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OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Furniture Fire Safety Regulations
- 2) Code Citation: 41 Ill. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
300.10	Repealed
300.15	Repealed
300.20	Repealed
300.25	Repealed
300.30	Repealed
300.35	Repealed
300.40	Repealed
300.50	Repealed
- 4) Statutory Authority: Furniture Fire Safety Act [425 ILCS 45/1009]
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking will repeal the rules in response to federal rulemaking 16 CFR 1640 (eff. June 25, 2021) and P.A. 103-0151 (eff. June 30, 2023). 16 CFR 1640 created a federal standard for the flammability of upholstered furniture and preempts state regulation on this topic. P.A. 103-0151 has amended the Furniture Fire Safety Act (425 ILCS 45) and recognized the federal regulation.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rule replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate as defined in Section 3(b) of the States Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Katherine Nunes
Office of the State Fire Marshal
555 W. Monroe St., Suite 1300-N
Chicago, IL 60661

Phone: 312-814-8959
Facsimile: 312-814-3459
SFM.300rulemaking@fdmail.sfm.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2023

The full text of the Proposed Repealer begins on the next page:

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 300
FURNITURE FIRE SAFETY REGULATIONS (REPEALED)

Section	
300.10	Scope
300.15	Definitions
300.20	Performance Standards & Testing Procedures
300.25	Exemptions
300.30	Labeling Requirements
300.35	Documentation
300.40	Furniture Granted Special Exemption
300.50	Enforcement

AUTHORITY: Implementing and authorized by the Furniture Fire Safety Act [425 ILCS 45].

SOURCE: Adopted at 16 Ill. Reg. 20136, effective December 15, 1992; repealed at 48 Ill. Reg. _____, effective _____.

Section 300.10 Scope

The standards and requirements of this Part are intended to be consistent with the Furniture Fire Safety Act (Act), Ill. Rev. Stat. 1991, ch. 127½, par. 951-1 through 951-8, and apply to seating furniture manufactured on or after March 1, 1991, that is used or intended for use in public occupancies.

Section 300.15 Definitions

"Child Day Care Center". Child Day Care Center means an occupancy, serving 12 or more children, 6 years of age or under, that provides care, maintenance, and supervision by other than their relative(s) or legal guardian(s), for less than 24 hours per day.

"Filling Materials". Filling materials means cotton, wool, kapok, feathers, down, hair, liquid, and any other material or substance, natural or man-made and any other prefabricated form, concealed or not concealed, to be used or that could be used in articles of seating furniture (Section 951-2 (c) of the Act).

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"Health Care Facility". Health Care Facility are those occupancies used for purposes such as medical or other treatment, or care of persons suffering from physical or mental illness, disease or infirmity; and for the care of infants, convalescents, or infirm aged persons. Health care facilities provide sleeping facilities for the occupants or are occupied by persons who are mostly incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupant's control. Health care occupancies include hospitals, nursing homes, custodial care facilities (nurseries, homes for the infirm aged, and mentally retarded care institutions), supervisory care facilities and ambulatory care facilities (NFPA 101 (1985) Section 4-1.4).

"Manufacturer". Manufacturer means a person who, either by himself or through employees or agents, makes any article of seating furniture in whole or in part (Section 951-2 (d) of the Act).

"NFPA". The term NFPA (N.F.P.A.) means the National Fire Protection Association, Batterymarch Park, Quincy MA, 02269. The number following NFPA is the standard number and is followed by the year designating the year of publication (or edition). Where the Office has adopted a standard, no later editions or amendments are included.

"Office". The Office of the State Fire Marshal.

"Penal Institutions". Penal institutions as defined in Ill. Rev. Stat. 1991, ch. 38, par. 31-6.

"Public Assembly Areas of Hotels and Motels". Areas containing 10 or more pieces of seating furniture, available to the public on an invitee, contractual, rental or license basis. These areas include restaurants, lobbies, meeting rooms, conference rooms, auditoriums, ballrooms, lounges, and other occupancies as defined and described in NFPA 101 (1985) Section 4-1.2, and found to be in public areas of hotels and motels.

"Public Auditoriums and Stadiums". Areas containing individual fixed seating for 50 or more persons and used for entertainment, deliberation, amusement, sporting, musical and other events, such as in a theater, motion picture theater, lecture hall, as well as spectator seating areas of an arena, coliseum, or amphitheater, whether indoor or outdoor.

