

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF LABOR
CHAPTER 47-1A
SERIES XII

Title: Bedding and Upholstered Furniture

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Title: Bedding and Upholstered Furniture

Section 1. General

1.1 Scope - Legislative Rules and Regulations for Bedding and Upholstery Businesses are for the purpose of carrying out the intent and purpose of West Virginia Code Chapter 47, Article 1A.

1.2 Authority - W. Va. Code 47-1A-15

1.3 Filing Date - December 31, 1982

1.4 Effective Date - December 31, 1982

Section 2. Definitions

2.1 "Person" includes, but is not limited to, individual, co-partnership, association, firm, auctioneer, trust and corporation and the agents, servants and employees of any of them.

2.2 "Sell" or any of its variations, includes, but is not limited to, any of, or any combinations of the following: Sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess with an intent to sell or dispose of in any other commercial manner.

2.3 "Division" refers to the Division of Weights, Measures and Bedding in the State Department of Labor.

2.4 "Bedding" means, but is not limited to, any quilted pad, packing pad, mattress pad, hammock pad, mattress, comforter, quilt, sleeping bag, box spring, studio couch, pillow or cushion made of leather, cloth or any other material, which is stuffed or filled in whole or in part with concealed material, which can be used by any human being for sleeping, resting or reclining purposes.

2.5 "Upholstered Furniture" means any article of household furniture wholly or partly stuffed or filled with soft material which is used or intended for use for sitting, resting or reclining purposes. "Upholstered furniture" does not include any seat or cushion which is attached as a component part of any automobile, truck, bus or airplane.

2.6 "Filling Material" means, but is not limited to, cotton, wool, kapok, feathers, downs, hair or any other material, or any combination thereof, loose or in batting, pads or any other pre-fabricated form, concealed or not concealed to be used or that could be used in articles of bedding.

2.7 "New" means any article or material which has not been previously used for any purpose. Manufacturing processes shall not be considered a prior use.

2.8 "Second-hand" means any article or material, or portion thereof, of which prior use had been made. Any article of bedding is second-hand if it contains any second-hand material in whole or in part.

2.9 "Manufacture", "making", "make" or "made" includes, but is not limited to, altering, repairing, finishing or preparing articles of bedding or filling material for sale, whether made out of new or second-hand material.

2.10 Whenever the singular is used, the plural shall be included and where the masculine gender is used, the feminine and neuter shall be included.

2.11 "Shoddy" means garnetted or shredded clippings when made in whole or in part from old or torn rags, clothing or second-hand fabrics.

2.12 "Department" shall mean the State Department of Labor of the State of West Virginia.

2.13 "Manufacturer" means a person who, either by himself or through employees or agents, makes any article of bedding in whole or in part, or who does the upholstery or covering on any structural unit thereof, using either new or second-hand material.

2.14 "Wholesaler" means a person who on his own account sells any article of bedding or filling material to another for the purpose of resale, but shall not include an affiliate or a subsidiary corporation where the ownership is identical, and which is the exclusive sales outlet of a manufacturer.

2.15 "Retailer" means a person who sells any article of bedding or filling material to a consumer or user of the article as purchased.

2.16 "Repairer" or "renovator" means a person who repairs, makes over, recovers, restores, renovates or renews bedding.

2.17 "Sterilizer" means a person who sterilizes articles of bedding or filling material or component parts thereof.

2.18 "Supply dealer" means a person who manufactures, processes or sells at wholesale any felt, batting, pads or other filling material, loose, in bags, in bales or in containers, concealed or not concealed, to be used or that could be used in articles of bedding.

Section 3. Administration

3.1 The State Department of Labor, through its officers and employees, hereby is charged with the administration and enforcement of these rules and regulations. There is hereby created in the Department a division entitled "The Division of Weights, Measures and Bedding" which shall be in the immediate charge of a director, and which shall have such employees as may be designated

by the Commissioner of Labor. It shall be the duty of this Division to inspect and supervise the inspection of all bedding and upholstery subject to the provisions of these rules and regulations, and to enforce the provisions thereof within this state.

