

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS85275-TA-9 (03/01)

Short Title: Modify Bedding Sanitation Laws.

(Public)

Sponsors: Senator Purcell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE LAWS GOVERNING SANITATION OF BEDDING TO SLEEP PRODUCTS AND SECONDHAND FURNISHINGS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO THOSE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 8 of Article 8 of Chapter 130A of the General Statutes reads as rewritten:

~~"Part 8. Bedding. Sleep Products and Secondhand Furnishings.~~

§ 130A-261. Definitions.

The following definitions shall apply throughout this Part:

- (1) ~~"Bedding"~~ "Sleep product" means any mattress, upholstered spring, sleeping bag, pad, comforter, cushion, pillow, decorative pillow, and any other padded or stuffed item designed to be or commonly used for reclining or sleeping. This definition includes dual purpose furniture such as studio couches and sofa beds. The term "mattress" does not include water bed liners, bladders or cylinders unless they contain padding or stuffing. The term ~~"mattress"~~ "comforter" also does not include quilts and comforters made principally by hand sewing or stitching in a home or community workshop.
- (2) "Itinerant vendor" means a person who sells ~~bedding~~ sleep products from a movable conveyance.
- (3) "Manufacture" means the making of ~~bedding~~ sleep products out of new or sanitary recycled materials.
- (4) "New material" means any material or article that has not been used for any other purpose and by-products of industry that have not been in human use.

- 1 (5) "Previously used material" means any material of which previous use
2 has been made, but manufacturing processes shall not be considered
3 previous use.
- 4 (6) "Renovate" means the reworking or remaking of used ~~bedding~~
5 mattresses or upholstered springs or the making of ~~bedding~~-mattresses
6 or upholstered springs from previously used materials, except for the
7 renovator's own personal use or the use of the renovator's immediate
8 family.
- 9 (7) "Sanitize" means treatment of secondhand ~~bedding~~-mattresses or
10 upholstered springs or previously used materials to be used in
11 renovating for the destruction of pathogenic microorganisms and
12 arthropods and the removal of dirt and filth.
- 13 (8) "Secondhand ~~bedding~~sleep products" means any ~~bedding~~-sleep
14 products of which prior use has been made, which have been in a retail
15 buyer's home or business for one night or more.
- 16 (9) "Sell" or "sold" means sell, have to sell, give away in connection with
17 a sale, delivery or consignment; or possess with intent to sell, deliver
18 or consign in sale.
- 19 (10) "Home furnishings" means tables, chairs, sofas, couches, rugs, carpets,
20 dressers, cabinets, bed frames, bed posts, bed headboards, bed
21 footboards, and any other furniture normally found in a home or rental
22 unit.
- 23 (11) "Importer" means a person or business that brings goods manufactured
24 outside of the United States into the United States for sale or
25 distribution.
- 26 (12) "Bedbug" means any life stage of insects of the family Cimicidae.
- 27 (13) "Sanitary recycled material" means any material that has been
28 previously used and has been sanitized or sterilized.

29 **§ 130A-262. Sanitizing.**

30 (a) No person shall sell any renovated ~~bedding~~-sleep product or secondhand
31 ~~bedding~~-sleep product unless it is sanitized in accordance with rules adopted by the
32 Commission.

33 (b) A sanitizing apparatus or process shall not be used for sanitizing ~~bedding~~
34 sleep products or material required to be sanitized under this Part until the apparatus is
35 approved by the Department.

36 (c) A person who sanitizes ~~bedding~~-sleep products shall attach to the ~~bedding~~
37 sleep products a yellow law tag containing information required by the rules of the
38 Commission.

39 (d) A person who sanitizes material or ~~bedding~~-sleep products for another person
40 shall keep a complete record for one year after the materials or sleep products are
41 sanitized of the kind of material and ~~bedding~~-sleep products ~~has~~-have been
42 sanitized. The record shall be subject to inspection by the Department.