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"Reupholstered". To replace filling materials or materials encasing or covering filling materials on an article of seating furniture.

"Seating Furniture". Any furniture, including children's furniture, movable or stationary, that is made of or with cushions or pillows, loose or attached, is itself stuffed or filled in whole or part with any filling material, or is or can be stuffed or filled in whole or part with any substance or material and its container and covering which can be used as a support for the body of a human being, or the limbs and feet when sitting or resting in an upright or reclining position (Section 951-2 (b) of the Act).

"Sell". To sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease or possess with an intent to sell or dispose of in any other commercial manner (Section 951-2 (a) of the Act).

"Technical Bulletin 116". State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue, North Highlands, California, 95660-5595, Technical Bulletin 116, "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Upholstered Furniture", (1980).

"Technical Bulletin 117". State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue. North Highlands, California, 95660-5595, Technical Bulletin 117, "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Resilient Filling Materials Used in Upholstered Furniture", (1980).

"Technical Bulletin 133". State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue. North Highlands, California, 95660-5595, Technical Bulletin 133, "Flammability Test Procedures for Seating Furniture for Use in Public Occupancies", (1991).

"Uniform Building Code". Uniform Building Code, International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California, 90601, (1991).

Section 300.20 Performance Standards & Testing Procedures

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- a) Articles of seating furniture manufactured after March 1, 1991 that are used or intended for use in public occupancies or public assembly areas, as defined in this Part, that are not protected throughout by an approved automatic sprinkler system in accordance with NFPA 13 (1991), or the Uniform Building Code Standard 38-1 (1991), must meet the test requirements set forth in California Technical Bulletin 133 (1991), which is hereby incorporated by reference with no later editions or amendments.
- b) All applicable flammability requirements of this Part are to be considered performance standards. Testing under these standards shall be at the discretion of the manufacturer; however, products and materials offered for sale in this State shall meet applicable flammability requirements established by this Part. The manufacturer is not required to test every article of seating furniture manufactured. A manufacturer may establish classification systems appropriate to its specific products and may use representative tests of samples of furniture within those classifications to establish compliance with the fire safety requirements of this Part.
- c) Articles of seating furniture manufactured after March 1, 1991 that are used or intended for use in public occupancies or public assembly areas as defined in this Part, and are placed in occupancies that are protected throughout by an approved automatic sprinkler system in accordance with either NFPA 13, (1991), or the Uniform Building Code, Standard 38-1, (1991), must meet the test requirements as set forth in Technical Bulletin 116, (1980), and Technical Bulletin 117, (1980), and which are hereby incorporated by reference with no later editions or amendments.

Section 300.25 Exemptions

- a) Articles of seating furniture, other than juvenile furniture and furniture used for and in facilities designed for the care or treatment of humans, which meet any of the following criteria are exempt from compliance with the provisions of the Part:
 - 1) Cushions and pads intended solely for outdoor use.
 - 2) Any article which is smooth surfaced and contains no more than one-half inch of filling material, if such article does not have a horizontal surface meeting a vertical surface.

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- 3) Articles manufactured solely for recreational use or physical fitness purposes, such as weightlifting benches, gymnasium mats or pads, sidehorses, and similar articles.
- b) Public occupancies and public assembly areas that are protected throughout by an approved automatic sprinkler system in accordance with either National Fire Protection Association (NFPA) Standard 13 (1991), or Uniform Building Code Standard 38-1, (1991), are exempt from the provisions of this Code, but must comply with test requirements as set forth in Technical Bulletin 117, (1980), and Technical Bulletin 116 (1980).
- c) Re-upholstered Furniture. An article of seating furniture in use in a public occupancy may be reupholstered without having to meet the performance standard of Section 300.20, provided that replacement filling material is fire retardant and that all filling material is completely encased in material designed to slow the spread of fire, increase escape time, prevent rapid combustion, insulate internal materials, and restrict generated gases. Reupholstered furniture shall meet the labeling requirements set forth in Section 300.30.

Section 300.30 Labeling Requirements

- a) An article of seating furniture conforming to the requirements of Section 300.20(a) shall have a label permanently attached by the manufacturer to a surface of the article, stating the following:

"NOTICE

THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC
OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF
CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL
BULLETIN 133. HOWEVER, CARE SHOULD BE EXERCISED NEAR OPEN
FLAME OR WITH BURNING CIGARETTES."

