

FIRST REGULAR SESSION

SENATE BILL NO. 110

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Pre-filed December 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0347S.011

AN ACT

To repeal sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, RSMo 2000, relating to mattresses, and to enact in lieu thereof seven new sections relating to the same subject, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 421.005, 421.007, 421.011, 421.022, 421.028, 421.031 and 421.034, to read as follows:

421.005. For purposes of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, the following terms mean:

(1) "Bedding", any mattress, 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. The term "bedding" does not include any component from which bedding is made;

(2) "Department", the department of health;

(3) "Director", director of the department of health;

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

(5) "New material", any fabric, filling material, other material or article of bedding that has not been previously used for any purpose, including by-products of any textile or manufacturing process that are free from dirt, insects and other contamination;

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

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

employees of any of them;

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

(8) "Sanitizer", 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", any fabric, filling material, other material, or article of bedding that has been previously used for any purpose or is derived from postconsumer or industrial waste and that may be used in place of new material in manufacturing or renovating bedding;

(10) "Seller", includes 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.

421.007. 1. All bedding manufactured, renovated, sanitized or sold 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. The label on bedding made from all new materials shall be white in color and shall state "ALL NEW MATERIAL" and the label on bedding made in whole, or in part, from secondhand materials shall be yellow in color and shall state "SECONDHAND MATERIALS". Such labels shall also comply with rules issued 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.

2. A person may not remove, deface or alter in whole, or part, a label or any statement on a label to defeat the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

3. Labels required by sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall be permanently affixed.

4. No person may make a false or misleading statement on any label required pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.011. 1. The director of the department of health shall approve the form and size of labels, the fabric of which the labels are made and the wording and statements on such labels, provided for in sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. Labels required pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall be securely attached to the article of bedding or such filling material at the site of the manufacturer, in a conspicuous place where the label can be easily examined.

3. Labels required by sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** shall have printing only on one side. No advertising matter may be

placed on any label or any other printed matter not required by the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.022. The department of health may establish grades, specifications and tolerances for the kinds and qualities of materials which are used or intended to be used in the manufacture, repair or renovation of used bedding or used filling materials and may approve or adopt designations and rules which are not in conflict with any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, for the labeling of articles filled, with such materials.

421.028. 1. Each bedding manufacturer, renovator or sanitizer shall register with and obtain an initial permit and permit number from the department, which permit shall be renewed annually.

2. Upon timely request by an applicant for an initial permit, the department shall recognize a valid registry, license, permit or factory number issued by another state or jurisdiction, provided that, the applicant complies with all requirements established by the department for issuance of a permit number in this state.

3. The department shall set fees for each class of initial and annual renewal permits, including, but not limited to, manufacturers, renovators and sanitizers in amounts that are reasonable and necessary to defray, but shall not substantially exceed, the cost of administering sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

421.031. 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 whether such person complies with the provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** and the department's rules adopted pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. If the department finds probable cause to believe that an article of bedding violates any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, it may, as appropriate under the circumstances, embargo, remove, recall, condemn, destroy or otherwise dispose of bedding found to violate any provisions of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

3. The department may deny, suspend or revoke an initial or renewal permit of any person that violates any provision of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**. Each day of a continuing violation constitutes a separate violation. Any person who violates any provision of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** is guilty of a class A misdemeanor. The court may order restitution in addition to any other penalty provided in sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

4. The department may petition for a temporary restraining order to restrain a continuing violation of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038** or a threat of a continuing violation of sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, provided such violation or threatened violation creates an immediate threat to the public's health and safety.

5. 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, and has actual knowledge or reason to believe or suspect that such bedding is made in whole, or in part, from secondhand materials is guilty of a class A misdemeanor. Each bedding product that is found to be falsely labeled in this respect constitutes a separate violation.

421.034. 1. The department may adopt all rules necessary to implement sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, including rules regarding:

(1) Mandatory label dimensions, format, informational content, including the name, address and permit number of the manufacturer, renovator or sanitizer, working, letter size, material, placement and affixing specifications and other relevant requirements;

(2) 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;

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

(4) Any other substantive, interpretative or procedural rules necessary to implement sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**.

2. In setting standards and procedures pursuant to sections [198.077 and 198.530, RSMo, and sections 421.005 to 421.031] **421.005 to 421.038**, including those to protect the public's 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.