

SECOND REGULAR SESSION

SENATE BILL NO. 939

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEY.

Read 1st time February 24, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3939.011

AN ACT

To repeal sections 421.010, 421.020, 421.030, 421.040, 421.050, 421.060, 421.070, 421.080, 421.090, 421.100, 421.110 and 421.120, RSMo 1994, relating to the regulation of the sale of bedding, and to enact in lieu thereof eighteen new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 421.010, 421.020, 421.030, 421.040, 421.050, 421.060, 421.070, 421.080, 421.090, 421.100, 421.110 and 421.120, RSMo 1994, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 421.010, 421.021, 421.031, 421.041, 421.051, 421.061, 421.071, 421.081, 421.091, 421.101, 421.111, 421.121, 421.131, 421.141, 421.151, 421.161, 421.171 and 421.181, to read as follows:

421.010. [1. The term,] **For purposes of sections 421.010 to 421.181, the following terms mean:**

(1) "Bedding", [as used in this chapter shall be construed to mean] any mattress, upholstered spring, comforter, pad, cushion or pillow designed and made for use in sleeping or reclining purposes, except where the filling consists exclusively of sterilized feathers[.];

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

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

[2. The word,] (4) "New", as used in this chapter shall mean any material which has not been used in the manufacture of another article or used for any other purpose[.];

[3. The word,] (5) "Person", [as used in this chapter] shall be construed to impart the plural and the singular, as the case demands, and shall include individuals, corporations,

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

partnerships, joint stock companies, societies and associations[.];

[4. The words,] **(6)** "Previously used", [as used in this chapter shall mean] any material which has been previously used in the manufacture of another article or used for any other purpose.

421.021. No person shall, at wholesale, retail or otherwise, directly or indirectly, make, repair, renovate, process, prepare, sell, offer for sale, display or deliver any article of bedding or any filling materials in prefabricated form or loose in bags or containers, unless such articles or materials are plainly and indelibly labeled as provided in sections 421.010 to 421.181.

421.031. 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 421.010 to 421.181.

2. Labels required pursuant to sections 421.010 to 421.181 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 421.010 to 421.181 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 421.010 to 421.181.

421.041. 1. The material contents and recommended uses of the filling materials shall be stated on the label. Any contents or uses of filling materials not provided for in sections 421.010 to 421.181 may be identified and named by the department of health upon submission of samples to the department.

2. The contents and uses and percentage of filling materials used in articles of bedding and in bulk form which is either concealed or not concealed shall be stated on the label. 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.

3. Labels shall be securely fastened on the completed articles and bulk materials in a manner approved by the department in such an area as to be easily seen. Labels shall not be concealed or obstructed from view in any manner.

4. Labels shall be constructed of material approved by the department and shall not be easily torn or defaced.

421.051. Newly manufactured materials shall be identified with a white label printed in black ink. Articles made, in whole or in part, from previously manufactured materials which is not new shall be identified with a yellow label printed in black ink. Any article made from material furnished by the customer shall be identified with a green label printed in black ink and shall state "Owner's Material".

421.061. 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 material is wholly new; "Previously Used Material" when the material is in whole or in part has been used for another purpose before being incorporated into the article or material;

(3) Description of filling material as provided in the applicable regulations;

(4) For renovated articles the heading shall state: "THIS ARTICLE NOT FOR SALE -- OWNER'S MATERIAL";

(5) The registry number assigned or approved by the department of health;

(6) Certification is made by the manufacturer that the materials in this article are described in accordance with law;

(7) For renovated articles the certification portion of the label shall state: "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN ACCORDANCE WITH LAW AND CONSIST OF THE FOLLOWING:";

(8) For renovated articles, the name and address of the owner;

(9) The finished size of articles of bedding such as sleeping bags, mattresses, comforters, mattress pads, pads, box springs, pillows and similar articles, showing the width and length expressed in inches. Decorator pillows need not show size.

421.071. 1. All articles of bedding or bulk filling materials which have undergone an approved method of sterilization shall have a sterilization label firmly attached to the item in such an area so as to be easily seen and readily discernable. Sterilization labels shall be affixed to the item sterilized with silicate of soda or other adhesive approved by the department of health.

2. Sterilization labels shall be constructed of erasure-proof paper and shall be of a grade that will not change color on application of adhesive.

3. The color of the label shall be yellow and the printing shall be in black ink.

421.081. Statements and headings on sterilization labels shall be as follows:

(1) "Under penalty of law this tag shall not to be removed except by the consumer";

(2) "Certification is made that this previously used article has been sterilized by a process approved by the department of health";

(3) Lot number in which the article was sterilized;

(4) Sterilization label number. Every label shall be numbered and the numbers shall run consecutively;

(5) Name of the article or filling material sterilized;

(6) Name and number of loose cushions, pads, pillows, belonging to and forming a part thereof;

- (7) Name of person for whom sterilized;**
- (8) Date sterilized;**
- (9) Name and address of sterilizing plant;**
- (10) Registry number assigned to the sterilizing plant by the department of health.**

421.091. The minimum size of labels for sterilized material shall be three inches by three inches. The words "Previously Used Article and Sterilized" shall be in twenty-four point Gothic type, in capital letters. All printing shall be in English.

