

**BEDDING, UPHOLSTERED FURNITURE, AND QUILTED
CLOTHING INSPECTION ACT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Alvin B. Jackson

LONG TITLE

General Description:

This bill modifies the Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends licensing provisions;
- ▶ amends provisions relating to unlawful acts;
- ▶ amends tagging requirements; and
- ▶ requires the sterilization of certain materials.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-10-2, as last amended by Laws of Utah 2014, Chapter 411

4-10-5, as last amended by Laws of Utah 2010, Chapter 73

4-10-6, as last amended by Laws of Utah 2014, Chapter 411



28 4-10-7, as last amended by Laws of Utah 2014, Chapter 411

29 ENACTS:

30 4-10-14, Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 4-10-2 is amended to read:

34 **4-10-2. Definitions.**

35 As used in this chapter:

36 (1) "Article" means [any] a bedding, upholstered furniture, quilted clothing, or filling
37 material.

38 (2) "Bedding" means [any] a:

39 (a) quilted, packing, mattress, or hammock pad; or

40 (b) mattress, [boxsprings] boxspring, comforter, quilt, sleeping bag, studio couch,
41 pillow, or cushion made with [any] a filling material that can be used for sleeping or reclining.

42 (3) "Consumer" means a person who purchases, rents, or leases an article for the
43 article's intended, everyday use.

44 (4) "Filling material" means [any] cotton, wool, kapok, feathers, down, shoddy, hair, or
45 other material, or [any] a combination of [~~material~~] materials, whether loose or in bags, bales,
46 batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered
47 furniture, or quilted clothing.

48 (5) "Label" means the display of written, printed, or graphic matter upon a tag or upon
49 the immediate container of [any] a bedding, upholstered furniture, quilted clothing, or filling
50 material.

51 (6) (a) "Manufacture" means to make, process, or prepare from new or secondhand
52 material, in whole or in part, [any] a bedding, upholstered furniture, quilted clothing, or filling
53 material for sale.

54 (b) "Manufacture" does not include making, processing, or preparing an article
55 described in Subsection (6)(a) if:

56 (i) a person sells three or fewer [~~annual sales of such~~] of the articles per year; and

57 (ii) the articles are sold by persons who are not primarily engaged in the making,
58 processing, or preparation of [~~such~~] the articles.

59 (7) (a) "New material" means material that has not previously been used in the
60 manufacture of another article used for any purpose.

61 (b) "New material" includes by-products from a textile mill using only new raw
62 material synthesized from a product that has been melted, liquified, and re-extruded.

63 (8) "Owner's own material" means an article owned or in the possession of a person for
64 the person's own or a tenant's use that is sent to another person for manufacture or repair.

65 (9) "Quilted clothing" means a [~~quilted~~] filled garment or apparel, exclusive of trim
66 used for aesthetic effect, or a stiffener, shoulder [~~pads~~] pad, interfacing, or other material that is
67 made in whole or in part from filling material and sold or offered for sale.

68 (10) "Repair" means to restore, recover, alter, or renew bedding[;] or upholstered
69 furniture[; ~~or quilted clothing~~] for a consideration.

70 (11) "Retailer" means a person who sells bedding, upholstered furniture, quilted
71 clothing, or filling material to a consumer for use primarily for personal, family, household, or
72 business purposes.

73 (12) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver,
74 consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling
75 material.

76 (b) "Sale" or "sell" does not include [~~any~~] a judicial, executor's, administrator's, or
77 guardian's sale of [~~such items~~] an item described in Subsection (12)(a).

78 (13) "Secondhand" means [~~any~~] an article or filling material, or portion [~~thereof~~] of an
79 article or filling material, that has previously been used[; ~~other than previous use as a floor~~
80 ~~model~~].

81 (14) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as
82 required by Section 4-10-14.

83 [~~(14)~~] (15) "Tag" means a card, flap, or strip attached to an article for the purpose of
84 displaying information required by this chapter or under rule made pursuant to it.

85 [~~(15)~~] (16) (a) "Used" means an article that has been sold to a consumer and has left
86 the store.

87 (b) "Used" does not include an article returned to the store:

88 (i) [~~within three days from the day on which the article is purchased~~] with its original
89 tags; and

90 (ii) in its original packaging.

91 [(16)] (17) "Upholstered furniture" means [any] portable or fixed furniture, except
92 fixed seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling
93 material, exclusive of trim used for aesthetic effect.

