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1 A bill to be entitled
2 An act relating to bedding materials; amending s. 501.145,
3 F.S.; providing a short title; defining terms; prohibiting
4 a person from manufacturing or selling bedding that is
5 made in whole or in part from secondhand material unless
6 such material has been sanitized, germicidally treated, or
7 cleaned using a method approved by the Department of
8 Agriculture and Consumer Services; directing the
9 department to establish methods for sanitizing,
10 germicidally treating, or cleaning secondhand materials;
11 requiring that all bedding manufactured, renovated,
12 sanitized, or sold in this state which contains secondhand
13 materials bear a clear and conspicuous label affixed to
14 the bedding which contains specified information;
15 requiring the label identifying bedding containing
16 secondhand materials to be red in color and the label
17 identifying bedding containing new materials to be white
18 in color; prohibiting a person other than a retail
19 consumer from removing, defacing, or altering the label of
20 bedding; prohibiting a false or misleading statement on a
21 label; requiring each bedding renovator, sanitizer, or
22 seller of renovated bedding to register with and obtain a
23 permit from the department, which must be renewed
24 annually; requiring that the department recognize certain
25 documents from another state or jurisdiction for issuance
26 of a permit number; requiring that the department
27 establish fees for initial and renewal permits;
28 authorizing the department to randomly conduct bedding and

29 materials product tests and inspections of the premises of
 30 any bedding renovator, sanitizer, or seller of renovated
 31 bedding; authorizing the enforcing authority to impose an
 32 embargo on, remove, recall, condemn, destroy, or otherwise
 33 dispose of bedding if the enforcing authority finds
 34 probable cause to believe that the inspected bedding
 35 violates the act; authorizing the enforcing authority to
 36 deny, suspend, or revoke a permit or assess an
 37 administrative penalty for violations of the act;
 38 authorizing the enforcing authority to bring an action for
 39 injunction relief; providing that a person who knowingly
 40 sells bedding that contains secondhand material that is
 41 not properly labeled or has not been sanitized, treated,
 42 or cleaned in accordance with the act commits a
 43 misdemeanor of the second degree; directing the department
 44 to adopt rules; providing an effective date.

45

46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Section 501.145, Florida Statutes, is amended
 49 to read:

50 (Substantial rewording of section. See

51 s. 501.145, F.S., for present text.)

52 501.145 Safe and Hygienic Bedding Act.—

53 (1) SHORT TITLE.—This section may be cited as the "Safe
 54 and Hygienic Bedding Act."

55 (2) DEFINITIONS.—As used in this section, the term:

56 (a) "Bedding" means any mattress, box spring, pillow, or

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57 cushion made of leather or any other material that is or can be
58 stuffed or filled in whole or in part with any substance or
59 material and that can be used by any human being for sleeping or
60 reclining purposes.

61 (b) "Clean recycled material" means material comprised in
62 whole or in part of recycled material derived from postconsumer
63 waste or industrial waste that has undergone a manufacturing or
64 other process approved by the department which renders the
65 resulting material at least as clean as comparable material made
66 in whole from virgin inputs.

67 (c) "Department" means the Department of Agriculture and
68 Consumer Services.

69 (d) "Enforcing authority" means the Department of
70 Agriculture and Consumer Services or the Department of Legal
71 Affairs.

72 (e) "Manufacturer" means a person that makes any article
73 of bedding in whole or in part using new or secondhand fabric,
74 filling materials, clean recycled materials, or other materials.

75 (f) "New material" means any fabric, filling material,
76 clean recycled material, or other material or article of bedding
77 that has not been previously used for any purpose. New material
78 includes byproducts of any textile or manufacturing process
79 which are free from dirt, insects, and other contamination.

80 (g) "Person" means an individual, sole proprietorship,
81 partnership, limited liability company, corporation, joint
82 venture, association, trust, or any other entity, and the agents
83 and employees of any such entity.

84 (h) "Renovator" means a person who repairs, makes over,

85 recovers, restores, sanitizes, germicidally treats, cleans, or
 86 renews bedding.

87 (i) "Sanitizer" means a person who sanitizes, germicidally
 88 treats, or cleans, but who does not otherwise alter, any fabric,
 89 filling material, other material, or article of bedding for use
 90 in manufacturing or renovating bedding.

91 (j) "Secondhand material" means any fabric, filling
 92 material, other material, or article of bedding that has been
 93 previously used for any purpose and that may be used in place of
 94 new material in manufacturing or renovating bedding, but
 95 excludes clean recycled material.

96 (k) "Seller" includes a person who offers for sale,
 97 barters, trades, delivers, consigns, leases, possesses with
 98 intent to sell, or disposes of bedding in any commercial manner
 99 at the wholesale, retail, or other level of trade.

100 (3) SANITIZATION OF SECONDHAND MATERIAL.-

101 (a) A person may not manufacture or sell bedding that is
 102 made in whole or in part from any secondhand material unless
 103 such material has been sanitized, germicidally treated, or
 104 cleaned by a method approved by the department.

