromocyclododecane (HBCD) (Chemical Abstracts Service number  
62 25637-99-4);
- 63 (5) Bis(2-Ethylhexyl)-3,4,5,6-tetrabromophthalate (TBPH) (Chemical Abstracts Service  
64 number 26040-51-7);
- 65 (6) 2-Ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB) (Chemical Abstracts Service  
66 number 183658-27-7);
- 67 (7) Chlorinated paraffins (Chemical Abstracts Service number 85535-84-8);
- 68 (8) Tris(1-chloro-2-propyl) phosphate (TCPP) (Chemical Abstracts Service number  
69 13674-84-5);
- 70 (9) pentaBDE (Chemical Abstracts Service number 32534-81-9);
- 71 (10) octaBDE (Chemical Abstracts Service number 32536-52-0);
- 72 (11) Tetrabromobisphenol A (TBBPA) (Chemical Abstracts Service number 79-94-7);  
73 or
- 74 (12) Any other chemical flame retardants specified by the office pursuant to subsection  
75 (c) of this Code section.
- 76 (c) Every three years the office shall review, identify, and recommend other chemical  
77 flame retardants that should be prohibited under subsection (b) of this Code section;  
78 provided, however, that the office shall demonstrate that the chemical flame retardant is  
79 known to:
- 80 (1) Harm the normal development of a fetus or child or cause other developmental  
81 toxicity;
- 82 (2) Cause cancer, genetic damage, or reproductive harm;
- 83 (3) Disrupt the endocrine system;
- 84 (4) Damage the nervous system, immune system, or an organ, or cause other systemic  
85 toxicity; or
- 86 (5) Is found to be persistent, bioaccumulative, and toxic.
- 87 If the office determines that a chemical flame retardant meets the conditions of this  
88 subsection, it shall promulgate rules to restrict the manufacture, sale, distribution in  
89 commerce, or importation of any children's product or residential upholstered furniture  
90 containing the chemical flame retardant within nine months after making such  
91 determination. A manufacturer or retailer shall not sell, offer, or manufacture for sale,  
92 distribute in commerce, or import into the state any covered product, except for inventory  
93 manufactured prior to the effective date of the rule, that contains the chemical flame  
94 retardant in a total weight that exceeds 1,000 parts per million for any component part of  
95 the covered product; provided, however, that if the chemical flame retardant is an  
96 engineered nanoobject, a manufacturer or retailer shall not sell, offer or manufacture for  
97 sale, distribute in commerce, or import into the state any covered product, except for

98 inventory manufactured prior to the effective date of the rule, that contains the chemical  
99 flame retardant in any amount.

100 (d) This Code section shall not apply to:

101 (1) Motor vehicles, watercraft, aircraft, all-terrain vehicles, off-highway motorcycles,  
102 or any component parts; or

103 (2) The sale or purchase of any previously owned product containing a chemical flame  
104 retardant prohibited under this Code section.

105 (e) A manufacturer of a covered product that contains a chemical flame retardant  
106 prohibited by this Code section shall provide notice to retailers and other persons that sell  
107 covered products in this state of the presence of such chemical flame retardant on or before  
108 January 1, 2020.

109 (f) Subsections (a) through (c) of this Code section shall not apply to the sale, purchase,  
110 lease, distribution, or use of any covered product manufactured before January 1, 2020, or  
111 any covered product that contains chemicals prohibited under this Code section due to the  
112 presence of recycled materials used during the manufacture of the product covered.

113 (g) A manufacturer or retailer that violates the provisions of subsection (b) of this Code  
114 section shall be subject to the following civil penalties:

115 (1) For the first violation, a fine of not more than \$100.00 per covered product, not to  
116 exceed a total of \$5,000.00;

117 (2) For the second violation, a fine of not more than \$250.00 per covered product, not  
118 to exceed a total of \$25,000.00; and

119 (3) For the third or subsequent violation, a fine of not more than \$1,000.00 per covered  
120 product, not to exceed a total of \$50,000.00.

121 For purposes of calculating a penalty under this subsection, a collection of covered  
122 products that are sold as a set shall constitute one covered product. A manufacturer or  
123 retailer that knowingly violates this Code section shall be subject to a civil penalty equal  
124 to three times the amount of the fine imposed for such violation pursuant to this subsection.

125 (h) A civil penalty for a violation of this Code section imposed pursuant to subsection (g)  
126 of this Code section shall be waived by the office if the office determines that a  
127 manufacturer or retailer acted in good faith to be in compliance with this Code section,  
128 pursued compliance with due diligence, and promptly corrected any noncompliance after  
129 discovery of the violation.

130 (i) The office may promulgate such rules and regulations necessary to implement this  
131 Code section."

132 **SECTION 2.**

133 This Act shall become effective on July 1, 2019.

134

**SECTION 3.**

135 All laws and parts of laws in conflict with this Act are repealed.