

Date of Hearing: March 13, 2023

ASSEMBLY COMMITTEE ON EMERGENCY MANAGEMENT

Freddie Rodriguez, Chair

AB 267 (Bauer-Kahan) – As Amended February 9, 2023

SUBJECT: Fire protection: tents: nonflammable materials

SUMMARY: This bill exempts any tent for more than 11 persons and is designed or manufactured for children's play, camping, backpacking, or mountaineering from requiring flame retardant treatment *and* establishes that any tent for less than 11 persons, which meets flammability standards established by the American Society for Testing and Materials, be classified as being made from flame-retardant fabrics or materials approved by the State Fire Marshall. Specifically, **this bill:**

- 1) Increases the amount of persons, from less than 10 to less than 11, who may gather for any lawful purpose in any tent, awning, or other fabric enclosure without meeting non-flammability requirements, as specified.
- 2) Creates an exception to requiring flame retardant treatment for any tent designed or manufactured for children's play, camping, backpacking, or mountaineering designed for more than 11 persons
- 3) Increases the occupancy requirement, from less than 10 to less than 11 persons, for tents that are unlawful to manufacture, sell, or offer for sale unless made from flame retardant fabrics or materials
- 4) Provides that tents manufactured, sold, or offered and intended for less than 11 persons and meet specified flammability standards for tents established by the American Society for Testing and Materials (F3431-20, "Standard Specification for Determining Flammability Materials for Recreational Camping Tents and Warning Labels for Associated Hazards) shall be classified as being made from flame-retardant fabrics or materials

EXISTING LAW:

- 1) Establishes the Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection (Health and Safety Code 13100)
- 2) Requires the State Fire Marshal to aid in the enforcement of all laws and ordinances, any rules and regulations, as specified. (Health and Safety Code 13104)
- 3) Requires the State Fire Marshal to prepare and adopt rules and regulations establishing minimum requirements for the prevention of fire and panic in connection with the use of tents, awnings, or other fabric enclosures. (Health and Safety Code 13115)
- 4) Provides it is unlawful for any person, firm, or corporation to establish, maintain, or operate an event in which 10 or more persons may gather for any lawful purpose in any tent, awning, or other fabric enclosure unless it is made from a nonflammable material or

treated with a flame-retardant condition, with exceptions as specified. (Health and Safety Code 13115)

- 5) Provides it is unlawful for any person to sell any tent designed and intended for use for occupancy by less than 10 persons unless the tent is made from flame-retardant fabrics or materials approved by the State Fire Marshal. (Health and Safety Code 13115)
- 6) Requires all tents manufactured for sale in this state to be flame retardant, as provided. (Health and Safety Code 13115)

FISCAL EFFECT: A fiscal committee has not analyzed this bill.

COMMENTS:

Purpose of the bill: According to the author, “Chemical treatments for camping and play tents are unnecessarily serving as harmful sources of toxic exposure to certain flame-retardant chemicals. Children, in particular, must be protected from these potentially endocrine disrupting chemicals. The science is clear that the addition of these chemicals is unnecessary and provides no meaningful safety benefit. Rather, it is time to modernize the code and remove these unnecessary toxic chemicals from our requirements.”

Equity Impact: According to the author’s staff, “The harms of these chemicals are worst for children, who are at a key developmental stage when exposed, and often disproportionately come in contact with, chemical treatments for tents. Children handle tent fabrics while camping and often do not adequately wash their hands before handling food or placing their hands around their face. Children also directly handle indoor play tents, which are treated with these FR chemicals solely to meet this outdated requirement. There is no evidence that these indoor play tents are reasonably or foreseeably exposed to an elevated risk of harm.”

Flame Retardant Chemicals: Flame retardant chemicals, used since the 1970s, are chemicals added to a product to slow or prevent fire. According to the National Institute of Environmental Health Sciences (NIEHS), FRs can offer benefits fire protection benefits when added to some products, but a growing body of evidence asserts many of these chemicals can cause adverse health effects to animals and humans. Examples of the adverse health effects include endocrine and thyroid disruption, impacts to the immune system, reproductive toxicity, cancer, and adverse effects on fetal and child development and on neurologic function. There are several flame retardant chemicals listed in California, through Proposition 65, known to cause cancer, birth defects, or other reproductive harm.

State Fire Marshal: The mission of the State Fire Marshal’s office is to protect life and property through the development and application of fire prevention engineering, education and enforcement. They assist CAL FIRE’s broader mission through fire prevention efforts. This is achieved by regulating buildings, controlling substances and products that may cause injuries, death or destruction by fire, providing direction for fire prevention in wildland areas, regulating hazardous liquid pipelines, developing and reviewing regulations and building standards, and by providing training and education in fire protection. In relation to this bill, the State Fire Marshall is responsible for approving flame retardant standards for tents.

