

## Chapter 10

### Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act

#### 4-10-1 Short title.

This chapter shall be known and may be cited as the "Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act."

Enacted by Chapter 2, 1979 General Session

#### 4-10-2 Definitions.

As used in this chapter:

- (1) "Article" means a bedding, upholstered furniture, quilted clothing, or filling material.
- (2) "Bedding" means a:
  - (a) quilted, packing, mattress, or hammock pad; or
  - (b) mattress, boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion made with a filling material that can be used for sleeping or reclining.
- (3) "Consumer" means a person who purchases, rents, or leases an article for the article's intended, everyday use.
- (4) "Filling material" means cotton, wool, kapok, feathers, down, shoddy, hair, or other material, or a combination of materials, whether loose or in bags, bales, batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.
- (5) "Label" means the display of written, printed, or graphic matter upon a tag or upon the immediate container of a bedding, upholstered furniture, quilted clothing, or filling material.
- (6)
  - (a) "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, a bedding, upholstered furniture, quilted clothing, or filling material for sale.
  - (b) "Manufacture" does not include making, processing, or preparing an article described in Subsection (6)(a) if:
    - (i) a person sells three or fewer of the articles per year; and
    - (ii) the articles are sold by persons who are not primarily engaged in the making, processing, or preparation of the articles.
- (7)
  - (a) "New material" means material that has not previously been used in the manufacture of another article used for any purpose.
  - (b) "New material" includes by-products from a textile mill using only new raw material synthesized from a product that has been melted, liquified, and re-extruded.
- (8) "Owner's own material" means an article owned or in the possession of a person for the person's own or a tenant's use that is sent to another person for manufacture or repair.
- (9) "Quilted clothing" means a filled garment or apparel, exclusive of trim used for aesthetic effect, or a stiffener, shoulder pad, interfacing, or other material that is made in whole or in part from filling material and sold or offered for sale.
- (10) "Repair" means to restore, recover, alter, or renew bedding or upholstered furniture for a consideration.
- (11) "Retailer" means a person who sells bedding, upholstered furniture, quilted clothing, or filling material to a consumer for use primarily for personal, family, household, or business purposes.
- (12)

- (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver, consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling material.
- (b) "Sale" or "sell" does not include a judicial, executor's, administrator's, or guardian's sale of an item described in Subsection (12)(a).
- (13) "Secondhand" means an article or filling material, or portion of an article or filling material, that has previously been used.
- (14) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as required by Section 4-10-14.
- (15) "Tag" means a card, flap, or strip attached to an article for the purpose of displaying information required by this chapter or under rule made pursuant to it.
- (16)
  - (a) "Used" means an article that has been sold to a consumer and has left the store.
  - (b) "Used" does not include an article returned to the store:
    - (i) with its original tags; and
    - (ii) in its original packaging.
- (17) "Upholstered furniture" means portable or fixed furniture, except fixed seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material, exclusive of trim used for aesthetic effect.
- (18) "Wholesaler" means a person who offers an article for resale to a retailer or institution rather than a final consumer.

Amended by Chapter 21, 2016 General Session

#### **4-10-3 Authority to make and enforce rules.**

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are necessary to administer and enforce this chapter.

Amended by Chapter 382, 2008 General Session

#### **4-10-4 Manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material -- License required.**

It is unlawful for any person to engage in the manufacture, repair, or wholesale sale of any bedding, upholstered furniture, quilted clothing, or filling material without a license issued by the department.

Enacted by Chapter 2, 1979 General Session

#### **4-10-5 License -- Application -- Fees -- Expiration -- Renewal.**

- (1)
  - (a) A person may apply to the department, on forms prescribed and furnished by the department, for a license to manufacture, repair, sterilize, or engage in the wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material.
  - (b) Upon receipt of a proper application and payment of the appropriate license fee, the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue to the applicant a license to engage in the particular activity through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

- (c) A person doing business under more than one name shall be licensed for each name under which business is conducted.
- (2) The annual license fee for each license issued under this chapter shall be determined by the department pursuant to Subsection 4-2-2(2).
- (3) Each license issued under this chapter is renewable for a period of one year upon the payment of the applicable amount for the particular license sought to be renewed on or before December 31 of each year.
- (4) A person who holds a valid manufacturer's license may, upon application, be licensed as a wholesale dealer without the payment of an additional license fee.
- (5) A person who fails to renew a license and engages in conduct requiring a license under this chapter shall pay the applicable license fee for each year in which the person engages in conduct requiring a license for which a license is not renewed.
- (6) The department may retroactively collect a fee owed under Subsection (5).

Amended by Chapter 21, 2016 General Session

#### **4-10-6 Unlawful acts specified.**

It is unlawful for any person to:

- (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;
- (2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material which is not properly tagged;
- (3) label or sell a used or secondhand article as if it were a new article;
- (4) use burlap or other material which has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair of any article;
- (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not properly tagged regardless of point of origin;
- (6) use any false or misleading statement, term, or designation on any tag;
- (7) use any false or misleading label;
- (8) sell new bedding, upholstered furniture, or quilted clothing with filling material made of down, feather, wool, or hair that has not been properly sterilized; or
- (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a license as required by this chapter.

