

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: S3/21/13
A Bill

SENATE BILL 1010

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO CREATE THE OFFENSE OF UNLAWFUL SALE OF
BEDDING; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE OFFENSE OF UNLAWFUL SALE OF
BEDDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 27, is amended to create a new subchapter to read as follows:

20-27-2701. Definitions.

(a) As used in this subchapter:

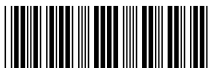
(1) "Bedding" means a mattress, upholstered spring, comforter, pad, cushion, pillow, box springs, foundation or studio couch made, in whole or part of, new or secondhand fabric, filling materials, or other materials, which can be used for sleeping or reclining purposes;

(2) "Department" means the Arkansas Department of Health;

(3) "Director" means the director of the Arkansas Department of Health;

(4) "Manufacture" means the making of bedding out of new material;

(5) "New material" means any fabric, filling material, other material, or article of bedding that has not been previously used in the manufacturing, distributing, or retailing process or for which the legal title has not been transferred by a manufacturer, distributor, or retailer to



a final purchaser, including by-products of any textile or manufacturing process that are free from dirt, insects, and other contamination;

(6) "Person" means an individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, association, trust, and any other entity and the agents, servants and employees of the entity;

(7) "Renovator" means a person that repairs, makes over, recovers, restores, sanitizes, germicidally treats, cleans or renews bedding;

(8) "Sanitizer" means a person that sanitizes, germicidally treats or cleans, but does not otherwise alter, any fabric, filling material, other materials, or article of bedding for use in manufacturing or renovating bedding;

(9) "Secondhand material" means any fabric, filling material, other material, or article of bedding that has been previously used for any purpose, including without limitation floor samples from any source other than a seller's own business and factory-returned materials or bedding, or is derived from a postconsumer or industrial waste and that may be used in place of new material in manufacturing or renovating bedding;

(10) "Seller" means a person that offers or exposes for sale, barter, trades, delivers, consigns, leases, possesses with intent to sell, or disposes of bedding in any commercial manner at the wholesale, retail or other level of trade.

20-27-2702. Bedding labels.

(a)(1) All bedding manufactured, renovated, sanitized, or sold by a seller within the state shall bear a clear and conspicuous label that explicitly states whether the bedding is made from all new materials or is made in whole or in part from secondhand materials.

(2) The label on bedding made from all new materials shall be white in color and shall state, "ALL NEW MATERIAL".

(3) The label on bedding made in whole or in part from secondhand materials shall be yellow in color and shall state, "SECONDHAND MATERIALS".

(4) The labels shall also comply with rules adopted by the department regarding label dimension, format, informational content, wording, letter size, material, means of placement and affixing to the bedding, and

other relevant factors.

(5) Labels required by this section shall be permanently affixed.

(b) A person shall not remove, deface, or alter in whole or in part a label or any statement on a label with the intent to defeat the provisions of this section.

(c) A person shall not make a false or misleading statement on any label required under this section.

(d) The director shall approve the form and size of labels, the fabric of which the labels are made, and the wording and statements on labels provided for under this section.

(e) Labels required under this section shall be securely attached to the article of bedding or filling material at the site of the manufacturer in a conspicuous place where the label can be easily examined.

(f) Labels required by this section shall have printing only on one side.

(g) Advertising matter shall not be placed on any label or any other printed matter not required by the provisions of this section.

(h) The following statements and headings shall be shown on labels:

(1) "UNDER PENALTY OF LAW THIS TAG SHALL NOT BE REMOVED EXCEPT BY THE CONSUMER" shall appear at the top of the label;

(2) Headings shall read "All New Material" when the bedding material is wholly new material;

(3) "Secondhand Material" when the bedding material in whole or in part is comprised of secondhand material;

(4) Description of filling material as provided in the applicable regulations shall be included on the label;

(5) The registry number assigned or approved by the Department shall be included on the label;

(6) Certification by the manufacturer that the materials in this article are described in accordance with law shall be included on the label;

(6) For renovated articles, the name and address of the owner.

