

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S3/21/13

# A Bill

SENATE BILL 1010

5 By: Senator J. Hutchinson  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE OFFENSE OF UNLAWFUL SALE OF  
9 BEDDING; AND FOR OTHER PURPOSES.

### Subtitle

10 TO CREATE THE OFFENSE OF UNLAWFUL SALE OF  
11 BEDDING.  
12

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 *SECTION 1. Arkansas Code Title 20, Chapter 27, is amended to create a*  
20 *new subchapter to read as follows:*

21  
22 20-27-2701. Definitions.

23 (a) As used in this subchapter:

24 (1) "Bedding" means a mattress, upholstered spring, comforter,  
25 pad, cushion, pillow, box springs, foundation or studio couch made, in whole  
26 or part of, new or secondhand fabric, filling materials, or other materials,  
27 which can be used for sleeping or reclining purposes;

28 (2) "Department" means the Arkansas Department of Health;

29 (3) "Director" means the director of the Arkansas Department of  
30 Health;

31 (4) "Manufacture" means the making of bedding out of new  
32 material;

33 (5) "New material" means any fabric, filling material, other  
34 material, or article of bedding that has not been previously used in the  
35 manufacturing, distributing, or retailing process or for which the legal  
36 title has not been transferred by a manufacturer, distributor, or retailer to



1 a final purchaser, including by-products of any textile or manufacturing  
2 process that are free from dirt, insects, and other contamination;

3 (6) "Person" means an individual, sole proprietorship,  
4 partnership, limited liability company, corporation, joint venture,  
5 association, trust, and any other entity and the agents, servants and  
6 employees of the entity;

7 (7) "Renovator" means a person that repairs, makes over,  
8 recovers, restores, sanitizes, germicidally treats, cleans or renews bedding;

9 (8) "Sanitizer" means a person that sanitizes, germicidally  
10 treats or cleans, but does not otherwise alter, any fabric, filling material,  
11 other materials, or article of bedding for use in manufacturing or renovating  
12 bedding;

13 (9) "Secondhand material" means any fabric, filling material,  
14 other material, or article of bedding that has been previously used for any  
15 purpose, including without limitation floor samples from any source other  
16 than a seller's own business and factory-returned materials or bedding, or is  
17 derived from a postconsumer or industrial waste and that may be used in place  
18 of new material in manufacturing or renovating bedding;

19 (10) "Seller" means a person that offers or exposes for sale,  
20 barters, trades, delivers, consigns, leases, possesses with intent to sell,  
21 or disposes of bedding in any commercial manner at the wholesale, retail or  
22 other level of trade.

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24 20-27-2702. Bedding labels.

25 (a)(1) All bedding manufactured, renovated, sanitized, or sold by a  
26 seller within the state shall bear a clear and conspicuous label that  
27 explicitly states whether the bedding is made from all new materials or is  
28 made in whole or in part from secondhand materials.

29 (2) The label on bedding made from all new materials shall be  
30 white in color and shall state, "ALL NEW MATERIAL".

31 (3) The label on bedding made in whole or in part from  
32 secondhand materials shall be yellow in color and shall state, "SECONDHAND  
33 MATERIALS".

34 (4) The labels shall also comply with rules adopted by the  
35 department regarding label dimension, format, informational content, wording,  
36 letter size, material, means of placement and affixing to the bedding, and

1 other relevant factors.

2 (5) Labels required by this section shall be permanently  
3 affixed.

4 (b) A person shall not remove, deface, or alter in whole or in part a  
5 label or any statement on a label with the intent to defeat the provisions of  
6 this section.

7 (c) A person shall not make a false or misleading statement on any  
8 label required under this section.

9 (d) The director shall approve the form and size of labels, the fabric  
10 of which the labels are made, and the wording and statements on labels  
11 provided for under this section.

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

15 (f) Labels required by this section shall have printing only on one  
16 side.

17 (g) Advertising matter shall not be placed on any label or any other  
18 printed matter not required by the provisions of this section.

