May 6, 2021

Dear New York State Legislator,

We the undersigned organizations represent tens of thousands of businesses and jobs across New York State across a variety of industries. We are writing to express our concerns with S.4630-A/ A.5418, legislation that would ban the use of a broad range of flame retardants in residential upholstered furniture, mattresses and electronic enclosures. This bill would adversely impact product safety for New Yorkers and would put manufacturers, retailers and small businesses in our state at a competitive disadvantage.

This bill, if passed and signed into law, would be the most restrictive ban on flame retardantsin the nation. This bill would restrict a broad range of substances in a variety of products in residential spaces **including but not limited to computers, televisions, children's toys, gaming systems, stoves, exercising equipment such as stationary bikes and treadmills, couches, and mattresses.**

Over the past year, people have spent more time than ever before in homes and apartments. Residential spaces are used not only for household activities, like cooking and watching TV, but residences also serve as offices and home gyms. More time and activities in the home accordingly corresponds to greater use of electronics in the home.

This bill proposes removing flame retardants from commonly used electronic products at a time when more people are spending time in the home. Assessing product safely is more than simply noting the presence of a chemical substance in a formulation. Product safety assessments must also consider product use, user exposure to the chemical in the product, and the functionality of the chemical in the formulation, as well as the unintended consequences of removal of a chemical from a product. **Without the use of flame retardants, the danger of fire spreading quickly in densely populated housing communities would increase.**

In the case of S. 4630-A/ A. 5418, the legislature must consider the implications for fire safety in families' homes in New York State. We respectfully request that the legislature considers how banning flame retardants from products-- a proven, effectiveset of fire safety tools-- could have the unintended consequences of undermining product safety andpotentially exposing consumers to greater probabilities of fire injuries and death.

This bill recently was amended to ban flame retardants in products used in *residential* spaces. While exempting certain products, this ban still would apply to hundreds if not thousands of items that New York State residents regularly use in the home -- ignoring the fact that **residential fires in our state pose a significant health concern for New Yorkers.**

According to the National Fire Incident Reporting System and 2018 report from the New York State Division of HomelandSecurity and Emergency Services Office of Fire Control and Prevention:

- **Fire is a very real danger in New York.** From 2014-2018, there were 5,948 injuries and 625 deaths to civilians caused by fires.

- **Most fires occur in a residential setting.** In 2018, more than half (57%) of all fires were residential.

- **The financial costs of fire are also severe.** From 2014-2018, fire-related property loss was $6.9 billion in New York.

- In 2020, the news media reported **114 civilian home fire fatalities** in New York. Of those, **43 were older adults and 6 were children**.[1]

- The New York State Department of Health says **fire-related injuries are one of the ten leading causes of death due to an unintentional injury for children ages 10 to 19 years**.[2]

- The Department also says **smoking is the leading cause of home fire deaths** in the state. [2]

- The three main causes of home fires are **cooking equipment, heating equipment, and electric appliances**. [2]

Residential fires in the U.S. continue to pose a significant public health concern.
Flame retardants can provide an important layer of fire protection by stopping or delaying the onset or spread of fires, and they can provide occupants of a home or building additional life-saving time to escape a fire.

Fire is still a very real and present danger. In 2019, fire departments in the U.S. responded to a fire every 24 seconds. That same year, firefighters responded to more than 1.29 million fires, which resulted in 3,700 civilian fire fatalities, 16,600 civilian fire injuries, and an estimated $14.6 billion in property loss.[3]

Fires are a safety risk for our most vulnerable populations. Research shows that fire death rates are higher in states with larger percentages of people who are African American, poor and smokers; have less formal education; and live in rural areas. [4] Fire safety is also a critical issue for senior citizens. Older adults continue to experience a disproportionate share of fire deaths. Although adults aged 65 and over are only 16% of the U.S. population, National Fire Protection Association (NFPA) data shows that individuals 65 and over make up 33% of fire deaths.[5] According to U.S. Census Bureau projections, by 2060, the number of individuals ages 65 or older is expected to be 95 million — nearly double the amount in 2017.