1 (e) A person who receives used bedding-sleep products for renovation or storage
2 shall attach to the bedding-sleep products a tag on which is legibly written the date of
3 receipt and the name and address of the owner.

4 **"§ 130A-263. Manufacture regulated.**

5 All materials used in the manufacture of bedding-sleep products in this State or used
6 in manufactured bedding-sleep products to be sold in this State shall be free of toxic
7 materials and shall be made from new materials or sanitary recycled materials.

8 **"§ 130A-264. Storage of unsanitized used materials.**

9 No establishment shall store any unsanitized previously used materials-sleep
10 products or secondhand furniture in the same room-building with bedding-sleep
11 products or materials that are new or have been sanitized unless the new or sanitized
12 bedding-sleep products or materials are completely segregated from the unsanitized
13 materials in a manner approved by the rules of the Commission.

14 **"§ 130A-265. Tagging requirements.**

15 (a) A law tag of durable material approved by the Commission shall be sewed or
16 otherwise securely affixed to all beddingsleep products. The tag shall be at least two
17 inches by three inches in size. The law tag must be affixed to the product so that it is
18 clearly visible to retail purchasers of the product. An exact facsimile of the law tag shall
19 be affixed to or printed on the packaging of any sleep product that is sold in packaging
20 that does not permit the buyer to clearly see the law tag affixed to the product itself.

21 (b) The following shall be plainly stamped or printed upon the law tag with black
22 ink in English:

- 23 (1) The name and kind of material or materials used to fill the bedding
24 sleep product which are listed in the order of their predominance;
- 25 (2) A registration number obtained from the Department; and
- 26 (3) In letters at least one-eighth inch high the words "made of new
27 material", if the bedding-sleep product contains no previously used
28 material; or the words "made of previously used materials", if the
29 bedding-sleep product contains any previously used material; or the
30 word "secondhand" on any bedding-sleep product which has been used
31 but not remade.
- 32 (4) Repealed by Session Laws 1987, c. 456, s. 4.

33 (c) A white law tag shall be used for manufactured bedding-sleep products and a
34 yellow law tag for renovated or sanitized beddingsleep products.

35 (d) ~~The tag must be sewed to the outside covering before the filling material has~~
36 ~~been inserted.~~ No trade name, advertisement nor any other wording shall appear on
37 either side of the tag.

38 (e) Renovated, remade, or remanufactured sleep products that contain used
39 springs shall clearly state so in the law tag.

40 **"§ 130A-266. Altering tags prohibited.**

41 No person, other than one purchasing bedding-sleep products for personal use or a
42 representative of the Department shall remove, deface or alter the law tag required by
43 this Part. Price tags or other tags or stickers may not be affixed to the law tag. However,

1 the manufacturer may affix adhesive stickers to law tags in order to correct erroneous
2 information on the law tag.

3 **"§ 130A-267. Selling regulated.**

4 (a) No person shall sell any bedding-sleep product in this State (whether
5 manufactured within or without this State) which has not been manufactured, tagged,
6 and labeled in the manner required by this Part and which does not otherwise comply
7 with the provisions of this Part.

8 (b) This Part shall not apply to bedding-sleep products sold by the owner and
9 previous user from the owner's home directly to a purchaser for the purchaser's own
10 personal use unless the bedding-sleep product has been exposed to an infectious or
11 communicable ~~disease-disease~~ or to insects or other arthropods that are biting or
12 blood-sucking ectoparasites.

13 (c) Possession of any bedding-sleep products in any store, warehouse, itinerant
14 vendor's conveyance or place of business, other than a private home, hotel or other place
15 where these articles are ordinarily used, shall constitute prima facie evidence that the
16 item is possessed with intent to sell. No secondhand bedding-sleep product shall be
17 ~~possessed-kept on the business premises with intent to sell~~ for a period exceeding 60
18 days unless it has been sanitized.

