

ARKANSAS STATE BOARD OF HEALTH
ARKANSAS DEPARTMENT OF HEALTH
ENVIRONMENTAL SECTION

**PROPOSED RULES AND REGULATIONS PERTAINING TO
LABELING OF BEDDING *AND THE GERMICIDAL
TREATMENT OF USED BEDDING***

EFFECTIVE DECEMBER 1, 2014

***Promulgated under the authority of
Arkansas Code Annotated § 14-235-304***

REGULATIONS PERTAINING TO THE
MANUFACTURE, RENOVATION AND SALE OF BEDDING
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6455. DEFINITIONS

The term "bedding" as used in this act shall be construed to mean any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and made for use in sleeping.

The word "person" as used in this act shall be construed to impart the plural and the singular, as the case demands, and shall include individuals, corporations, partnerships, joint stock companies, societies and associations.

The word "new" as used in this Act shall mean any material which has not been used in the manufacture of another article or used for any other purpose.

When construing and enforcing the provisions of this Act, the act, omission or failure of any officer, agent or other person acting for, or employed by any individual, corporation, partnership, joint stock company, society or association, within the scope of his employment or office shall in every case be also deemed the act, omission or failure of such individual, corporation, partnership, joint stock company, society or association as well as that of the person.

Sec. 1, Act 249, Acts of 1927, approved March 24, 1927

6456. USED MATERIAL FORBIDDEN

No person shall use in the making or remaking of any article of bedding as herein defined, any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has been so used.

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6457. SAME—SALE FORBIDDEN

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 that has been used by or about any person having an infectious or contagious disease. Id. Section 3.

6458. STERILIZATION OF MATERIAL

No person shall remake or renovate any article of bedding unless all the material to be used in said remade or renovated bedding shall first be thoroughly sterilized and disinfected by a process approved by the State Health Commissioner.

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.

No person shall use in the making of bedding any previously used material unless such material has been sterilized and disinfected by a process approved by the State Health Commissioner. Id. Section 4.

6459. BEDDING TO BE LABELED

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

Upon each of such articles of bedding there shall be securely sewed upon the outside thereof a label upon which shall be legibly written or printed, in the English language, the name of the material or the names of the 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 of the bedding.

If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of previously used material" or "remade of previously used material" as the case may be, shall appear upon said label, together with the name and address of the maker thereof and also a description of the material used in the filling of such article of bedding.

On any article of bedding not remade, but which has been used shall be labeled "second hand." The label required by this Section shall be muslin or linen and not less than two inches by three inches in size. The statement required under this Section shall be in form as follows:

Manufactured of new material

Materials used in filling

Made by

Address

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The words "manufactured of new material" or "remade of previously used material", or "secondhand

materials used in filling not known", together with the description of the material used as the filling of an article of bedding shall be in letters not less than one-eighth (1/8) of an inch in height.

The sewing of one edge of the said label securely into an outside seam of any article of bedding shall be deemed a compliance with that portion of the Act requiring that the label be "securely sewed" upon the article. This label shall contain all the statements required by this Act, and shall be securely sewed to the ticking or cover of every article of bedding to be manufactured, before the filling material has been placed inside the ticking or cover.

No term or description likely to mislead shall be used on any label required by this Act, in the description of the materials used in the filling of any article of bedding.

6460. UNLAWFUL TO REMOVE LABEL.

Any person, other than a purchaser for his own use, who shall remove, deface, alter or shall cause to be removed, defaced or altered, any label upon any article of bedding so labeled under the provision of this Act shall be guilty of a violation thereof.

6461. FELT DEFINED

If the label shall bear the word "felt," it shall be construed to mean that the materials from which the felt was made, has been carded layer by a garnett, of felting machine. Id. Section 7.

6462. OFFENSES

Any person who shall fail to comply with any of the provisions of this Act shall be guilty of a violation thereof. The unit for a separate and distinct offense in violation of this Act shall be each and every article of bedding made, or remade, or sold, or offered for sale, or consigned, or possessed with intent to sell, offer for sale, deliver, or consign, contrary to the provisions hereof. Id. Section 8.