Section 4. License

4.1 Except as otherwise provided in these rules and regulations, any person who advertises, solicits or contracts to manufacture, repair or renovate bedding, and who either does the work himself or has others do it for him, shall secure the particular license required by these rules and regulations for the particular type of work that he solicits, or advertises that he will do, regardless of whether he has a shop or a factory. It shall be unlawful for any person to engage in a business regulated by these rules and regulations unless he has first obtained from the Department the license required by these rules and regulations.

4.2 Every person manufacturing bedding or upholstered furniture shall annually obtain a manufacturer's license from the Department.

4.3 A wholesaler of bedding or upholstered furniture, unless he holds a manufacturer's license, shall annually obtain a wholesale dealer's license from the Department.

4.4 Every person repairing or renovating any article of bedding, unless he holds a manufacturer's license, shall annually obtain a repairer's license from the Department.

4.5 Every person sterilizing any article of bedding or filling materials shall annually obtain a sterilizer's permit from the Department.

4.6 Every person manufacturing, processing or selling at wholesale any felt or batting or any pads of loose material in bags, in bales or containers, for use in bedding, and every person engaged in the manufacturing of materials, other than prime material, which is used as a component part of bedding, unless he holds a manufacturer's license, shall annually procure a supply dealer's license from the Department.

4.7 Every person selling any bedding at retail, unless he holds a manufacturer's license, a wholesaler's license, or a renovator's license, shall annually procure a retailer's license from this Department for each separate retail outlet or establishment operated by such person.

4.8 Every person doing business at the same address under more than one firm name is subject to the license provisions for each firm name.

4.9 The Department shall assign a serial number to each license or permit issued, and shall prescribe the procedure relative to:

- (a) Application
- (b) Assignment or reassignment of serial numbers.
- (c) Transfer of license between persons, where such transfer is effected through rent, lease or sale of the business.
- (d) Change in name, ownership, address or of license classification.

4.10 The premises, delivery equipment, machinery, appliances and devices of all persons, licensed under these rules and regulations shall at all times be kept free from refuse, dirt, contamination or insects.

Section 5. Prohibition

5.1 No person shall sell as new any article of bedding unless it is made from all new material and is tagged as provided herein.

5.2 No person shall sell, representing it to be new material, any secondhand hair, down, feathers, wool, cotton, kapok or other material used for filling articles of bedding.

5.3 No person shall sell any article of bedding made from second-hand material unless it shall be tagged as provided herein.

5.4 No person shall sell any article of bedding, or any material used in making thereof, which has been used by or about any person having an infections or contagious disease.

5.5 No person shall use in the making, repair or renovating of any article of bedding any shoddy or any material (a) that comes from an animal or fowl, (b) that contains any bugs, vermin or filth, (c) that is unsanitary, (d) that contains burlap or other material that has been used for baling, (e) that is second-handed, unless such material has been thoroughly sterilized by a process approved by the Department or (f) is detrimental to the health and well-being.

5.6 No person shall sell, offer for sale, exchange or lease or deliver or consign for like purpose any article of bedding or filling material unless the same is tagged as herein required.

5.7 It shall be unlawful to use any false or misleading statement, term or designation on said tag or the statement of filling materials made thereon. When an article contains more than one material and when rules adopted hereunder require the amount of percentage of such materials to be shown on the tag, a variance no in excess of ten percent of the amount stated on the tag shall not be deemed misleading. No variance shall be allowed for material which is described as "all", "pure", "one hundred percentum", or term of similar import.

Section 6. Sterilization

6.1 Any sterilization process used in connection herewith shall be approved by the Department.

6.2 No person shall be considered to have qualified to apply an acceptable sterilizing process, as required by the provisions of these rules and regulations, until such process has been registered with and approved by the Department, and a permit issued therefor. Such permit shall be conspicuously posted near the sterilizing equipment. Holders of permits to apply sterilization shall be required to keep an accurate record of all articles or material which have been sterilized, including the date of the same, the name and address of the buyer of each, and such records shall be available for inspection at any time by authorization representatives of the Department.