19 (h) The following statements and headings shall be shown on labels:

20 (1) "UNDER PENALTY OF LAW THIS TAG SHALL NOT BE REMOVED EXCEPT  
21 BY THE CONSUMER" shall appear at the top of the label;

22 (2) Headings shall read "All New Material" when the bedding  
23 material is wholly new material;

24 (3) "Secondhand Material" when the bedding material in whole or  
25 in part is comprised of secondhand material;

26 (4) Description of filling material as provided in the  
27 applicable regulations shall be included on the label;

28 (5) The registry number assigned or approved by the Department  
29 shall be included on the label;

30 (6) Certification by the manufacturer that the materials in this  
31 article are described in accordance with law shall be included on the label;

32 (6) For renovated articles, the name and address of the owner.

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34 20-27-2704. Bedding materials.

35 (a) The contents and uses and percentage of filling materials used in  
36 articles of bedding and in bulk form shall be stated on the label.

1 (b) Percentages shall be computed on the basis of avoirdupois weight  
2 of the filling material present and shall be designated on the label in order  
3 of predominance with the component with the largest content listed first.

4 (c) The department may establish grades, specifications and tolerances  
5 for the kinds and qualities of materials that may be used in the manufacture,  
6 repair or renovation of bedding comprised of new materials or secondhand  
7 materials and may approve or adopt designations and rules which are not in  
8 conflict with any provisions of this section for the labeling of bedding  
9 filled with such materials.

10 (d) The repairer or renovator of any bedding that is subsequently sold  
11 shall affix the secondhand material label, which shall be attached to the  
12 bedding before delivery to the owner.

13 (e)(1) Bedding shall not be manufactured in whole, or in part, from  
14 any secondhand material unless such material has been sanitized, germicidally  
15 treated or cleaned by a method approved by the department.

16 (2) All bedding containing material that is sanitized,  
17 germicidally treated, or cleaned in accordance with subsection (k) of this  
18 section shall bear a clear and conspicuous label that states the following:  
19 "THIS BEDDING CONTAINS PREVIOUSLY USED MATERIALS THAT HAVE BEEN CLEANED AND  
20 SANITIZED IN AN APPROVED MANNER TO KILL GERMS AND INSECTS AND TO PREVENT  
21 INFECTION."

22 (3) In addition, such label shall state:

23 (A) The specific methods of sanitizing, germicidal  
24 treatment, or cleaning applied;

25 (B) The date on which the article was sanitized, treated,  
26 or cleaned;

27 (C) The name, address and permit number of the person  
28 applying the sanitizing, treatment, or cleaning; and

29 (D) Specifically which materials or articles have been  
30 sanitized, treated, or cleaned.

31 20-27-2705. Bedding inspections.

32 (a)(1) The department may, at its discretion, randomly conduct bedding  
33 and materials product tests and inspections of the premises of any bedding  
34 manufacturer, renovator, or sanitizer for the purpose of determining  
35 compliance with the provisions of this section and the department's rules  
36

1 adopted under this section.

2 (2) If the department finds probable cause to believe that an  
3 article of bedding violates any provisions of this section, it may embargo,  
4 remove, recall, condemn, destroy or otherwise dispose of bedding found to  
5 violate any provisions of this section;

6 (3)(A)(i)(a) The department may deny, suspend, or revoke an  
7 initial or renewal permit of any person that violates any provision of this  
8 section.

9 (b) Each day of a continuing violation  
10 constitutes a separate violation.

11 (ii) A person who violates any provision of this  
12 section commits a Class A misdemeanor.

13 (B) The court may order restitution in addition to any  
14 other penalty provided in sections.

15 (C) The department may petition for an injunction to  
16 restrain a continuing violation of this section or a threat of a continuing  
17 violation of this section, provided such violation or threatened violation  
18 creates an immediate threat to public health and safety.

19 (D)(i) A manufacturer, renovator, or seller that knowingly  
20 attaches to bedding, or sells bedding bearing, a label stating that the  
21 product is made from all new materials, when the person has actual knowledge  
22 or reason to believe or suspect that such bedding is made in whole or in part  
23 from secondhand materials commits a Class A Misdemeanor.

24 (ii) Each bedding product that is found to be  
25 falsely labeled in this respect constitutes a separate violation.

26 20-27-2706. Rules.

27 (a) The department may adopt rules to implement this section,  
28 including without limitation rules regarding the following:

29 (1) Mandatory label dimensions;

30 (2) Format;

31 (3) Informational content, including the name, address, and  
32 permit number of the manufacturer, renovator, or sanitizer;

33 (4) Letter size;

34 (5) Material;

35 (6) Placement;

36 (7) Affixing specifications; and