6463. UNLAWFUL TO REMOVE LABEL ON HOTEL BEDDING

It shall be unlawful for any owner, his employees, or servants, of any hostelry or hotel, rooming or boarding house operated for profit, to remove or cause to be removed from mattress purchased for the use in their place of business after the effective date of this Act, or label attached thereto. Id. Section 9.

6464. OFFENSES IN MANUFACTURING OF BEDDING

It shall be unlawful and punishable by provisions of this Act, for any person, firm, or corporation, or their agent or agents to use or cause to be used in the manufacture, or renovation of mattresses materials of any description, in whole or in part, that have been used in or about any public or private hospital or sanitorium for the treatment of any infectious or contagious disease, or materials obtained from mattresses from hotels, rooming and boarding houses, and other public buildings where mattresses have been used for their original purpose, provided however, that this shall not prevent the use of materials as prohibited in Section 6458, when they have been thoroughly sterilized by a method of sterilization approved or adopted by the State Board of Health; but in which event the mattress shall be labeled as indicated in Section 6459, as may apply. Id. Section 10.

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6465. DOES NOT APPLY TO HOME USE

These rules shall not be so construed as to prevent any individual from manufacturing, renovating, or having manufactured or renovated, mattresses for his/her own home or domestic use. Provided, that any individual firm or corporation who shall so manufacture or renovate a mattress for another, as set out in this Act, shall be required to label same as provided in Section 6459 hereof. Id. Section 11.

6466. RULES PRESCRIBED BY STATE BOARD OF HEALTH

It is hereby made the duty of the State Board of Health to promulgate and public rules and regulations prescribing the method of sterilization that may be used by those engaged in the manufacture of mattresses and bedding, or in the renovation thereof. All persons, firms, or corporations who shall conform to the regulations as promulgated by the State Board of Health, as herein directed, shall be deemed as complying with the law. Id. Section 12.

6467. OFFENSES UNDER ACT

Any person, firm or corporation who shall fail to comply with any of the provisions of this Act shall be guilty of a violation of this Act, and each and every mattress manufactured, remade, or renovated, sold, offered for sale, delivered, consigned or possessed with an intent to sell, offer for sale, deliver, or consign contrary to the provisions of this Act shall be deemed a separate offense. Id. Section 13.

6468. PENALTY

Every person who shall be found guilty of a violation of the provisions of this Act shall be

~~subject to a fine of not less than twenty five (\$25.00) dollars, nor more than two hundred fifty (\$250.00) dollars, or not less than thirty (30) days, nor more than ninety (90) days in prison, or both, as the court may deem proper. Id. Section 14.~~

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RULES AND REGULATIONS PERTAINING TO LABELING OF BEDDING AND THE GERMICIDAL TREATMENT OF USED BEDDING

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SECTION 1. Authority and Purpose

- 1.1 The following RULES AND REGULATIONS PERTAINING TO LABELING OF BEDDING AND THE GERMICIDAL TREATMENT OF USED BEDDING are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including without limitation, Act 96 of 1913 (A.C.A.20-7-109) and Act 1420 of 2013 (A.C.A.20-27-2706).
- 1.2 Purpose: To establish minimum standards for labeling of new and used bedding, and the germicidal treatment of used bedding.

SECTION 2. Definitions

- 2.1 **Bedding.** A mattress, upholstered spring, comforter, pad, cushion, pillow, 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.
- 2.2 **Department.** The Arkansas Department of Health.
- 2.3 **Director.** The director of the Arkansas Department of Health.
- 2.4 **Manufacture.** The making of bedding out of new material.
- 2.5 **New Material.** Any fabric, filling material, other material, or article of bedding that has not been previously used in the manufacturing, distributing, or retailing process or for which the legal title has not been transferred by a manufacturer, distributor, or retailer to a final purchaser, including by-products of any textile or manufacturing process that are free from dirt, insects, and other contamination.
- 2.6 **Person.** An individual, sole proprietorship, partnership, limited liability company, corporation, joint venture, association, trust, and any other entity and the agents, servants

and employees of the entity.

