

CHAPTER 125

**REGULATIONS FOR BEDDING AND UPHOLSTERED
FURNITURE INSPECTION PROGRAM**

12VAC5-125-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Antique” means any product which is at least 75 years old.

“As is” means a sales term to describe bedding and upholstered furniture products as any condition other than in new or undamaged condition.

"Board" means the State Board of Health

“Bedding” means any mattress, mattress pad, box spring, upholstered bed, davenport, futon, upholstered sofa bed, quilted pad, packing pads, hammock pad, comforter, quilt, bolster, cushion, pillow, featherbed, sleeping bag, studio couch, or any other bag, case, pillow, cushion, or cover made of leather, textile, or other material which is stuffed or

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filled in whole or in part with concealed substance, which can be used by any human being for sleeping or reclining purposes.

"Bedding Program" means the Bedding and Upholstered Furniture Inspection Program, a unit of the Department of Health authorized by the Commissioner to carry out the duties and responsibilities of this chapter.

"Commissioner" means the State Health Commissioner, his duly designated officer or agent.

"Department" means the State Department of Health.

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the Commissioner, to act on his behalf.

"Distributor / Wholesaler" means any person who receives bedding, upholstered furniture, or filling materials from another company for the purpose of resale.

"Filling Material" means cotton, wool, feathers, kapok, down, hair, liquid, plant or vegetable fibers, or any other material or substance or combination thereof, loose or in batting, pads, or any prefabricated form, concealed or not concealed, that is used or that may be used in articles of bedding or upholstered furniture.

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“Importer” means any person who for the purpose of manufacture or resale receives bedding, upholstered furniture or filling material from any country other than the United States.

“Inspector” means Department employees designated by the Commissioner to inspect, examine, investigate, evaluate and conduct tests, review documentation, interview witnesses, take samples and provide testimony in the enforcement of Title 32.1 and § 59.1-200 of the Virginia Consumer Protection Act.

“Law Label” means the tag bearing legal information concerning the contents and manufacturing location as required by § 32.1-219. A white tag certifies all new materials. A yellow label indicates used materials.

“Licensing State” means any of the United States that require a manufacturer, importer, distributor/wholesaler, supply dealer, reupholsterer, or renovator to apply for a license in order to sell bedding and upholstered furniture products in that state.

“License” means permission granted in accordance with § 32.1-217 for every person manufacturing, importing, distributing/wholesaling, processing or selling any filling materials to be used in new bedding and upholstered furniture, and reupholstering or renovating bedding or upholstered furniture being returned to its original owner.

"Manufacturer" means a person who, using new materials, makes or has employees or agents make any article of bedding or upholstered furniture in whole or in part, or who covers or upholsters any unit thereof.

"New" means not previously used for any purpose. Uncovered floor models, and customer returns shall not be considered new. Manufacturing process shall not be considered prior use.

"Permit" means consent granted in accordance with § 32.1-216 to approve a process to sanitize or sterilize filling material, bedding or upholstered furniture by a person treating used products for resale.

"Person" means an individual, corporation, partnership, association or any other legal entity.

"Renovator" means a person who rebuilds, repairs, makes over, re-covers, restores, renovates or renews used bedding.

"Retailer" means any person engaged in commerce who sells any article of bedding, upholstered furniture or filling materials to a consumer of the article as purchased.

"Reupholsterer" means a person who, either by himself or herself or through employees or agents, repairs, reupholsters, re-covers, restores, or renews upholstered furniture; or

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who makes to order and specification of the user any article of upholstered furniture, using either new materials or the owner's materials.

“Sanitize” means to reduce the level of microbiological agents to a level not injurious to health.

"Sanitizer" means a person who sanitizes articles of bedding or upholstered furniture.

“Secondhand” means having been made prior use of or containing any filling material of which prior use has been made or which has been in a customer’s possession.

"Sell" or any of its variants, includes any of, or any combination of, the following: sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess with an intent to sell or dispose of in any other commercial manner.

“Shoddy” means any material, which has been spun into yarn, knit, or woven into fabric and subsequently, cut up, torn up, broken or ground up.

“Shoddy pad” (also called “insulator pad”) means a non-woven material made from by-products of textile or manufacturing processes and is free from dirt, insects, and other contamination.

“Soiled or torn” means articles of new or used bedding or upholstered furniture that contain stains, dirt, ripped edges or covers, or damaged frames.

“Sterilize” means to render free of viable microbiological agents.

“Supply dealer” means a person who manufactures, processes or sells any felt, batting, pads, woven or plastic fabrics, or loose material in bags or containers, concealed or not concealed, to be used or that could be used in articles of upholstered furniture or bedding.

“Uniform Registry Number” (also called “registration number” and “REG. NO.”) means a unique number assigned to a licensee by a licensing state to identify the name and each location of a manufacturer, reupholsterer, sanitizer, renovator, or importer of bedding and upholstered products. The Uniform Registry Number begins with the initials of the licensing state, followed by the assigned number, then the initials of the state or country where the manufacturer, reupholsterer, sanitizer, renovator, or importer is physically located. Each location of a manufacturer, reupholsterer, sanitizer, renovator, or importer uses only one Uniform Registry Number.

“Upholstered Furniture” means any article of furniture designed to be used for sitting, resting or reclining that is wholly or partly stuffed or filled with any filling material.

