

116TH CONGRESS  
1ST SESSION

# S. 1341

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 7, 2019

Mr. WICKER (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To adopt a certain California flammability standard as a Federal flammability standard to protect against the risk of upholstered furniture flammability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safer Occupancy Fur-  
5 niture Flammability Act” or the “SOFFA Act”.

6 **SEC. 2. ADOPTION OF CALIFORNIA FLAMMABILITY STAND-**  
7 **ARD AS A FEDERAL STANDARD.**

8 (a) **DEFINITIONS.**—In this section—

1 (1) the term “bedding product” means—

2 (A) an item that is used for sleeping or  
3 sleep-related purposes; or

4 (B) any component or accessory with re-  
5 spect to an item described in subparagraph (A),  
6 without regard to whether the component or ac-  
7 cessory, as applicable, is used—

8 (i) alone; or

9 (ii) along with, or contained within,  
10 that item;

11 (2) the term “California standard” means the  
12 standard set forth by the Bureau of Electronic and  
13 Appliance Repair, Home Furnishings and Thermal  
14 Insulation of the Department of Consumer Affairs of  
15 the State of California in Technical Bulletin 117–  
16 2013, entitled “Requirements, Test Procedure and  
17 Apparatus for Testing the Smolder Resistance of  
18 Materials Used in Upholstered Furniture”, originally  
19 published June 2013, as in effect on the date of en-  
20 actment of this Act;

21 (3) the terms “foundation” and “mattress”  
22 have the meanings given those terms in section  
23 1633.2 of title 16, Code of Federal Regulations, as  
24 in effect on the date of enactment of this Act; and

25 (4) the term “upholstered furniture”—

1 (A) means an article of seating furniture  
2 that—

3 (i) is intended for indoor use;

4 (ii) is movable or stationary;

5 (iii) is constructed with a contiguous  
6 upholstered—

7 (I) seat; and

8 (II)(aa) back; or

9 (bb) arm;

10 (iv) is—

11 (I) made or sold with a cushion  
12 or pillow, without regard to whether  
13 that cushion or pillow, as applicable,  
14 is attached or detached with respect  
15 to the article of furniture; or

16 (II) stuffed or filled, or able to be  
17 stuffed or filled, in whole or in part,  
18 with any material, including a sub-  
19 stance or material that is hidden or  
20 concealed by fabric or another cov-  
21 ering, including a cushion or pillow  
22 belonging to, or forming a part of, the  
23 article of furniture; and

24 (v) together with the structural units  
25 of the article of furniture, any filling mate-

rial, and the container and covering with respect to those structural units and that filling material, can be used as a support for the body of an individual, or the limbs and feet of an individual, when the individual sits in an upright or reclining position;

(B) includes an article of furniture that is intended for use by a child; and

(C) does not include—

- (i) a mattress;
- (ii) a foundation;
- (iii) any bedding product; or
- (iv) furniture that is used exclusively for the purpose of physical fitness and exercise.

(b) ADOPTION OF STANDARD.—

(1) IN GENERAL.—Beginning on the date that is 180 days after the date of enactment of this Act, and except as provided in paragraph (2), the California standard shall be considered to be a flammability standard promulgated by the Consumer Product Safety Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

1           (2) TESTING AND CERTIFICATION.—A fabric,  
2       related material, or product to which the California  
3       standard applies as a result of paragraph (1) shall  
4       not be subject to section 14(a) of the Consumer  
5       Product Safety Act (15 U.S.C. 2063(a)).

6       (c) PREEMPTION.—

7           (1) IN GENERAL.—Notwithstanding section 16  
8       of the Flammable Fabrics Act (15 U.S.C. 1203) and  
9       section 231 of the Consumer Product Safety Im-  
10      provement Act of 2008 (15 U.S.C. 2051 note), and  
11      except as provided in subparagraphs (B) and (C) of  
12      paragraph (2), no State or any political subdivision  
13      of a State may establish or continue in effect any  
14      provision of a flammability law, regulation, code,  
15      standard, or requirement that is designed to protect  
16      against the risk of occurrence of fire, or to slow or  
17      prevent the spread of fire, with respect to uphol-  
18      stered furniture.

19          (2) PRESERVATION OF CERTAIN STATE LAW.—  
20      Nothing in this Act or the Flammable Fabrics Act  
21      (15 U.S.C. 1191 et seq.) may be construed to pre-  
22      empt or otherwise affect—

23              (A) any State or local law, regulation,  
24      code, standard, or requirement that—

1 (i) concerns health risks associated  
2 with upholstered furniture; and

3 (ii) is not designed to protect against  
4 the risk of occurrence of fire, or to slow or  
5 prevent the spread of fire, with respect to  
6 upholstered furniture;

7 (B) sections 1374 through 1374.3 of title  
8 4, California Code of Regulations (except for  
9 subsections (b) and (c) of section 1374 of that  
10 title), as in effect on the date of enactment of  
11 this Act; or

12 (C) the California standard.

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