

FACT SHEET

UPHOLSTERED FURNITURE FLAMMABILITY

JURISDICTION

The Consumer Product Safety Commission, created by Congress "to protect the public against unreasonable risks associated with consumer products" has ruled it has no jurisdiction over home, auto or forest fires caused by carelessly handled cigarettes because the law creating the agency declares tobacco is not a consumer product. (Sec. 3 (a.) (1.) (B.) Consumer Products Safety Act) (Federal Register - October 24, 1974).

Despite this ruling denying its jurisdiction over tobacco products or its willingness to investigate the feasibility of a self-extinguishing cigarette, the CPSC has cited cigarettes as the principal ignition source in upholstery and mattress fires.

Approximately 70 percent of Federal agency fire investigations cited the cigarette as the principal ignition source (though the data may be biased because of the selection of the more serious incidents for in-depth investigation).

SELF-EXTINGUISHING CIGARETTE

There are twenty-seven patents granted for self-extinguishing cigarettes. Laboratory tests (Guilford Laboratory, Greensboro, North Carolina) using 2,443 cigarettes showed that for those cigarettes that caused ignition (492) the average time to ignite the test fixture, using a wide variety of fabrics, cushioning and padding was 27 minutes.

Ninety-seven percent of the ignitions occurred 10 minutes or more after exposure of the upholstery materials to a lit cigarette. This suggests that a cigarette which self-extinguishes itself in less than 10 minutes, if not puffed on at regular intervals, would reduce the incidence of upholstery and mattress fires to 3% and dramatically reduce the alleged hazard.

Laboratory tests using one type of a patented self-extinguishing cigarette on a wide variety of current materials of construction demonstrated that the average time the cigarettes self-extinguished did not exceed 3 minutes, (while in this test non-treated control cigarettes that ignited the test fixture did so in an average of 28 minutes).

It is common practice in the cigarette industry to add potassium nitrate (salt peter) to the tobacco to encourage its continuous burning. The

cigarette paper is the principal regulator of the burning rate. Some of the patents treat the paper to inhibit burning of the cigarette if not puffed on. Laboratory tests, using a non-filtered, king size cigarette, demonstrate that a covered cigarette (caught between cushions) will smolder for as long as 50 minutes.

ACCIDENT DATA

A thorough analysis of all fire accident statistics and case histories gathered by the CPSC, the National Bureau of Standards and the National Fire Protection Association, which claimed upholstered furniture was the first object ignited in a fire, indicates no statistically valid national sample which can be used to accurately estimate the number of deaths and injuries (Arthur D. Little progress report to CPSC).

An analysis of case studies attributing deaths and injuries to upholstery fires claims a high proportion of these incidents are caused by smoldering cigarettes. Death is caused by anoxia and carbon monoxide brought on by smoke inhalation and heat.

In-depth analysis of deaths and injuries allegedly caused by upholstery fires indicates victims are most often older people and generally fall in lower income brackets. Documentation of some of these accidents indicate alcohol, prescription drugs and infirmity are often involved.

Statistics are heavily skewed toward people 65 years of age or older. Since these people will buy little new furniture, they'll not be protected from a new flammability standard.

If CPSC promulgated standards to make upholstered furniture cigarette-proof, at an estimated annual cost of one billion dollars to the American consumer, it would offer no protection from carelessly handled cigarettes for the estimated 298 million pieces of upholstery already in American homes.

DRAFT STANDARD

An upholstered furniture flammability draft standard, developed after two years' work by the National Bureau of Standards under CPSC contract, contains a non-reproducible test method that is technologically impractical as demonstrated by inter-laboratory tests.

Promulgation of the draft standard would:

- A) Raise the retail price of upholstered furniture as high as 25 percent.
- B) The price of less expensive furniture would increase most drastically, the burden falling on lower income families.

- C) Eliminate an estimated 70 percent of non-cigarette-proof, cellulosic fabrics including all cotton prints, velvets and rayon acetate fabrics.
- D) Cause the 65 percent of American adults who do not smoke to pay more for alleged protection they don't need or want.
- E) Attempts to add fire retardant backings to make upholstery fabrics cigarette-proof would add to its toxicity in home fires in which the furniture might become involved.
- F) Would no longer offer protection from carelessly handled cigarettes to the consumer when she slip-covers or re-upholsters the furniture.

LEGAL

April 1, 1972, the National Bureau of Standards identified cigarettes as the principal source of ignition in upholstery fires.

On November 29, 1972, the "findings of possible need" for upholstered furniture flammability standard was published in the Federal Register.

On May 15, 1974, a petition requesting the CPSC to study the technical and economic feasibility of producing a cigarette that would discontinue burning if not drawn on for some period in excess of one minute but less than 10 minutes was submitted by five furniture manufacturers' associations by Legal Counsel Thomas W. Power.

On June 17, 1974, Counsel submitted a second letter requesting the CPSC to undertake a study of cigarettes as an ignition source under authority granted by the Flammable Fabrics Act and to take action under the Hazardous Substances Act to prohibit the sale in interstate commerce of any cigarette which does not cease to burn when left unattended for a period of more than one, but less than 10 minutes.

On October 24, 1974, the CPSC denied the petition in its entirety for three reasons:

- 1) "The Commission concludes that a separate study of cigarettes as an ignition source in upholstery fires is not necessary."
- 2) "The CPSC has no jurisdiction to regulate cigarettes as an ignition source under the Federal Hazardous Substance Act or under the CPS Act." (The CPSC staff reported that when cigarettes were tested by the method prescribed for determining "extremely flammable" and "flammable hazardous substances" in the solid state (16 CFF 1500.44) cigarettes cannot be classified as "extremely flammable" or "flammable" hazardous substances.)
- 3) Regulation of cigarettes would require determination that a cigarette is a consumer product - (the CPS Act) states "the term 'consumer product' shall not include 'tobacco or tobacco

products". "Whether a cigarette is unlighted in its package, is being consumed by a smoker, or is burning unattended on an item of upholstered furniture, it is a tobacco product, and as such cannot be subject to any consumer product safety rule the Commission may issue."

On November 25, 1974, the five furniture manufacturers' associations who filed the original petition will be joined by furniture manufacturers in a suit filed in Federal District Court, (District of Columbia) appealing the CPSC denial of its petition and seeking a declaratory judgment that the CPSC does have jurisdiction to study the feasibility of a self-extinguishing cigarette. The furniture industry will maintain that under the Flammable Fabrics Act CPSC has authority to conduct "continuing study and investigation of the deaths, injuries and economic losses resulting from accidental burning of products, fabrics and related materials." Also, that this does not relate to the health issue from smoking which was the basis for excluding tobacco from CPSC jurisdiction at the time the act forming the CPSC was passed by Congress.

The five associations who are parties to the suit are listed on the attached paper.

UPHOLSTERED FURNITURE INDUSTRY STATISTICS

1974 estimated volume of upholstery sales is 4.7 billion dollars at retail. Approximately ten thousand establishments manufacture or re-upholster furniture in the United States.

There are between 20 and 25 million pieces of upholstered furniture sold in the U.S. per year. An estimated 298 million pieces are currently in use in American homes.

KING SIZED CIGARETTES

All cigarettes used in National Bureau of Standard tests were the king size, non-filter type which burn an average of 27 minutes on upholstery materials and smolder up to 50 minutes when covered. A conventional sized cigarette burns a shorter time and, if carelessly dropped would substantially reduce the potential ignition hazard.