105 (b) The department shall establish methods for sanitizing,
 106 germicidally treating, or cleaning secondhand materials,
 107 including:

- 108 1. A method for heat-treating secondhand materials;
- 109 2. A method for washing secondhand materials using boiling
 110 water; and
- 111 3. Any other methods determined by the department to be
 112 effective in ridding secondhand materials of contaminants,

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113 bedbugs, insects, other living organisms, and other offensive
114 materials.

115 (4) LABELING REQUIREMENTS.-

116 (a) All bedding manufactured, renovated, sanitized, or
117 sold in this state which contains any secondhand materials must
118 bear a clear and conspicuous label that:

119 1. Is red in color and is at least 2 inches by 4 inches in
120 dimension;

121 2. Clearly states the words: "SECONDHAND MATERIAL";

122 3. Specifically describes which secondhand materials are
123 contained in the bedding; declares the amount of secondhand
124 materials that are present in the bedding; describes the methods
125 used to sanitize, germicidally treat, or clean the bedding; and
126 specifies the date on which the processing occurred;

127 4. Includes the name, address, and permit number of the
128 manufacturer, renovator, or sanitizer; and

129 5. Is stitched or otherwise firmly attached to the bedding
130 in such a manner that it may be seen by a consumer before the
131 purchase.

132 (b) A label may be attached to bedding that is wholly
133 manufactured from new material or clean recycled material or a
134 combination of both. The label must be white in color and must
135 state the words: "NEW MATERIAL," "NEW MATERIAL WITH CLEAN
136 RECYCLED CONTENT," or "ALL CLEAN RECYCLED CONTENT," as
137 appropriate.

138 (c) A person other than a retail consumer of the bedding
139 may not remove, deface, or alter in whole or in part a label or
140 any statement on a label in order to defeat the provisions of

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141 this subsection.

142 (d) A person may not make a false or misleading statement
143 on a label.

144 (5) PERMIT REQUIRED.—

145 (a) Each bedding renovator, sanitizer, or seller of
146 renovated bedding must register with and obtain an initial
147 permit and permit number from the department. The permit must be
148 renewed annually.

149 (b) Upon a timely request by an applicant for an initial
150 permit, the department shall recognize a valid registry,
151 license, permit, or factory number issued by another state or
152 jurisdiction if the applicant complies with all requirements
153 established by the department for issuance of a permit number in
154 this state.

155 (c) The department shall adopt a rule establishing fees
156 for an initial or annual permit. The fees shall be priced
157 according to the class seeking the permit, such as
158 manufacturers, renovators, sanitizers, or sellers, must be in an
159 amount that is reasonable and does not exceed \$500.

160 (6) INSPECTIONS AND PENALTIES.—

161 (a) The department may randomly conduct bedding and
162 materials product tests and inspections of the premises of any
163 bedding renovator, sanitizer, or seller of renovated bedding, or
164 any other party suspected of engaging in such activity, for the
165 purpose of determining whether such person complies with this
166 section and the rules of the department.

167 (b) If the enforcing authority finds probable cause to
168 believe that an article of bedding violates this section, the

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169 enforcing authority may, as appropriate under the circumstances,
170 impose an embargo on, remove, recall, condemn, destroy, or
171 otherwise dispose of bedding found to violate this section.

172 (c) The enforcing authority may deny, suspend, or revoke a
173 permit issued under this section, or assess an administrative
174 penalty, not to exceed \$500 per violation, against a person who
175 violates this section. Each day of a continuing violation
176 constitutes a separate violation.

177 (d) The enforcing authority may assess against the
178 violator any reasonable expenses and costs the enforcing
179 authority incurs in connection with an administrative proceeding
180 to deny, suspend, or revoke a person's permit.

181 (e) The enforcing authority may bring an action for
182 injunctive relief against a person who violates this section.

183 (f) A person who knowingly sells bedding that contains
184 secondhand material that is not labeled or has not been
185 sanitized, germicidally treated, or cleaned in accordance with
186 this section commits a misdemeanor of the second degree,
187 punishable as provided in s. 775.082 or s. 775.083.

188 (g) Each product that is found in violation of this
189 section constitutes a separate violation.

190 (7) RULES.—The department shall adopt rules pursuant to
191 ss. 120.536(1) and 120.54 to administer this section. The rules
192 adopted may include, but need not be limited to:

193 (a) Procedures and requirements for the application,
194 issuance, renewal, denial, suspension, and revocation of each
195 class of permit;

196 (b) Procedures for adequate notice and opportunity for

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197 hearing for a person who is subject to administrative penalties
198 or whose permit is subject to denial, suspension, or revocation;
199 and

200 (c) Any other substantive, interpretative, or procedural
201 rules necessary to administer this section.

202 Section 2. This act shall take effect July 1, 2011.