19 **"§ 130A-268. Registration numbers.**

20 (a) All persons importing, manufacturing or sanitizing bedding-sleep products in
21 this State or importing or manufacturing bedding-sleep products to be sold in this State
22 shall apply for a registration number on a form prescribed by the Secretary. Upon
23 receipt of the completed application and applicable fees, the Department shall issue to
24 the applicant a certificate of registration showing the person's name and address,
25 registration number and other pertinent information required by the rules of the
26 Commission. A registration number will not be issued if the Department determines that
27 there is reasonable evidence that the business or sleep products do not comply with this
28 Part or the rules adopted pursuant to this Part.

29 (b) through (e) Repealed by Session Laws 1987, c. 456, s. 6.

30 **"§ 130A-269. Payment of fees; licenses.**

31 (a), (b) Repealed by Session Laws 1987, c. 456, s. 7.

32 (c) The Department shall administer and enforce this Part. A person who has
33 done business in this State throughout the preceding calendar year shall obtain a license
34 by paying a fee to the Department in an amount determined by the total number of
35 bedding-sleep product units manufactured, sold, or sanitized in this State by the
36 applicant during the calendar year immediately preceding, at the rate of five and two
37 tenths cents (5.2¢) per bedding-sleep product unit. However, if this amount is less than
38 fifty dollars (\$50.00), a minimum fee of fifty dollars (\$50.00) shall be paid to the
39 Department.

40 (d) A person who has not done business in this State throughout the preceding
41 calendar year shall obtain a license by paying an initial fee to the Department in the
42 amount of seven hundred twenty dollars (\$720.00) for the first year in which business is
43 done in this State, prorated in accordance with the quarter of the calendar year in which
44 the person begins doing business. After submission of proof of business volume in

1 accordance with subsection (h) of this section for the part of the preceding calendar year
2 in which the person did business in this State, the Department shall determine the
3 amount of fee for which the person is responsible for that time period by using a rate of
4 five and two tenths cents (5.2¢) for each ~~bedding-sleep product~~ unit. However, if this
5 amount is less than fifty dollars (\$50.00), then the amount of the fee for which the
6 person is responsible shall be fifty dollars (\$50.00). If the person's initial payment is
7 more than the amount of the fee for which the person is responsible, the Department
8 shall make a refund or adjustment to the cost of the fee due for the next year in the
9 amount of the difference. If the initial payment is less than the amount of the fee for
10 which the person is responsible, the person shall pay the difference to the Department.

11 (d1) Payments, refunds, and adjustments shall be made in accordance with rules
12 adopted by the Commission.

13 (d2) Upon payment of the fees charged pursuant to subsections (c) and (d), or the
14 first installment thereof as provided by rules adopted by the Commission, the
15 Department shall issue a license to the person. Licenses shall be kept conspicuously
16 posted in the place of business of the licensee at all times. The Secretary may suspend a
17 license for a maximum of six months for two or more serious violations of this Part or
18 of the rules of the Commission, within any 12-month period.

19 (e) A maximum fee of seven hundred fifty dollars (\$750.00) shall be charged for
20 units of ~~bedding-sleep products~~ manufactured in this State but not sold in this State.

21 (f) For the sole purpose of computing fees for which a person is responsible, the
22 following definitions shall apply: One mattress is defined as one ~~bedding-sleep product~~
23 unit; one upholstered spring is defined as one ~~bedding-sleep product~~ unit; one pad is
24 defined as one ~~bedding-sleep product~~ unit; one sleeping bag is defined as one ~~bedding~~
25 ~~sleep product~~ unit; five comforters, pillows or decorative pillows are defined as one
26 ~~bedding-sleep product~~ unit; and any other item is defined as one ~~bedding-sleep product~~
27 unit.

28 (g) An application for license must be submitted on a form prescribed by the
29 Secretary. No license may be issued to a person unless the person complies with the
30 rules of the Commission governing the granting of licenses.