6.3 Nothing herein shall prevent any person engaged in the manufacture, renovation or sale of any article or material which requires sterilization under the provisions of these rules and regulations from having such sterilization performed by any person who has a valid permit for such purposes, provided the number of such permit shall appear on the tag, hereafter described, attached to each article.

Section 7. Tagging, Tags

7.1 Every article of bedding, upholstered furniture or filling material which contains all new material covered by these rules and regulations shall have attached thereto a white tag, upon which shall appear: (a) the words "All New Material" and a statement showing the kind of materials used in filling such articles; (b) the manufacturer's or supply dealer's license number as issued by the Department; (c) the name and address of the manufacturer, supply dealer or vendor; and (d) when required to be sterilized, the words "Contents Sterilized" and the number of the sterilization permit of the person who sterilized such article or material.

7.2 Every article of bedding or upholstery covered by these rules and regulations containing any second-hand material shall have attached thereto a yellow tag, upon which shall appear: (a) the words "Second-hand Material" and a statement showing the kind of materials used in filling such article; (b) the words "Contents Sterilized", with the sterilization permit number or the person who performed such work; (c) the manufacturer's license number as issued by the Department; and (d) the name and address of the manufacturer, supply dealer or vendor.

7.3 A complete second-hand article of bedding, which has not been remade or renovated may be sold "as is" but the tag if any which is attached to it shall be removed by the manufacturer, supply dealer or retail vendor who purchases it from the immediate prior user, and such purchaser shall attach a yellow tag (a) bearing his license number, (b) stating that the article is

"secondhand - contents unknown", but this requirement shall not apply (1) to the sale of antique furniture, or (2) to a private sale from the home of the owner direct to the consumer. Provided, however, that exception herein stated shall not authorize the sale of an article of bedding that has been exposed to infections or contagious disease and which, after such exposure, has not been sterilized and approved for use.

7.4 Every remade or renovated article of bedding not for sale but for return to the owner for his own use shall have attached thereto a yellow tag which, in addition to the statements hereinbefore required, shall state the name and address of the owner, the name and address of the remaker or renovator, or the statement "Remade and Renovated for" followed by the name and address of the person for whom the article of bedding is remade or renovated, provided that such person is not the owner of the article of bedding, the date of the sterilization, that the article is not for sale, and that such article contains the same material received from the owner and the name and amount of any material added during the remaking.

7.5 The terms used on the tag to describe filling materials shall be restricted to those defined in the rules and regulations of the Department, and no trade or substitute terms shall be used.

7.6 Whenever a tag is required by these rules and regulations, it shall be approved by the Commissioner of Labor. The tag shall be made of substantial white cloth or other material of like durability which shall not flake when abraded and which is of the same color stock throughout. Statements required on tags shall be legibly printed or stamped on one side only, in the English language and in letters of at least one-eighth of an inch in height. Tags shall be at least six square inches in area. On each tag there shall be a certification that the article to which it is attached complies with the law of any other state. Tags shall be securely attached to the article or filling material at the factory, in a position where they can be conveniently examined. They shall contain no advertising matter, nor anything that detracts or is likely to detract from the required statement. No person shall place upon any tag any mark, sticker or other device which covers the required statement.



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SECRETARY OF STATE
(Plus all the volunteer help we can get)

TO: Chris Quasebarth

AGENCY: Division of Labor

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 8, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 12 TITLE: 42 Division of Labor

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]
TITLE OF PERSON SIGNING: Asst To Commissioner
DATE: 5/20/96

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

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(Plus all the volunteer
help we can get)

TO: Andy Brown
AGENCY: Dept. of Labor
FROM: JUDY COOPER, DIRECTOR ADMINISTRATIVE LAW DIVISION
DATE: Nov. 20, 1990

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 12 TITLE Bedding & Upholstered Furniture

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Stephen L. Casto
TITLE OF PERSON SIGNING: Director, Weights & Measures Division
DATE: December 3, 1990

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____