
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**Senator Bill Dodd****Chair****2023 - 2024 Regular**

Bill No:	AB 267	Hearing Date:	6/13/2023
Author:	Bauer-Kahan		
Version:	2/9/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Brian Duke		

SUBJECT: Fire protection: tents: nonflammable materials

DIGEST: This bill adjusts fire safety regulations for fabric structures such as tents by raising the gathering size limit from 10 to 11 people before non-flammability rules apply and provides exceptions for certain types of tents designed for children's play, camping, backpacking, or mountaineering. This bill also stipulates that tents intended for less than 11 occupants must meet specific flammability standards to be classified as flame-retardant, as specified.

ANALYSIS:

Existing law:

- 1) Makes it illegal for any person, firm, or corporation to establish, maintain, or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or similar exhibition, production, engagement, or offering or other place of assemblage in or under which 10 or more persons gather in any tent, awning, or other fabric enclosure unless the tent, awning, or other fabric enclosure are made from a nonflammable material or are treated and maintained in a flame-retardant condition, as specified.
- 2) Exempts tents used to conduct committal services on the grounds of a cemetery and tents, awnings, and other fabric enclosures erected and used within a sound state, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.
- 3) Makes it illegal for any person to sell or offer for sale any tent designed and intended for use for occupancy by less than 10 people unless the tent is made from flame-retardant fabrics or materials approved by the State Fire Marshal (SFM), as specified.

- 4) Defines “flame retardant” to mean a fabric or material resistant to flame or fire to the extent that it will successfully withstand fire-resistive tests adopted and promulgated by the SFM.

This bill:

- 1) Increases the number of people from 10 to 11 who may gather for any lawful purpose in any tent, awning, or other fabric enclosure, without flame retardant requirements, as specified.
- 2) 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
- 3) Expands the existing exception to requiring flame retardant treatment for funeral tents to include any tent designed or manufactured for children’s play, camping, backpacking, or mountaineering.
- 4) Provides that the classification of flame-retardant fabrics or materials include tents that meet flammability standards 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,” as specified.

Background

Author Statement. According to the author’s office, “chemical treatments for camping and play tents are unnecessary and harmful sources of toxic exposure. Children must be protected from these potentially endocrine disrupting chemicals. The science is clear that the addition of these chemicals is unnecessary. It’s time to remove them from our requirements.”

Flame Retardant Chemicals. Flame retardant chemicals (FRCs), 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), FRCs can offer benefits fire protection 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 FRCs listed in California, through Proposition 65, known to cause cancer, birth defects, or other reproductive harm.

In the 1970s, the Canvas Products Association International (CPAI) created a voluntary fire safety standard for tents named CPAI-84. The impetus for CPAI-84 is believed to be a major Hartford circus tent fire, one of the worst fire disasters in United States history during an afternoon performance of the Ringling Bros. and Barnum & Bailey Circus that was attended by 6,000 to 8,000 people. The fire killed at least 167 people, and more than 700 were injured. It was the deadliest disaster ever recorded in Connecticut.

Today, most tents in the market are made of synthetic, light-weight materials, such as polyester and nylon. Such materials are known to textile technologists to have significantly lower flammability characteristics compared to the paraffin-coated (waxed) cotton canvas for which the original CPAI-84 test method was designed by the by canvas manufacturers association.

California, along with Louisiana, Michigan, Minnesota, New Jersey, and New York presently have flame retardant requirements for outdoor camping and children's play tents of all sizes. Australia, the European Union, Japan, Korea, and most other similarly industrialized countries do not treat camping tents sold to their citizens with FRCs, arguing that there is no statistical difference observed in the reported number of fires, injuries, or deaths.

American Society for Testing and Materials F3431-20. The American Society for Testing and Materials (ASTM) F3431-20 guidelines titled "Standard Specification for Determining Flammability Materials for Recreational Camping Tents and Warning Labels for Associated Hazards," is used for testing how flammable the materials used in outdoor camping tents are. These guidelines aim to make sure that the materials used to make these tents do not easily catch fire and thereby pose a risk to people using them.

However, these guidelines are not meant for all types of tents or similar products. For example, they don't apply to tents intended only for indoor use, tents used mainly for business purposes, or products that fall under certain U.S. fire and safety codes. They also don't apply to things like baby boats with sunshades, car ports, children's indoor play tents, garden greenhouses, hammocks, and packaging materials like tent bags, among other items.

This set of guidelines is an update to an older set of standards, CPAI-84, and is considered the standard for such testing. However, it is up to the user of these standards to establish safe, health, and environmental practices and determine if there are any regulatory limitations before using them.