- 2.7 Renovator.** A person that repairs, makes over, recovers, restores, sanitizes, germicidally treats, cleans or renews bedding.
- 2.8 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.
- 2.9 Secondhand Material.** any fabric, filling material, other material, or article of bedding that has been previously used for any purpose, including without limitation floor samples from any source other than a seller's own business and factory-returned materials or bedding, or is derived from a postconsumer or industrial waste and that may be used in place of new material in manufacturing or renovating bedding.
- 2.10 Seller.** 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.

Section 3. Bedding Labels

- 3.1 Label Requirement.** The minimum size of the label shall not be less than 2 inches by 3 inches, but may be larger as need demands. All printing shall be in the English language, color of the print shall be black on a white label. The minimum type size shall be 1/8 inch in height in capital letters for the "Under Penalty of Law" section and the "All New Material" section. The label material shall be Tyvek, Valeron, Vellum cloth or a material of comparable quality, which shall not flake out when abraded. There shall be no printing on the back of the law label. The description of the filling materials shall be the true generic name, grade, or definition. When more than one kind of filling is used, the percent by weight of each shall be listed in order of their predominance. The name and address of the Manufacturer, importer, distributor or vendor shall be listed. Other information includes compliance requirement by U.S. Customs requirements to state "Made In....." If a product is made in the United States, either in whole or part of imported materials the law label shall disclose these facts. The label shall be securely affixed to the article in a location which is clearly visible to the consumer.
- 3.2** All bedding manufactured, renovated, sanitized, or sold by a seller 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.
- 3.3** The label on bedding made from all new materials shall be white in color and shall state "ALL NEW MATERIAL".
- 3.4** The label on bedding made in whole or in part from secondhand materials shall be yellow in

color and shall state, "SECONDHAND MATERIALS". The repairer or renovator of any bedding that is subsequently sold shall affix the secondhand material label which shall be attached to the bedding before delivery to the owner.

3.5 All bedding containing material that is sanitized, germicidally treated, or shall bear a clear and conspicuous label that states the following: "THIS BEDDING CONTAINS PREVIOUSLY USED MATERIALS THAT HAVE BEEN CLEANED AND SANITIZED IN AN APPROVED MANNER TO KILL GERMS AND INSECTS AND TO PREVENT INFECTION."

3.6 In addition, such label shall state:

The specific methods of sanitizing, germicidal treatment, or cleaning applied;

The date on which the article was sanitized, treated, or cleaned;

The name, address and permit number of the person applying the sanitizing, or cleaning; and Specifically which materials or articles have been sanitized, treated, or cleaned.

3.7 The labels shall also comply with rules adopted 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.

3.8 Labels required by this section shall be permanently affixed.

3.9 A person shall not remove, deface, or alter in whole or in part a label or any statement on a label with the intent to defeat the provisions of this section.

3.10 A person shall not make a false or misleading statement on any label required under this section.

3.11 The director shall approve the form and size of labels, the fabric of which the labels are made, and the wording and statements on labels provided for under this section.

Labels required under this section shall be securely attached to the article of bedding or filling material at the site of the manufacturer in a conspicuous place where the label can be easily examined.

3.12 Labels required by this section shall have printing only on one side.

3.13 Advertising matter shall not be placed on any label or any other printed matter not required by the provisions of this section.

3.14 The following statements and headings shall be shown on labels:

3.15 "UNDER PENALTY OF LAW THIS TAG SHALL NOT BE REMOVED EXCEPT BY THE CONSUMER" shall appear at the top of the label;

3.16 Headings shall read "All New Material" when the bedding material is wholly new material;

3.17 "Secondhand Material" when the bedding material in whole or in part is comprised of secondhand material;

3.18 Description of filling material as provided in the applicable regulations shall be included on the label;

3.19 The registry number assigned or approved by the Department shall be included on the label;

- 3.20 Certification by the manufacturer that the materials in this article are described in accordance with law shall be included on the label;
- 3.21 For renovated articles, the name and address of the owner.

