

By Senator Bennett

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

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

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 501.145, Florida Statutes, is amended to
52 read:

53 (Substantial rewording of section. See
54 s. 501.145, F.S., for present text.)

55 501.145 Safe and Hygienic Bedding Act.-

56 (1) SHORT TITLE.-This section may be cited as the "Safe and
57 Hygienic Bedding Act."

58 (2) DEFINITIONS.-As used in this section, the term:

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59 (a) "Bedding" means any mattress, box spring, pillow, or
60 cushion made of leather or any other material that is or can be
61 stuffed or filled in whole or in part with any substance or
62 material and that can be used by any human being for sleeping or
63 reclining purposes.

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

70 (c) "Department" means the Department of Agriculture and
71 Consumer Services.

72 (d) "Enforcing authority" means the Department of
73 Agriculture and Consumer Services or the Department of Legal
74 Affairs.

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

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

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

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

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88 recovers, restores, sanitizes, germicidally treats, cleans, or
89 renews bedding.

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

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

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

103 (3) SANITIZATION OF SECONDHAND MATERIAL.—

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

108 (b) The department shall establish methods for sanitizing,
109 germicidally treating, or cleaning secondhand materials,
110 including:

- 111 1. A method for heat-treating secondhand materials;
- 112 2. A method for washing secondhand materials using boiling
113 water; and
- 114 3. Any other methods determined by the department to be
115 effective in ridding secondhand materials of contaminants,
116 bedbugs, insects, other living organisms, and other offensive

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117 materials.

118 (4) LABELING REQUIREMENTS.-

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

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

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

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

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

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

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

141 (c) A person other than a retail consumer of the bedding
142 may not remove, deface, or alter in whole or in part a label or
143 any statement on a label in order to defeat the provisions of
144 this subsection.

145 (d) A person may not make a false or misleading statement

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146 on a label.

147 (5) PERMIT REQUIRED.—

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

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

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

163 (6) INSPECTIONS AND PENALTIES.—

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

170 (b) If the enforcing authority finds probable cause to
171 believe that an article of bedding violates this section, the
172 enforcing authority may, as appropriate under the circumstances,
173 impose an embargo on, remove, recall, condemn, destroy, or
174 otherwise dispose of bedding found to violate this section.

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

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

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

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

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

193 (7) RULES.—The department shall adopt rules pursuant to ss.
194 120.536(1) and 120.54 to administer this section. The rules
195 adopted may include, but need not be limited to:

196 (a) Procedures and requirements for the application,
197 issuance, renewal, denial, suspension, and revocation of each
198 class of permit;

199 (b) Procedures for adequate notice and opportunity for
200 hearing for a person who is subject to administrative penalties
201 or whose permit is subject to denial, suspension, or revocation;
202 and

203 (c) Any other substantive, interpretative, or procedural

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204 rules necessary to administer this section.

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