106

[redacted]
[redacted] Oklahoma 74135

Dear Mr. [redacted]

This letter is in reply to your correspondence of January 2, 1974, to Mr. Burrus B. McGuire, Jr., in which you requested an exemption from FF 4-72, the Standard for the Flammability of Mattresses, as amended (38 FR 15095), for the [redacted], Inc., on the grounds that their product is not sold in interstate commerce.

Section 3 of the Flammable Fabrics Act, 15 U.S.C. 1191 et seq. prohibits:

> "The manufacture for sale, the sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after a sale or shipment in commerce, of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued..." under the Act.

It is a well established principle that remedial legislation is to be given a liberal construction consistent with its overriding purpose to protect the public (see United States v. An Article of Drug...Bacto-Undisk... 394 U.S. 785 (1969)). In accordance with this principle, it is the Commission's view that as soon as a finished product subject to the Flammable Fabrics Act leaves the manufacturer's place of business, it is in interstate commerce even though that particular product is eventually shipped or sold only within the state of manufacture.

Further, it is our view that while that particular product is in the manufacturer's plant it is being manufactured for sale in commerce and it must comply with all applicable provisions of the Flammable Fabrics Act and regulations or standards issued thereunder.

In addition, we believe that the fact that a manufacturer receives, from out of state, components used in the manufacture of mattresses is sufficient in itself to establish a basis of jurisdiction under the Flammable Fabrics Act although sales and shipments of the finished products are only within the state of manufacture.

Fire accident and injury data available to the Commission dramatically illustrate the hazards consumers face from cigarette - induced mattress fires. It would not be consistant with the public interest to subject consumers to the hazards associated with noncomplying mattresses simply because the mattresses may have been manufactured in the same state in which they are sold at retail.

In view of the foregoing, your request for an exemption from the Standard for the Flammability of Mattresses for the [redacted] Inc., is denied.

Sincerely,
Original Signed by
Michael A. Brown

Michael A. Brown
General Counsel

ASchoem/R.Smith:jh 4-15-74

cc: Commissioners
Sadye Dunn
B. Ludden
F. Barrett w/inc
J. Sharman/RDEarly w/inc.
A. Schoem
R. Smith w/inc
B.McGure Area Office
gc file
gc chron
gc reading

4/25/74

[redacted]

[redacted]

April 19, 1974

Mrs. Margaret Freeston
Office of General Council
Consumer Product Safety Commission
Washington, D.C. 20207

Dear Mrs. Freeston,

This letter is in regard to our telephone conversation the 18th of April.

[redacted] Movers [redacted] Harvesters and [redacted] These are sold at times to the small farmer with minimum acreage. Is this type of equipment considered a consumer product under Section 3 of Public Law 92573, and if so, would we be required to report per Section 15 of this Act?

Thank you for your help.

Sincerely,

[redacted]

Quality Engineering Manager

/lk