- b) An article of seating furniture conforming to the requirements of Section 300.20(c) shall have a label permanently attached by the manufacturer to a surface of the article, stating the following:

"NOTICE

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THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA TECHNICAL BULLETIN 116 AND TECHNICAL BULLETIN 117. HOWEVER, CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES."

- c) Re-Upholstered Furniture. A re-upholstered article of seating furniture that meets the requirements of Section 300.25(c), and that is exempt from the requirements of Section 300.20, shall have a label permanently attached by the manufacturer to a surface of the article, stating the following:

"NOTICE

THIS ARTICLE HAS BEEN RE-UPHOLSTERED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF 41 IL. ADM. CODE 300.25. THIS ARTICLE IS EXEMPT FROM THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 133. HOWEVER, CARE SHOULD BE EXERCISED NEAR OPEN FLAME AND WITH BURNING CIGARETTES."

- d) Furniture Granted Special Exemption. Any article of seating furniture meeting the requirements set forth in Section 300.40, shall have a label permanently attached by the manufacturer to a surface of the article of furniture. The label shall indicate the exemption number and date, manufacturer's name and address, and must state the following:

"NOTICE

THIS ARTICLE HAS BEEN GIVEN A SPECIAL EXEMPTION BY THE OFFICE OF THE ILLINOIS STATE FIRE MARSHAL AND HAS NOT BEEN TESTED TO MEET THE REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS FLAMMABILITY REQUIREMENTS TECHNICAL BULLETINS 116, 117 or 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES."

- e) Size of Labels. Required labels shall be a minimum of two inches by three inches in size. All wording shall be in plainly legible capital letters not less than one-

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eighth inch in height. The label shall be attached in an area accessible by the inspector, but as to not hinder or interfere with the aesthetics of the article.

Section 300.35 Documentation

When a manufacturer labels an article of seating furniture under the requirements of Section 300.30, the manufacturer shall maintain a written record documenting the basis upon which it determined that the article met the requirements of Section 300.20. The documentation must include test data showing that at least one article of seating furniture was tested in conformance with and met the requirements of the applicable Technical Bulletin. The documentation must also clearly demonstrate that the labeled article would meet Technical Bulletins outlined in this Part based on comparisons to the test data. Copies of this documentation shall be transferred to the buyers or their agent upon sale of said furniture.

Section 300.40 Furniture Granted Special Exemption

A public occupancy may request a special exemption from the provisions of these rules when testing of the seating furniture is prohibitive due to the uniqueness of the seating furniture and its particular function. The procedure for requesting a special exemption shall be:

- a) The public occupancy must submit documentation from the Manufacturer to the Office proving all of the following:
 - 1) That the particular seating furniture is of a unique construction and design that is required for a particular function, and
 - 2) That no other article of seating furniture will provide the same function, and
 - 3) That the manufacturer of the furniture refuses to submit the item to testing, and
 - 4) That no other manufacturer produces the item, or that all manufacturers have similarly refused, and
 - 5) That the item is not customarily manufactured for and used in public occupancies or is a specialized design manufactured in only limited quantities.

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- b) The material covering the padding and filling material must be resistant to the spread of flame.
- c) The Office shall grant a special exemption within 30 days when the requirements above have been met. The Office will issue an exemption number and date, which shall be included on the label required in Section 300.30(d).
- d) A label as outlined in Section 300.30(d) shall be permanently attached by the Manufacturer giving the exemption number and date, as well as the Manufacturer's name and address. The public occupancy must also maintain records of the article and the exemption.

Section 300.50 Enforcement

- a) Inspect, audit or review.
 - 1) The Office shall inspect or audit the testing of seating furniture and shall review seating furniture records as necessary to verify compliance with the requirements of this Part. When requested by the Office, a manufacturer of seating furniture shall permit the Office to inspect or audit the testing of manufacturer's seating furniture and to review the manufacturer's documentation that an article complies with the applicable Technical Bulletins.
 - 2) The Office shall inspect the labels to verify compliance with these requirements of this Part. The Office shall inspect and audit the documentation required for seating furniture as necessary to verify compliance.
- b) Removal or correction. When the Office has sufficient cause to believe that an article of seating furniture does not comply with this Part, and that the article is used or intended for use in a public occupancy, the Office shall order the removal or correction of the article as may be necessary for the enforcement of this Part and for the safeguarding of lives and property from fire.
- c) Administrative Hearing. The Office, upon request, shall conduct a hearing pursuant to the Ill. Rev. Stat. 1991, ch. 127½, par. 10 to review the order to remove or correct.