

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.