31 (h) The Commission shall adopt rules for the proper enforcement of this section.
32 The rules shall include provisions governing the type and amount of proof which must
33 be submitted by the applicant to the Department in order to establish the number of
34 ~~bedding-sleep product~~ units that were, during the preceding calendar year:

35 (1) Manufactured and sold in this State;

36 (2) Manufactured outside of this State and sold in this State; and

37 (3) Manufactured in this State but not sold in this State.

38 (i) The Commission may provide in its rules for additional proof of the number
39 of ~~bedding-sleep product~~ units sold during the preceding calendar year when it has
40 reason to believe that the proof submitted by the manufacturer is incomplete, misleading
41 or incorrect.

42 (j) The Department may require proof of ownership of the business or sanitizing
43 equipment for a new license or the transfer of a license if the Department determines

1 that the ownership of the business or sanitizing equipment is being disputed or cannot
2 be readily ascertained from the document provided, or is in question.

3 **"§ 130A-270. Bedding-Sleep Products Law Account.**

4 The Bedding-Sleep Products Law Account is established as a nonreverting account
5 within the Department. All fees collected under this Part shall be credited to the
6 Account and applied to the following costs:

7 (1) Salaries and expenses of inspectors and other employees who enforce
8 this Part.

9 (2) Expenses directly connected with the enforcement of this Part,
10 including attorney's fees, which are expressly authorized to be incurred
11 by the Secretary without authority from any other source when in the
12 Secretary's opinion it is advisable to employ an attorney to prosecute
13 any persons.

14 **"§ 130A-271. Enforcement by the Department.**

15 (a) The Department shall enforce the provisions of this Part and the rules adopted
16 by the Commission.

17 (b) The Secretary may prohibit sale and place an "off sale" tag on any bedding
18 sleep product which is not made, sanitized, or tagged as required by this Part and the
19 rules of the Commission. The bedding-sleep product shall not be sold or otherwise
20 removed until the violation is remedied and the Secretary has reinspected it and
21 removed the "off sale" tag.

22 (c) A person supplying material to a bedding-sleep product manufacturer shall
23 furnish an itemized invoice of all furnished material. Each material entering into
24 willowed or other mixtures shall be shown on the invoice. The bedding-sleep product
25 manufacturer shall keep the invoice on file for one year subject to inspection by the
26 Department.

27 (d) When the Secretary has reason to believe that bedding-any sleep product is
28 not tagged or filled as required by this Part, the Secretary shall have authority to open a
29 seam of the bedding-sleep product to examine the filling, and, if unable after this
30 examination to determine if the filling is of the kind stated on the tag, shall have the
31 authority to examine purchase or other records necessary to determine definitely the
32 kind of material used in the bedding-sleep product. The Secretary shall have authority to
33 seize and hold for evidence any records and any bedding-sleep product or bedding-sleep
34 product material which in the Secretary's opinion is made, possessed or offered for sale
35 in violation of this Part or the rules of the Commission. The Secretary shall have
36 authority to take a sample of any bedding-sleep products or bedding-sleep products
37 material for the purpose of examination or for evidence.

38 **"§ 130A-272. Exemptions for blind persons and State institutions.**

39 (a) In cases where bedding-sleep products are manufactured, sanitized or
40 renovated in a plant or place of business which has qualified as a nonprofit agency for
41 the blind or severely handicapped under P.L. 92-28, as amended, the responsible person
42 shall satisfy the provisions of this Part and the rules of the Commission. However, the
43 responsible persons at these plants or places of business shall not be required to pay fees
44 in accordance with G.S. 130A-269.

1 (b) State institutions and agencies engaged in the manufacture, renovation or
2 sanitizing of ~~bedding-sleep~~ products for their own use or that of another State institution
3 are exempted from all provisions of this Part.

4 "**§ 130A-273. Rules.**

5 The Commission shall adopt rules required by this Part in order to protect the public
6 health."

7 **SECTION 2.** This act becomes effective 1 December 2007.