



STATEMENT

John Dean, Vice President, National Association of State Fire Marshals

Senate Commerce Committee Hearings on

American Home Fire Safety Act

July 14, 2004

Senator Smith, my name is John Dean. I am the State Fire Marshal for the State of Maine and am before the Committee today on behalf of the National Association of State Fire Marshals (NASFM). NASFM represents the senior most fire official in each of the fifty states. We, along with hundreds of federal, state and local fire service organizations, encourage this Committee and Congress to give serious consideration to the American Home Fire Safety Act Senate Bill 1798. Thank you for this opportunity.

For as long as I have been a firefighter – and my public safety career spans more than three decades – people have died and been seriously injured in residential fires involving upholstered furniture, mattresses, bedding, candles and cigarettes. In all of those years, no other category of fires has harmed as many people.

We have done what we can to protect the public from these fires. Public education and the widespread use of smoke alarms and effective standards addressing smoldering ignition of mattresses and furniture are the primary reasons that the number of deaths and injuries has dropped over the years. We have not been as successful in achieving widespread installation of residential sprinklers.

We support the American Home Fire Safety Act. It will save lives, prevent injuries and protect property and the environment by setting effective fire safety standards for four of these five products. Cigarettes are addressed in companion legislation at the request of the Campaign for Tobacco Free Kids and other anti-tobacco groups.

We believe that the goal of “improved public safety” is reason enough for this legislation. But we are aware that this legislation also may be necessary to protect responsible companies from a patchwork of state requirements, increased litigation, recalls and attacks in the media. These pressures may or may not be fair, but they are the inevitable result of not having federal requirements for manufacturers to meet.

We are thankful to the Congress for recognizing the importance of these issues, and for working with us on solutions. In a perfect world, new regulations - much less new laws - would be unnecessary. Many companies just make their products safer than what is required. But, the companies that do so may place themselves at a competitive disadvantage. At the end of the day, these are all choices.

We are encouraged by the Consumer Product Safety Commission's recent announcement that it intends to move forward this year with open-flame fire safety requirements for upholstered furniture and mattresses. We have great respect for the Commission's technical staff. Their commitment to safety has never been in question, but allow me to share with you a brief history of this issue. Over thirty years ago, the US Department of Commerce first issued a "Finding of Need" that a flammability standard may be necessary for upholstered furniture. More than 10 years ago, NASFM petitioned the Consumer Product Safety Commission to address this hazard as well. Nothing happened.

Five years ago, our association chose cooperation over confrontation. We were frustrated then, as we are now, by the very slow pace of progress with fire safety standards for many consumer products. We turned to the news media and to the state legislatures for help. The American Plastics Council asked that we redirect our efforts. We chose to work with the Council and other industry groups to find solutions.

We are appreciative of all that the affected industries have done to generate safety tests and standards that attempt to be both effective and practical. So much of the progress that has been made is due to their work.

The American Furniture Manufacturers Association, its members and their suppliers recently proposed a package of standards that holds promise for much safer products. These standards must be validated and may need to be improved. They differ from the upholstered furniture requirements cited in the American Home Fire Safety Act, and from the Consumer Product Safety Commission's draft proposal. We stand by the furniture standards cited in the Act but would be willing to support the industry proposal if it can be demonstrated scientifically to achieve the levels of safety in the real world that we all agree are necessary.

The International Sleep Products Association provided the vision and leadership necessary to develop the mattress fire safety test method cited in the Act. The industry favors a test that lasts for 30 minutes. It argues that postponing flashover for 30 minutes is a major step forward, and that manufacturers – and especially small businesses – cannot pass a test that lasts for 60 minutes. Because we respect the industry, we recently revisited the question of whether a 60-minute test is necessary and feasible.

The bottom line is that we found small mattress producers who have been meeting the 60-minute standard for most of this year. Certainly, 30 minutes may be better than 5 minutes but it is not enough time in the real world. In the real world, fires are not detected the moment they are ignited, people routinely waste precious minutes before reporting fires, and even our best-equipped fire departments fight traffic and cannot arrive at the scene of a fire fast enough to save lives. The average American household can expect about 40 minutes from the point of ignition to when firefighters are putting water on a fire. In rural communities, the time typically exceeds 70 minutes. We need the 60-minute test cited in the legislation, and industry can meet it.

The mattress producers and we both agree on the importance of requirements for bedding.

The candle safety standards cited in this legislation were developed largely by the industry with input from us and others through the American Society for Testing and Materials voluntary consensus process. The standards are uncontroversial. However, unlike the furniture and mattress producers, neither the candle industry nor cigarette producers want mandatory standards. But neither industry has moved forward with proposals to implement effective voluntary standards and to manage producers' conformance.

In recent years, the progress has been good, but not one national mandatory standard has come into effect for any of these products.

States have had to step in. California, New Jersey, New York and Rhode Island all are doing something different. We think that states should be free to protect their citizens as they wish, but the Consumer Product Safety Commission has ruled that California – and we presume other states – are not free to set and enforce their own open flame mattress fire standards because the existing federal mattress standard, which deals only with cigarette ignition, preempts any states' attempts to deal with the same product even if they are addressing a different hazard.

We have never seen so much litigation. The absence of standards means each manufacturer is out there on its own.

Retailers and wholesalers are at risk, because along with manufacturers, they are responsible for recalls of dangerous products. NASFM has just adopted a national, science-based position that any upholstered chair or mattress with untreated or unshielded flexible polyurethane foam is too dangerous for sale in the home. No one – including all of the industries affected here – presented a single fact contrary to that finding. That statement is now publicly available to all who are dealing with this matter seriously.

My appearance before the committee today would not be complete without a word about flame retardants, products that have recently attracted a great deal of attention in the Congress, in the legislatures of a number of states (including that of my native Maine) and in the media.

As a matter of chemistry, flame retardants work – they help products resist fire, they save lives. NASFM does not believe, however, that the obvious fire safety benefits of these chemicals justify harm to the environment or to human health that their usage may cause.

We believe strongly that fire safety must go hand-in-hand with environmental safety and human health. But we are not experts in these areas and so we work directly with the US Environmental Protection Agency, World Health Organization, Society of Toxicology, and environmental and health authorities in Europe to ensure that all dimensions of health and safety are not in conflict and receive equal attention.

These are not simple matters and, after so many years of study, there are no winners here. I can assure you that State Fire Marshals will hold all parties with an interest in fire safety responsible for their actions.

Finally, less we forget, American families are at risk. We are well aware of the political adage, "It's the economy, stupid." But it is hard to ignore the hundreds of people who continue to die and be injured in these fires every year. We easily could have flooded this room with burn survivors and the families of those who died. Their stories are playing out in state legislatures, in courtrooms and the media.

I would like to conclude by saying that we wish this legislation were not necessary. But, the Commission has consumed over a decade studying the need for fire safety standards for upholstered furniture. It is just now looking at open flame standards for mattresses and standards for candles. No official action is underway on bedding standards. This, in spite of the fact that residential fires involving these products kill more Americans than any other products within the Commission's jurisdiction. Regardless of the reasons for lack of action, how can we justify another lost life? Congressional action is necessary now to straighten it all out. We need your support. Thank you for the opportunity to speak before this Committee.