Section 4. Bedding Materials

- 4.1 The contents and uses and percentage of filling materials used in articles of bedding and in bulk form shall be stated on the label.
- 4.2 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.
- 4.3 The department may establish grades, specifications and tolerances for the kinds and qualities of materials that may be used in the manufacture, repair or renovation of bedding comprised of new materials or secondhand materials and may approve or adopt designations and rules which are not in conflict with any provisions of this section for the labeling of bedding filled with such materials.
- 4.4 Bedding shall not be manufactured in whole, or in part, from any secondhand material unless such material has been sanitized, germicidally treated or cleaned by a method approved by the department.

Section 5. Disinfection of Secondhand Bedding

- 5.1 **General requirements**
- 5.2 A person shall not sell, offer for sale, or include in a sale any article of second-hand bedding or any article of bedding manufactured in whole, or in part, from second-hand material, unless such bedding has been cleaned, stains and odors removed, and germicidally treated by a method approved by the Department. Articles of bedding removed from a retail establishment to be used as bedding and returned to the establishment are considered second-hand bedding.
- 5.3 A person shall not use in the manufacture, renovation, or repair of bedding any material which has been obtained from dump grounds, landfills, junk yards, or hospitals within or without the State of Arkansas.
- 5.4 **Methods of treatment.**
- Disinfection of used or secondhand bedding must be by;
- 5.5 **Chemical spray.**
- The application of a chemical pesticide registered with by the U.S. Environmental Protection Agency. The chemical pesticide must have clearly stated on the label, or on printed material included in each container or package, detailed instructions for its use in disinfecting used or secondhand articles; Have clearly stated on the label a statement that the pesticide is safe to

use on bedding; Have an additive product which provides fluorescent particles when viewed under ultraviolet (black light) and magnification as a uniform method for detection of the presence of germicidal treatment agent on articles of bedding. Sanitizer shall follow all application, safety, storage and disposal instructions provided by the product manufacturers.

5.6 Commercial laundry method.

Pillows, cushions, comforters, pads, or other similar items will be considered as having been germicidally treated when the filling materials and covering material or ticking are kept intact without opening, and cleaned by a commercial laundry method.

5.7 Other methods.

Other methods of germicidal treatment may be used in treating bedding and materials provided it has been approved by the Department.

Section 6. Penalties

6.1 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 compliance with the provisions of this section and the department's rules adopted under this section.

6.2 If the department finds probable cause to believe that an article of bedding violates any provisions of this section, it may embargo, remove, recall, condemn, destroy or otherwise dispose of bedding found to violate any provisions of this section.

6.3 The department may deny, suspend, or revoke an initial or renewal permit of any person that violates any provision of this section.

6.4 Each day of a continuing violation constitutes a separate violation.

6.5 A person who violates any provision of this section commits a Class A misdemeanor.

6.6 The court may order restitution in addition to any other penalty provided in sections.

6.7 The department may petition for an injunction to restrain a continuing violation of this section or a threat of a continuing violation of this section provided such violation or threatened violation creates an immediate threat to public health and safety.

6.8 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, when the person has actual knowledge or reason to believe or suspect that such bedding is made in whole or in part from secondhand materials commits a Class A Misdemeanor.

6.9 Each bedding product that is found to be falsely labeled in this respect constitutes a separate violation.

Section 7. Severability

7.1 If any provisions of these Rules and Regulations, or the application thereof to any person or

circumstances, is held invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations, and, to this end, the provisions hereto are declared to be severable.

Section 8. Repeal

8.1 All regulations and parts of regulations in conflict herewith are hereby repealed.

Section 9. Certification

9.1 This will certify that the foregoing Rules and Regulations Pertaining to Labeling of Bedding
and the Germicidal Treatment of Used Bedding were adopted by the Arkansas Department
of Health at the regular session of the Board of Health held in Little Rock Arkansas on
 day of 20 .

Director and State Health Officer
Arkansas Department of Health

Date of Revision: 2/5/14