20-27-2704. Bedding materials.

(a) The contents and uses and percentage of filling materials used in articles of bedding and in bulk form shall be stated on the label.

(b) Percentages shall be computed on the basis of avoirdupois weight of the filling material present and shall be designated on the label in order of predominance with the component with the largest content listed first.

(c) The department may establish grades, specifications and tolerances for the kinds and qualities of materials that may be used in the manufacture, repair or renovation of bedding comprised of new materials or secondhand materials and may approve or adopt designations and rules which are not in conflict with any provisions of this section for the labeling of bedding filled with such materials.

(d) The repairer or renovator of any bedding that is subsequently sold shall affix the secondhand material label, which shall be attached to the bedding before delivery to the owner.

(e)(1) Bedding shall not be manufactured in whole, or in part, from any secondhand material unless such material has been sanitized, germicidally treated or cleaned by a method approved by the department.

(2) All bedding containing material that is sanitized, germicidally treated, or cleaned in accordance with subsection (k) of this section shall bear a clear and conspicuous label that states the following: "THIS BEDDING CONTAINS PREVIOUSLY USED MATERIALS THAT HAVE BEEN CLEANED AND SANITIZED IN AN APPROVED MANNER TO KILL GERMS AND INSECTS AND TO PREVENT INFECTION."

(3) In addition, such label shall state:

(A) The specific methods of sanitizing, germicidal treatment, or cleaning applied;

(B) The date on which the article was sanitized, treated, or cleaned;

(C) The name, address and permit number of the person applying the sanitizing, treatment, or cleaning; and

(D) Specifically which materials or articles have been sanitized, treated, or cleaned.

20-27-2705. Bedding inspections.

(a)(1) The department may, at its discretion, randomly conduct bedding and materials product tests and inspections of the premises of any bedding manufacturer, renovator, or sanitizer for the purpose of determining compliance with the provisions of this section and the department's rules

adopted under this section.

(2) If the department finds probable cause to believe that an article of bedding violates any provisions of this section, it may embargo, remove, recall, condemn, destroy or otherwise dispose of bedding found to violate any provisions of this section;

(3)(A)(i)(a) The department may deny, suspend, or revoke an initial or renewal permit of any person that violates any provision of this section.

(b) Each day of a continuing violation constitutes a separate violation.

(ii) A person who violates any provision of this section commits a Class A misdemeanor.

(B) The court may order restitution in addition to any other penalty provided in sections.

(C) The department may petition for an injunction to restrain a continuing violation of this section or a threat of a continuing violation of this section, provided such violation or threatened violation creates an immediate threat to public health and safety.

(D)(i) A manufacturer, renovator, or seller that knowingly attaches to bedding, or sells bedding bearing, a label stating that the product is made from all new materials, when the person has actual knowledge or reason to believe or suspect that such bedding is made in whole or in part from secondhand materials commits a Class A Misdemeanor.

(ii) Each bedding product that is found to be falsely labeled in this respect constitutes a separate violation.

20-27-2706. Rules.

(a) The department may adopt rules to implement this section, including without limitation rules regarding the following:

(1) Mandatory label dimensions;

(2) Format;

(3) Informational content, including the name, address, and permit number of the manufacturer, renovator, or sanitizer;

(4) Letter size;

(5) Material;

(6) Placement;

(7) Affixing specifications; and

(8) Other relevant requirements.

(9) The procedures and requirements for the application, issuance, renewal, denial, suspension, and revocation of each class of permit, including, but not limited to, manufacturers, renovators, sanitizers, and sellers;

(10) Adequate notice and opportunity for hearing for persons potentially subject to denial, suspension, or revocation;

(11) Approved manufacturers and sellers of labels required by this section; and

(12) Any other substantive, interpretative, or procedural rules necessary to implement sections.

(b) In setting standards and procedures under this section, including those to protect public health and safety, the department may issue rules incorporating by reference uniform standards, norms or testing procedures that are issued, promulgated, or accepted by recognized government, public, or industry organizations.

/s/J. Hutchinson