Amended by Chapter 21, 2016 General Session

#### **4-10-7 Tagging requirements for bedding, upholstered furniture, and filling material.**

- (1)
  - (a) All bedding, upholstered furniture, and filling material shall be securely tagged by the manufacturer, retailer, or repairer.
  - (b) Tags shall be at least six square inches and plainly and indelibly labeled with:
    - (i) information as the department requires by rule;
    - (ii) according to the filling material type, the words "All New Material," "Secondhand Material," or "Owner's Material," stamped or printed on the label; and
    - (iii) the word "USED" stamped or printed on the label of a used mattress.
  - (c) Each label shall be placed on the article in such a position as to facilitate ease of examination.
- (2)

- (a) If more than one type of filling material is used in an item, the percentage, by weight, of each component part shall be listed in order of predominance.
  - (b) If descriptive statements are made about the frame, cover, or style of the article, such statements shall, in fact, be true.
  - (c) All quilted clothing shall be tagged and labeled in conformity with the Federal Textile Fiber Products Identification Act, 15 U.S.C. Secs. 70 through 70k.
- (3) No person, except the purchaser, may remove, deface, or alter a tag attached according to this chapter.
- (4) A used mattress shall be tagged with the word "USED," in accordance with rules established by the department.
- (5) The retailer of a used mattress shall display the mattress so that the "USED" tag is clearly visible to a customer.

Amended by Chapter 21, 2016 General Session

**4-10-7.3 Seller's representation of a used mattress -- Bedding records required.**

- (1) A seller shall represent a mattress tagged "USED" as previously used by a customer.
- (2) The manufacturer, repairer, wholesale dealer, or retailer of a mattress shall keep an invoice, shipping information, bill of lading, or other record of the mattress at the manufacture, repair, wholesale, or retail location for a minimum of one year from the day on which the invoice, shipping information, bill of lading, or other record was created or received.

Enacted by Chapter 411, 2014 General Session

**4-10-8 Use of rubber stamp or stencil authorized -- Conditions for use.**

A rubber stamp or stencil may be used instead of a tag on articles with slip covers if the article has a smooth backing, or on suitable surfaces of containers or bales of filling material; provided, the information required by Section 4-10-7 is indelible and legible.

Enacted by Chapter 2, 1979 General Session

**4-10-9 Sale of bedding, upholstered furniture, quilted clothing, or filling material -- Tag, stamp, or stencil required -- Secondhand material to bear tag -- Presumption -- Owner's own material to be tagged.**

No wholesaler or retailer shall sell any bedding, upholstered furniture, quilted clothing, or prefabricated filling material, whether the point of origin of such article is inside or outside the state, unless it is appropriately tagged under Section 4-10-7, or unless it is appropriately stamped or stenciled under Section 4-10-7 or 4-10-8. A retailer who sells used articles shall attach a secondhand material tag before sale. Possession of an article by a person who regularly engages in the manufacture, repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.

A person who repairs "owner's own material" shall immediately upon its receipt attach an owner's material tag to the article. The tag shall remain attached to the article until it is actually in the process of repair and shall be reattached upon completion of repair.

Enacted by Chapter 2, 1979 General Session

**4-10-10 Enforcement -- Inspection authorized -- Samples -- Reimbursement for samples -- Warrants.**

- (1)
  - (a) The department may access public and private premises where articles subject to this chapter are manufactured, repaired, stored, or sold for the purpose of determining compliance with this chapter.
  - (b) For purposes of determining compliance, the department may:
    - (i) open any upholstered furniture, bedding, or quilted clothing to obtain a sample for inspection and analysis of filling material; or
    - (ii) if considered appropriate by the department, take the entire article for inspection and analysis.
  - (c) Upon request, the department shall reimburse the owner or person from whom a sample or article is taken in accordance with this Subsection (1) for the actual cost of the sample or article.
- (2) Upon request, the department may review and copy any of the records required under Subsection 4-10-7.3(2).
- (3) The department may proceed immediately, if admittance is refused or a record is denied, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and taking samples or articles.

Amended by Chapter 411, 2014 General Session

**4-10-11 Stop sale, use, or removal order authorized -- Conditions for release specified -- Condemnation or seizure -- Procedure specified -- Award of costs authorized.**

- (1) The department may issue a "stop sale, use, or removal order" to any manufacturer, repairer, wholesaler, or retailer of any designated article or articles which it finds or has reason to believe violates this chapter. The order shall be in writing and no article subject to it shall be removed, offered, or exposed for sale, except upon subsequent written release by the department. Before a release is issued, the department may require the manufacturer, repairer, wholesaler, or retailer of the "stopped" article to pay the expense incurred by the department in connection with the withdrawal of the article from the market.
- (2) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any article which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter. No bond shall be required of the department in an injunctive proceeding brought under this section.
- (3) If condemnation is ordered, the article shall be disposed of as the court directs; provided, that in no event shall it order condemnation without giving the claimant of the article an opportunity to apply to the court for permission to bring the article into conformance, or for permission to remove it from the state.
- (4) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the article.

Enacted by Chapter 2, 1979 General Session

**4-10-14 Sterilization of filling material.**

- (1) A person shall sterilize all wool, feathers, down, shoddy, hair, or other material before the material is used as filling material in new bedding, upholstered furniture, or quilted clothing.

- (2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the appropriate method by which a person may sterilize wool, feathers, down, shoddy, hair, or other material for use in filling material, as required by Subsection (1).

Enacted by Chapter 21, 2016 General Session