421.101. 1. Red tags affixed to articles which are withheld from sale for sterilization may be removed, after sterilization, by the department of health or by a licensed sterilizer only. Tags removed may be mailed by the sterilizer to the department of health.

2. No mark, tag, sticker or other device shall be placed upon labels by any dealer or any other person in such a way as to cover the required statements.

421.111. It is unlawful for any person, except the purchaser for the purchaser's own use, to attempt to, or to remove, deface, alter or cause to be removed, defaced or altered, the label or any mark or statement on such label, placed upon any article of bedding or filling material pursuant to sections 421.010 to 421.181.

421.121. It is unlawful to use, in the description of filling material, or in the statement on any label, any misleading term or designation or any term or designation likely to mislead.

421.131. 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 bedding or filling materials and may approve or adopt designations and rules which are not in conflict with any provisions of sections 421.010 to 421.181, for the labeling of articles filled, with such materials.

421.141. The repairer or renovator of any bedding which is subsequently sold shall affix the previously used material label, which shall be attached to the article before delivery to the owner.

421.151. When the director of the department of health has inspected any factory in the state of Missouri where bedding is being made or is to be made, remade or renovated, and has found that the factory conforms to the sanitary conditions prescribed by the director of the department of health, then the director shall issue to the person operating such factory a permit showing that it has been inspected and declared a proper place in which to make, remake or renovate bedding; and assign it a registry number by which the factory shall thereafter be known and designated in applying and enforcing the labeling and inspection provisions of sections 421.010 to 421.181. Such permit shall be posted by the person to whom it is so issued in a

conspicuous place in the factory or office thereof.

421.161. Every place where bedding is made, remade, or renovated, or held for sale, consignment or delivery shall be subject to supervision and inspection of the director of the department of health. If the director finds bedding being made, remade, renovated or held for sale, consignment or delivery, in other than a sanitary condition, then the director of the department of health shall give the person responsible for such unsanitary condition a reasonable length of time within the discretion of the director; except that, such time shall not exceed sixty days, in which to remedy the unsanitary conditions. If the person responsible therefor fails to remedy the unsanitary condition, the failure shall become a violation of sections 421.010 to 421.181, and the director of the department of health shall revoke and void the permit specified in section 421.151. If the director has reason to believe that any person is violating or has violated any provision of sections 421.010 to 421.181, it shall be the duty of the director of the department of health to prosecute or to cause prosecution of such person therefor.

421.171. If and when the director of the department of health finds that any article of bedding sold, or offered for sale, or delivered, or consigned or possessed with intent to sell, offer for sale, deliver or consign, that is not truthfully and correctly labeled as required by the provisions of sections 421.010 to 421.181, it shall be the duty of the director of the department of health to prosecute the violation of sections 421.010 to 421.181 and upon conviction to revoke the permit, the registry number and the rights conferred thereunder and the person whose permit has been so revoked and voided shall not make, remake or renovate or sell, or offer for sale or consign any article of bedding until the person has secured another permit from the director of the department of health.

421.181. Any person who violates a provision of sections 421.010 to 421.181 is guilty of a class A misdemeanor.

[421.020. No person shall make, remake or renovate bedding, except a person, making, remaking or renovating bedding for his own use, until he has secured a permit from the director of the department of social services, and has paid to the state director of revenue an inspection and permit fee of twenty dollars, which such payment or charge shall constitute a factory inspection charge for the purpose of enforcing this chapter. The permit so issued by the director of the department of social services shall remain in force and effect until the end of the calendar year in which it was issued or until voided by the said director of the department of social services for failure to maintain the required sanitary conditions in and around a factory in which bedding is made, remade or renovated or for failure to sterilize and disinfect properly all previously used materials used in making, remaking or renovating bedding.]

[421.030. When the director of the department of social services has inspected any

factory in the state of Missouri where bedding is being made or is to be made, remade or renovated, and has found that the factory conforms to the sanitary conditions prescribed by the director of the department of social services, then it shall be the duty of said director to issue to the person operating such factory a permit showing that it has been inspected and declared a proper place in which to make, remake or renovate bedding; and assign it a registry number by which said factory shall thereafter be known and designated in applying and enforcing the labeling and inspection provisions of this chapter. Said permit shall be posted by the person to whom it is so issued in a conspicuous place in said factory or office thereof.]

