

**Effective 7/1/2017**

**Chapter 10**  
**Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act**

**4-10-101 Title.**

This chapter is known as the "Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act."

Renumbered and Amended by Chapter 345, 2017 General Session

**4-10-102 Definitions.**

As used in this chapter:

- (1) "Article" means 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:
    - (i) by-products from a textile mill using only new raw material synthesized from a product that has been melted, liquified, and re-extruded; and
    - (ii) down and feather that has been sterilized in accordance with the department's rules made under Sections 4-10-103 and 4-10-113.
- (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) "Reclaimed" or "reclaimed material" means material that would have otherwise been disposed of as waste or used for energy recovery, but instead is collected and used as a material input,

in lieu of new primary material, as defined by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (11) "Recycled" or "recycled material" means material that has been reprocessed from reclaimed material by means of an accepted manufacturing process and made into a final product or into a component for incorporation into a product as defined by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (12) "Repair" means to restore, recover, alter, or renew bedding or upholstered furniture for a consideration.
- (13) "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.
- (14)
  - (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 (14)(a).
- (15) "Secondhand" means an article or filling material, or portion of an article or filling material, that has previously been used.
- (16) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as required by Section 4-10-113.
- (17) "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.
- (18)
  - (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 the article's original tags; and
    - (ii) in the article's original packaging.
- (19) "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.
- (20) "Wholesaler" means a person who offers an article for resale to a retailer or institution rather than a final consumer.

Amended by Chapter 295, 2021 General Session

#### **4-10-103 Authority to make and enforce rules.**

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce rules to administer and enforce this chapter.

Renumbered and Amended by Chapter 345, 2017 General Session

#### **4-10-104 Manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material -- Permit required.**

- (1) It is unlawful for a person to engage in the manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a permit issued by the department.
- (2) Notwithstanding Subsection (1), a person may engage in the repair of quilted clothing without a permit issued by the department if that person is not otherwise required to obtain a permit issued by the department under this chapter or by department rule.

Amended by Chapter 295, 2021 General Session

**4-10-105 Registration -- Permit -- Fees -- Expiration -- Renewal.**

- (1)
  - (a) A person may register with the department, on a form prescribed and furnished by the department, for a permit 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 registration form and payment of the appropriate registration 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 permit to engage in the particular activity through December 31 of the year in which the permit is issued, subject to suspension or revocation of the permit for cause.
  - (c) A person doing business under more than one name shall register with and obtain a permit from the department for each name under which business is conducted.
- (2) The annual registration fee for each permit issued under this chapter shall be determined by the department pursuant to Subsection 4-2-103(2).
- (3) Each permit issued under this chapter is renewable for a period of one year upon the payment of the applicable amount for the particular permit sought to be renewed on or before December 31 of each year.
- (4) A person who holds a valid manufacturer's permit may register and obtain a permit as a wholesale dealer without the payment of an additional registration fee.
- (5) A person who fails to renew a permit and engages in conduct requiring a permit under this chapter shall pay the applicable registration fee for each year in which the person engages in conduct requiring a permit for which the permit is not renewed.
- (6) The department may retroactively collect a registration fee owed under Subsection (5).

Amended by Chapter 316, 2020 General Session

**4-10-106 Unlawful acts specified.**

It is unlawful for a 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 that 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 that has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infested filling material in the manufacture or repair of an article;
- (5) sell bedding, upholstered furniture, quilted clothing or filling material that is not properly tagged regardless of point of origin;
- (6) use a false or misleading statement, term, or designation on a tag;
- (7) use a 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 permit issued by the department as required by this chapter, unless otherwise exempt under Section 4-10-104 with respect to the repair of quilted clothing.

Amended by Chapter 295, 2021 General Session

**4-10-107 Tagging requirements for bedding, upholstered furniture, and filling material.**

- (1)
  - (a) The manufacturer, retailer, or repairer shall securely tag bedding, upholstered furniture, and filling material.
  - (b) A tag 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) A 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 a descriptive statement is made about the frame, cover, or style of the article, the statement shall, in fact, be true.
  - (c) Quilted clothing shall be tagged and labeled in conformity with the Federal Textile Fiber Products Identification Act, 15 U.S.C. Secs. 70 through 70i.
- (3) A person, except the purchaser, may not 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.
- (6)
  - (a) For items containing down or feather, a manufacturer, retailer, or repairer may use the terms "reclaimed," "reclaimed material," "recycled," or "recycled material" on a tag attached to the item if the item contains reclaimed or recycled material as defined in Section 4-10-102.
  - (b) If a term allowed under this Subsection (6) is included on a tag, a manufacturer, retailer, or repairer shall:
    - (i) indicate whether an item is "new" or "used" as defined in this chapter; and
    - (ii) comply with Subsection (2).

Amended by Chapter 295, 2021 General Session

**4-10-108 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.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-10-109 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 4-10-107 is indelible and legible.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-10-110 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.**

- (1) A wholesaler or retailer may sell bedding, upholstered furniture, quilted clothing, or prefabricated filling if it is properly tagged, stamped, or stenciled under Section 4-10-107 or 4-10-109.
- (2) Notwithstanding the requirements of Section 4-10-107, a retailer who sells used bedding or upholstered furniture shall:
  - (a) attach a secondhand material tag to each used article before sale; or
  - (b) clearly display a disclosure statement as provided in Subsection (3).
- (3) The disclosure statement required under Subsection (2)(b) shall:
  - (a) state "ALL BEDDING AND UPHOLSTERED FURNITURE OFFERED FOR SALE IN THIS ESTABLISHMENT ARE SECONDHAND UNLESS SPECIFICALLY LABELED AS NEW";
  - (b) be printed:
    - (i) in black capital letters using Arial, Calibri, Cambria, or Times New Roman in no smaller than 48-point font; and
    - (ii) on bright yellow paper, at least 8.5 inches by 6.5 inches in size; and
  - (c) be displayed at each public entrance and checkstand at each retail location.
- (4) 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.
- (5)
  - (a) A person who repairs "owner's own material" shall immediately upon its receipt attach an owner's material tag to the article.
  - (b) 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.

Amended by Chapter 316, 2020 General Session

**4-10-111 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 4-10-108(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.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-10-112 Stop sale, use, or removal order authorized -- Conditions for release specified -- Condemnation or seizure -- Procedure specified -- Award of costs authorized.**

- (1)
  - (a) The department may issue a "stop sale, use, or removal order" to a manufacturer, repairer, wholesaler, or retailer of any designated article or articles that the department finds or has reason to believe violates this chapter.
  - (b) The order shall be in writing and no article subject to the order shall be removed, offered, or exposed for sale, except upon subsequent written release by the department.
  - (c) 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 or for any other expense incurred in enforcing this chapter and the department's rules made under this chapter.
- (2)
  - (a) The department may seek in a court of competent jurisdiction an order of seizure or condemnation of an article that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter.
  - (b) A bond may not be required of the department in an injunctive proceeding brought under this section.
- (3)
  - (a) Except as provided in Subsection (3)(b), if condemnation is ordered, the article shall be disposed of as the court directs.
  - (b) The court may not 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 the article 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.

Amended by Chapter 295, 2021 General Session

**4-10-113 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).

Renumbered and Amended by Chapter 345, 2017 General Session

**4-10-114 Use of reclaimed or recycled material.**

- (1) A person may advertise an item filled with down, down and feather, or feather as "new" if it is manufactured using 100% reclaimed or recycled material, provided that the tag clearly discloses that the item is manufactured using 100% reclaimed or recycled material.
- (2) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the use of reclaimed or recycled material under this chapter.

Enacted by Chapter 295, 2021 General Session