



COMMONWEALTH of VIRGINIA
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Richmond 23219

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August 30, 2005

Robert B. Stroube, M.D., M.P.H.
State Health Commissioner
Department of Health
P.O. Box 2448
Richmond, Virginia 23218-2448

Regulation for Bedding and Upholstered Furniture Inspection Program

Dear Dr. Stroube:

I have reviewed the regulation proposed for the Bedding and Upholstered Furniture Inspection Program dated August 4, 2005. The proposed regulation is intended to replace an emergency regulation and will add Chapter 125 to the *Virginia Administrative Code* at Title 12, Agency 5 (12 VAC 5-125-10 *et seq.*). Virginia Department of Health staff prepared the regulation in response to legislation passed by the General Assembly and signed into law by the Governor (Chapter 1003 of the 2003 Acts of Assembly, H.B. 2810).

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject regulations pursuant to *Code of Virginia* § 32.1-12.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

D. Nelson Daniel
Assistant Attorney General

cc: Robert W. Hicks, Director, Office of Environmental Health Services
Gary L. Hagy, Director, Division of Food and Environmental Services