[421.040. Every place where bedding is made, remade, or renovated, or held for sale, consignment or delivery shall be subject to supervision and inspection of the director of the department of social services. Should said director find bedding being made, remade, renovated, or held for sale, consignment or delivery, in other than a sanitary condition, then the said director of the department of social services shall give the person responsible for this insanitary condition a reasonable length of time within the discretion of said director, said time, however, not to exceed sixty days, in which to remedy the said insanitary conditions. If the person responsible therefor fails to remedy the said insanitary condition, the said failure shall become a violation of this chapter, and the said director of the department of social services shall revoke and void the permit specified in section 421.030. Should said director have reason to believe that any person is violating or has violated any provision of this chapter, it shall be the duty of said director of the department of social services to prosecute or to cause prosecution of such person therefor.]

[421.050. No person shall use in the making of bedding any material known as "shoddy" and made in whole or in part from any old or worn clothing, carpets, burlap or other fabric or material from which shoddy is constructed; any material not otherwise prohibited by this chapter of which prior use has been made; unless any and all of said materials have been thoroughly sterilized, and disinfected by a reasonable process, approved by the division of health of the state department of social services.]

[421.060. No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, offer for sale, or consign for sale any article of bedding as herein defined unless the same be labeled as follows:

(1) Upon each of such articles of bedding, whether new, used or renovated there shall be securely sewed upon the outside thereof a cloth label, upon which shall be legibly written in ink or printed in the English language, in type of not less than one-eighth inch in size, the name of the material, or materials used as the filling of such article of bedding. If all the material used as the filling of such article of bedding shall not have been previously used, the words, "manufactured of new material", shall appear upon said

label, together with the name and address of the maker or vendor thereof; if any of the materials used in the making or remaking of such article of bedding shall have been previously used, the words, "manufactured of previously used material", shall appear upon said label together with the name and address of the maker or vendor thereof and also a description of the materials used in the filling of such article of bedding; on any article of bedding not remade, but which has been used, the words, "second-hand, materials used in filling not known", shall appear upon said tag or label, together with the name and address of the vendor thereof.

(2) The statement required under this section shall in form be as follows:

"OFFICIAL STATEMENT."

Manufactured of new material
Manufactured of previously used material
Second-hand materials used in filling not known
Materials used in filling
Maker or vendor
Address

(3) If cotton linters is used in the filling of any article of bedding the same shall be specifically designated as "cotton linters" on any label required under this chapter; if what is known in the trade as "sweeps" or "oily sweepings" is used in the filling of any article of bedding such material shall be specifically designated as "mill sweepings" on any label required by this chapter.

(4) Wherever the word, "felt", is used it shall be interpreted to mean that the material has been carded in layers by a garnett or felting machine.

(5) It shall be unlawful to use on any label concerning any bedding filling the word, "floss", or words of like import, if there has been used in filling said bedding any materials which are not termed as "kapok".

(6) It shall be unlawful to use in such statement on said label concerning any bedding filling the word, "hair", unless such bedding is manufactured of animal hair. If materials other than hair are used in combination with hair, the percentages of hair and such other material shall be stated.

(7) It shall be unlawful to use in the description on the label concerning any bedding any misleading term or designation, or any term or designation to mislead.】

【421.070. No person shall sell, offer for sale, deliver, consign for sale, or have in his possession with intent to sell, deliver or consign for sale, any article of bedding which has been used unless the said article of bedding shall first be thoroughly sterilized and disinfected by a process approved by the division of health.】

【421.080. Any person who receives bedding to be renovated shall attach to each

such article of bedding, at the time of its receipt, a tag upon which has been legibly written the name and address of the owner of the bedding and the date it was received for renovation.]

[421.090. If and when the director of the department of social services finds that any article of bedding sold, or offered for sale, or delivered, or consigned or possessed with intent to sell, offer for sale, deliver or consign, that is not truthfully and correctly labeled as required by the provisions of this chapter, it shall be the duty of the director of the department of social services to prosecute said violation of this chapter and upon conviction to revoke the permit, the registry number and the rights conferred thereunder, heretofore mentioned, and the person whose permit has been so revoked and voided shall not make, remake or renovate or sell, or offer for sale or consign any article of bedding until he has secured another permit from the director of the department of social services.]

[421.100. The director of the department of social services, his employees and assistants are hereby charged with the administration and enforcement of this chapter and shall have the right to purchase and hold for evidence at a trial for the violation of this chapter any article of bedding offered for sale or made in violation of this chapter. The director of the department of social services shall make reasonable rules and regulations for the enforcement of this chapter.]

[421.110. Any person who shall fail to comply with any of the provisions of this chapter shall be guilty of a violation thereof. The unit for separate and distinct offense in violation of this chapter shall be each and every article of bedding made, remade, sold, offered for sale, delivery, consigned or possessed with intent to sell, offer for sale, deliver or consign contrary to the provisions hereof.]

[421.120. Any person or corporation violating the provisions of this chapter shall be guilty of a misdemeanor.]