These guidelines are designed to predict the fire hazard under a specific set of conditions, not necessarily all possible fire conditions. They also provide a way to assess the fire risk by considering both the potential for harm in fire scenarios and the likelihood of those scenarios occurring. But if the real-life conditions are different from those assumed in these guidelines, they can't be used to assess fire risk.

California State Fire Marshal. The mission of the SFM is to protect life and property through the development and application of fire prevention engineering, education and enforcement. They assist the California Department of Forestry and Fire Protection's (CalFIRE) 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 SFM is responsible for approving flame retardant standards for tents.

We're Going to Need a Bigger Tent. This bill raises the threshold of occupancy for tents requiring FRCs from 10 to 11 persons. This exempts smaller tents from the need to use such materials. While this change may seem minor, supporters contend that increasing the minimum number of people for a gathering from 10 to 11 raises the number of gatherings that will be exempt from existing FRC regulations, reducing the regulatory burden for smaller events.

Additionally, this bill specifically exempts any tents designed or manufactured for children's play, camping, backpacking, or mountaineering from FRC requirements. Supporters argue that these newly exempted tents are typically used in contexts with fewer fire hazards, or they may be designed with materials inherently more resistant to flame. Therefore, applying the same fire safety standards as larger, more permanent structures may not be necessary or practical.

Prior/Related Legislation

SB 504 (Dodd, 2023) requires CalFire to give priority under the Fire Prevention Grant Program to any local governmental entity qualified to perform defensible space assessments, as specified, that reports defensible space and home hardening assessment data to CalFire, as specified. Further, this bill removes the qualifier "burning under average weather conditions" from the defensible space requirement that fuels be maintained and spaced in a condition so that a wildfire burning under those conditions would be unlikely to ignite the structure. (Pending in the Assembly Natural Resources Committee)

AB 246 (Papan, 2023) prohibits, commencing January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS). (Pending in the Senate Environmental Quality Committee)

AB 347 (Ting, 2023) requires the Department of Toxic Substances Control (DTSC) to enforce certain laws that restrict chemicals in juvenile products, cleaning products, and food packaging and cookware. (Pending Referral in the Senate Rules Committee)

AB 496 (Friedman, 2023) prohibits, commencing January 1, 2027, a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains any of the ingredients specified in the bill. (Pending in the Senate Environmental Quality Committee)

AB 727 (Weber, 2023) prohibits, commencing January 1, 2025, a person or entity from manufacturing or selling a cleaning product containing PFAS, as specified. (Pending in the Senate Environmental Quality Committee)

AB 1423 (Schiavo, 2023) prohibits, commencing January 1, 2025, the manufacturing or sale of artificial turf or a synthetic surface that resembles grass (covered surface) that contains PFAS, and prohibits, commencing January 1, 2024, certain entities from purchasing or installing artificial turf that contains PFAS. (Pending referral in the Senate Rules Committee)

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Alpine Parrot, PBC
Breast Cancer Prevention Partners
California Outdoor Recreation Partnership
Columbia Sportswear Company
Green Science Policy Institute
Hilleberg the Tentmaker
Hipcamp
Intrinsic Advances Materials (Ciclo)
Little Kamper
Marmot
NEMO Equipment Company
Outdoor Industry Association
REI

San Francisco Bay Wildlife Society
Sierra Business Council
Swrve
Tahoe Backcountry Alliance
The North Face
Thule Group
Toad & Co

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: In support of the bill, the California Outdoor Recreation Partnership writes that, “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.”

Further, supporters argue that, “outdated performance and label requirements from 1975 effectively require the use of FR chemicals to comply. FRs commonly added to tents, such as TDCPP, TCPP, TCEP, & TPHP, are associated with neurological and reproductive harm as well as cancer. To further sustainability goals and decrease exposure to unnecessary FR chemicals among factory workers and the public, the outdoor industry is seeking to update this requirement. In the 1970s, the Canvas Products Association International (CPAI) created a voluntary fire safety standard – originally intended for canvass tents – named CPAI-84. The impetus for CPAI-84 is believed to be a major Hartford circus tent fire and similar incidents. At that time, both large event tents and smaller camping tents were typically made of highly-flammable, paraffin-coated (waxed) cotton canvas, and some could burn completely in under a minute if campers used propane-powered stoves, lights, or heating appliances inside of their tents. Today, most tents in the market are made of synthetic, light-weight materials, such as polyester and nylon. Such materials are known to textile technologists to have significantly lower flammability characteristics compared to the paraffin-coated (waxed) cotton canvas for which the original CPAI-84 test method was designed by the canvas manufacturers association.”