Canvas Products Association International: The Canvas Products Association International (CPAI) is a trade organization comprised of fabric product manufacturers and suppliers. In the 1970s, CPAI created CPAI-84, a voluntary fire safety standard for tents. However, this standard was developed for large and small tents made of highly-flammable, waxed cotton canvas. These types of tents could ignite and burn down in less than a minute if a fire or heat source ignited upon this type of tent. Canvas is no longer the primary material used in tents. The majority of tents are made of synthetic, light-weight materials, such as polyester and nylon, which are significantly less flammable than canvas.

American Society for Testing and Materials (ASTM) International: ASTM International is a nonprofit entity that develops and publishes technical standards for testing and classifying materials of all kinds. ASTM has developed over 12,000 standards— many of which are used in over 140 countries, including the United States where ASTM serves as the administrator for the United States Technical Advisory Group. They also serve as the administrator for the International Organization for Standardization Technical Committee and their subcommittees.

ASTM F3431-20, Standard Specification for Determining Flammability Materials for Recreational Camping Tents and Warning Labels for Associated Hazards: According to ASTM, “This specification covers requirements and contains test methods for outdoor recreational camping tents for persons. These requirements include controlled small flame test methods for materials used to manufacture tents. The requirements are intended to specify materials that do not present an unreasonable risk of flammability and injury to occupants.”

Arguments in Support: Writing in support, the California Outdoor Recreation Partnership states, “On behalf of California Outdoor Recreation Partnership, we are proud to support AB 267-Fire protection: tents: nonflammable materials. Currently under code for the Office of the State Fire Marshal, tent manufacturers must add flame retardants, known to be toxic to humans, in order to meet an outdated requirement. AB 267 seeks to address this issue by changing the code so flame retardants are not needed in tents with an occupancy of 10 or fewer. AB 267 is necessary to ensure a healthy outdoor recreation community and protect the environment from harmful man-made chemicals.”

They continue “Currently California is one of just six states left with flammability requirements that lead to flame retardant (FR) use for outdoor camping and children’s play tents of all sizes. Internationally, Australia, the European Union, Japan, Korea and most other similarly industrialized countries do not treat camping tents sold to their citizens with FR chemicals. Available data from governmental and academic sources in these countries demonstrate that no statistical difference has been observed in the reported number of fires, injuries, or deaths, with or without these harmful FR chemicals.”

Prior and Related Legislation:

AB 2998 Bloom (Chapter 3 of Division 8 of the Business and Professions Code, relating to business. 2018) prohibits the sale of new juvenile products, mattresses, or upholstered furniture that contains flame retardant chemicals.

SB 1019 (Leno, Chapter 862, Statutes of 2014), requires an upholstered furniture manufacturer to indicate on the product label whether or not a product contains added flame retardant chemicals; requires manufacturers to retain documentation of whether or not flame retardant

chemicals were added to the product, and provide that documentation to the Bureau of Electronic and Appliance Repair (Bureau); and authorized the Bureau to assess fines for violations of the above provisions.

AB 127 (Skinner, Chapter 579, Statutes of 2013), requires the State Fire Marshal, in consultation with the Bureau, to review the flammability standards for building insulation materials, including whether the flammability standards for some insulation materials can only be met with the addition of chemical flame retardants and requires, if deemed appropriate by the State Fire Marshal based on this review, the State Fire Marshal to, by July 1, 2015, propose, for consideration by the Building Standards Commission, updated insulation flammability standards.

AB 2197 (Mitchell of 2012), would have required Bureau to revise regulations to require all seating furniture sold or offered for sale to meet a smolder flammability test rather than an open flame-test. (This bill was held in the Assembly Committee on Environmental Safety and Toxic Materials.)

SB 147 (Leno of 2011), would have required the Bureau, on or before March 1, 2013, to modify the requirements for flammability of residential upholstered furniture to include a smolder flammability test as an alternative method of compliance. (This bill was voted down in the Senate Committee on Business, Professions and Economic Development.) The intent of this bill and AB 2197 of 2012 was implemented through regulation through the adoption of TB 117-2013.

SB 1291 (Leno of 2010), would have required the Department of Toxic Substances Control to include, as a chemical under consideration in the Green Chemistry process, any chemical that is used, or is proposed to be used, as a flame retardant. (This bill was held on the Senate Floor.)

SB 772 (Leno of 2009) would have exempted “juvenile products,” as defined, from the fire retardant requirements pursuant to federal law and the regulations of the Bureau, except that the Bureau could have, by regulation modified this exemption if the Bureau determined that any juvenile products posed a serious fire hazard. (This bill was held in the Assembly Committee on Appropriations.)

REGISTERED SUPPORT / OPPOSITION:

Support

California Outdoor Recreation Partnership

Opposition

None on file.

Analysis Prepared by: Ryan Fleming / E.M. / (916) 319-3802