Flame retardants can reduce the rate of heat release and the spread of flames from afire.
Flame retardants can also reduce smoke production during a fire, and they do not contribute significant additional toxicity to the smoke produced in a fire.

As the heat release rate increases, more materials will ignite, burn, and propagate the fire. On the other hand, if heat release rate remains small, it is possible (or even likely) that the fire will be confined to the area or object of origin. By reducing heat release rate, flame retardants also reduce the spread of flames.

When products produce significantly lower heat release and much less material is burnt or destroyed, less smoke is released, leading to better visibility for victims trying to escape.

Lawmakers must consider how banning retardants flame—a proven, effective set of fire safety tools—could potentially expose consumers to greater probabilities of fire injuries and deaths.

• Language in this bill would impose broad restrictions on alternative flame retardants, **including products that have not even been developed** yet without any consideration of their safety benefits or evaluating any real-world potential for human health or environmental risk.

• This bill will potentially disincentivize the development of new, innovative products that could provide important fire safety benefits while having an enhanced environmental, health and safety profile.

This bill would restrict a broad range of substances in a variety of products.

Flame retardants include a broad range of products with differing characteristics, formulations and intended uses, so it is not appropriate to make broad conclusions or impose a one-size fits all regulatory approach for this wide range of substances. A variety of flame retardants is necessary because the materials that need to be made fire-resistant are very different in their physical nature and chemical composition, as are the end-use performance requirements of the final product.

More specifically, this bill includes a ban on flame retardants in electronic casings. Electronics manufacturers use flame retardants to meet flammability standards for electronics and electronic components and enclosures. These products have unique fire safety considerations and are designed to meet current product and fire safety standards.

Flame Retardants are Reviewed at the Federal Level

Several of the substances in S.4630-A/ A.5418 are also currently being reviewed by the U.S. EPA andthe Consumer Product Safety Commission (CPSC). These assessments are already in progress, and it would be important for New York State to consider this information as it evaluates flame retardants.

Given the importance of flame retardants to ensure fire safety, the undisputed fact that fires disproportionately impact children and the elderly, the existence of authoritative government reports, and assessment processes underway at federal agencies, it would be important for New York State legislators to consider this information before it takes any action on these substances.

Thank you for your consideration.

Sincerely,

American Chemistry Council
Association Home Appliance Manufacturers
The Business Council of New York State
Capital Region Chamber
Chemical Fabrics and Film Association
Consumer Technology Association
International Sleep Products Association
International Technology Industry Council (ITI)
Juvenile Products Manufacturers Association
Kaneka
National Federation of Independent Business/NY
Polyurethane Foam Association
Upstate United

Source:

1 FEMA. Home Fire Fatalities in the News. Accessed April 21, 2021. https://apps.usfa.fema.gov/civilian-fatalities/incident/reportList?searchState=newyork&searchStartDate=01/01/2020&searchEndDate=12/31/2020

[2] New York State Department of Health. *Home Fire Prevention, Children Ages 10 to 19 Years.* Accessed April 21, 2021. https://www.health.ny.gov/prevention/injury_prevention/children/fact_sheets/10-19_years/home_fire_prevntion_10-19_years.htm

[3] NFPA. *Fire Loss in the United States During 2019* (September 2020). https://www.nfpa.org//-/media/Files/News-and-Research/Fire-statistics-and-reports/US-Fire-Problem/osFireLoss.pdf

[4] U.S. Fire Administration. *Fire Risk in 2017* (2019). https://www.usfa.fema.gov/downloads/pdf/statistics/v20i3.pdf

[5] U.S. Fire Administration. *Fire safety outreach materials for older adults* (2017). https://www.usfa.fema.gov/prevention/outreach/older_adults.html