94 [(17)] (18) "Wholesaler" means a person who offers an article for resale to a retailer or
95 institution rather than a final consumer.

96 Section 2. Section 4-10-5 is amended to read:

97 **4-10-5. License -- Application -- Fees -- Expiration -- Renewal.**

98 (1) (a) [Application] A person may apply to the department, on forms prescribed and
99 furnished by the department, for a license to manufacture, repair, sterilize, or [to] engage in the
100 wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material [~~shall be~~
101 ~~made to the department on forms prescribed and furnished by the department~~].

102 (b) Upon receipt of a proper application and payment of the appropriate license fee, the
103 commissioner, if satisfied that the convenience and necessity of the industry and the public will
104 be served, shall issue to the applicant a license to engage in the particular activity through
105 December 31 of the year in which the license is issued, subject to suspension or revocation for
106 cause.

107 (c) A person doing business under more than one name shall be licensed for each name
108 under which business is conducted.

109 (2) The annual license fee for each license issued under this chapter shall be
110 determined by the department pursuant to Subsection 4-2-2(2).

111 (3) Each license issued under this chapter is renewable for a period of one year upon
112 the payment of the applicable amount for the particular license sought to be renewed on or
113 before December 31 of each year.

114 (4) A person who holds a valid manufacturer's license may, upon application, be
115 licensed as a wholesale dealer[~~, supplier, or repairer~~] without the payment of an additional
116 license fee.

117 (5) A person who fails to renew a license and engages in conduct requiring a license
118 under this chapter shall pay the applicable license fee for each year in which the person engages
119 in conduct requiring a license for which a license is not renewed.

120 (6) The department may retroactively collect a fee owed under Subsection (5).

121 Section 3. Section 4-10-6 is amended to read:

122 **4-10-6. Unlawful acts specified.**

123 It is unlawful for any person to:

124 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new

125 unless it is made from new material and properly tagged;

126 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from
127 secondhand material which is not properly tagged;

128 (3) label or sell a used or secondhand article as if it were a new article;

129 (4) use burlap or other material which has been used for packing or baling, or to use
130 any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair
131 of any article;

132 (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not
133 properly tagged regardless of point of origin;

134 (6) use any false or misleading statement, term, or designation on any tag;

135 (7) use any false or misleading label; [or]

136 (8) sell new bedding, upholstered furniture, or quilted clothing with filling material
137 made of down, feather, wool, or hair that has not been properly sterilized; or

138 [~~8~~] (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding,
139 upholstered furniture, quilted clothing, or filling material without a license as required by this
140 chapter.

141 Section 4. Section 4-10-7 is amended to read:

142 **4-10-7. Tagging requirements for bedding, upholstered furniture, and filling**
143 **material.**

144 (1) (a) All bedding, upholstered furniture, and filling material shall be securely tagged
145 by the manufacturer, retailer, or repairer.

146 (b) Tags shall be at least six square inches and plainly and indelibly labeled with:

147 (i) information as the department requires by rule;

148 (ii) according to the filling material type, the words "All New Material," "Secondhand
149 Material," or "Owner's Material," stamped or printed on the label; and

150 (iii) the word "USED" stamped or printed on the label of a used mattress.

151 (c) Each label shall be placed on the article in such a position as to facilitate ease of

152 examination.

153 (2) (a) If more than one type of filling material is used~~[, its component parts shall be~~
154 ~~listed in descending order by weight or by percentages]~~ in an item, the percentage, by weight,
155 of each component part shall be listed in order of predominance.

156 (b) If descriptive statements are made about the frame, cover, or style of the article,
157 such statements shall, in fact, be true.

158 (c) All quilted clothing shall be tagged and labeled in conformity with the Federal
159 Textile Fiber Products Identification Act, 15 U.S.C. [~~Sec.~~] Secs. 70 through 70k.

160 (3) No person, except the purchaser, may remove, deface, or alter a tag attached
161 according to this chapter.

162 (4) A used mattress shall be tagged with the word "USED," in accordance with rules
163 established by the department.

164 (5) The retailer of a used mattress shall display the mattress so that the "USED" tag is
165 clearly visible to a customer.

166 Section 5. Section **4-10-14** is enacted to read:

167 **4-10-14. Sterilization of filling material.**

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

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

Legislative Review Note
Office of Legislative Research and General Counsel