Upholstered furniture may include, but is not limited to, children’s furniture, furniture used exclusively for the purpose of physical fitness and exercise, medical equipment, or

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furniture or seats in RVs, boats or automobiles. Upholstered furniture may be movable or stationary, made or sold with cushions or pillows, loose or attached, or is itself stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or any other covering, including cushions or pillows belonging to or forming a part thereof, together with the structural units, the filling material and its container and its covering which can be used as a support for the body of a human being, or his or her limbs and feet..

"Used" means bedding or upholstered furniture that has been previously owned or used by another person.

"Wholesaler" means a person who, on his or her own account, sells any article of upholstered furniture or bedding or filling materials to another for the purpose of resale.

Filling material definitions will be in accordance with definitions published in the 2004 Edition of the International Sleep Products Association Handbook,

12VAC5-125-20. Administration.

A. The Board has the responsibility to promulgate, amend and repeal regulations necessary to protect the public health and the environment.

B. The State Health Commissioner is the chief executive officer of the State

Department of Health. In accordance with §§ 32.1-20 and 32.1-22, the commissioner has the authority to act for the Board when it is not in session, subject to such rules and regulations as may be prescribed by the Board, and may employ such personnel as are necessary for the proper performance of his duties as executive officer of the Board.

C. In addition to other authority granted by law, the Commissioner has the authority to do the following:

1. Approve the process of sanitizing or sterilizing filling materials, bedding, or upholstered furniture.
2. Issue licenses/permits and assign a uniform registry number to importers, manufacturers, renovators, reupholsterers, or sanitizers.
3. Order the return of any item of bedding or upholstered furniture or any filling material made, remade, renovated, reupholstered, prepared, processed, labeled or not labeled in violation of the provisions of this chapter to the manufacturer or importer thereof.
4. Inspect the premises of a holder of a license or permit issued by the Commissioner, subject to the requirements set forth at 12 VAC 5-125--80.
5. Refuse to issue, suspend or revoke the license or permit of any person (i) who violates any provision of this chapter, any regulation of the Board pursuant to this chapter or any order of the Board or Commissioner or (ii) who is not a resident of the Commonwealth and fails or refuses to enter an appearance in any circuit court in the Commonwealth to answer a charge or charges of

violation of any provision of this chapter, regulation of the Board or order of the Board or Commissioner.

12VAC5-125-30. Powers and procedures of chapter not exclusive.

The Board reserves the right to authorize a procedure for enforcement of this chapter which is not inconsistent with the provisions set forth herein and the provisions of Chapter 1 (§32.1-1 et seq.) of Title 32.1 of the Code of Virginia.

12VAC5-125-40. Exemptions.

The provisions of this chapter shall not apply to:

1. Any item of bedding or upholstered furniture sold under the order of any court or pursuant to §55-419, any sale of a decedent's estate or any sale by any individual of his household effects.
2. Upholstered furniture and bedding products which are antiques as defined in 12VAC5-125-10.
3. Any interstate public carrier.
4. Any state institution, agency or department unless such institution, agency or department offers for sale to the public items of bedding or upholstered furniture manufactured, reupholstered or renovated by it.
5. Any retailer who sells, gives away, or rents used upholstered furniture that has been purchased by the retailer as new furniture and has been used in the

course of business when such used furniture has been (i) conspicuously identified as used furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.

6. Any person who sells at retail, exclusively on a consignment basis, articles of bedding that are handmade by individuals and whose gross annual receipts from the sale of such articles are not in excess of \$2,000 shall be deemed to be the manufacturer of such articles and shall not be required to obtain a license to make such articles. Each such article shall have a label affixed stating the kind of filling materials used in such article but shall be exempt from any other requirement as to tags set forth in this chapter.

12VAC5-125-50. Licenses, permits, and registration numbers.

A. Licenses for manufacturers, importers, distributors, wholesalers, renovators, reupholsterers, supply dealers.

1. Every importer and every person manufacturing, renovating or reupholstering any bedding or upholstered furniture or processing or selling any filling material to be used in articles of bedding or upholstered furniture, such as a distributor/wholesaler or supply dealer, shall first obtain a license from the Commissioner for each place of business, subsidiary, branch or branch factory operated or contracted by him for such purpose.

2. Such license shall be numbered, shall, unless sooner revoked, expire one year from the date of issue, shall be renewable annually through receipt of a fee, and shall not be transferable. The Commissioner shall assign a Uniform Registry Number to each licensee.

3. Each branch, branch factory and subsidiary shall be responsible for the contents and for the tagging, as provided in this chapter, of items of bedding and upholstered furniture made, remade, renovated, reupholstered, or imported by it and offered for sale or use in the Commonwealth.

4. Every person who, on his or her own account or for others, sells or distributes either directly or indirectly to any person either at wholesale or retail any bedding, filling material, shoddy pad, or upholstered furniture by means of a permanent location, car, truck, catalog, office, internet sales or in any other manner, shall obtain from the Commissioner a license for each such method of sale or distribution.

B. Permits for sterilizers and sanitizers.

Every person who, on his or her own account or for others, is a sterilizer or a sanitizer shall obtain from the Commissioner a permit for each location at which sterilizing or sanitizing operations occur. Any person applying for approval of a process by which filling materials, bedding, or upholstered furniture are sanitized or sterilized shall submit to the Commissioner a description of the process, test results and any apparatus and method to be used in such process. Upon approval of such process by the

Commissioner and payment of the current annual permit fee by the applicant, a numbered permit for use of such process shall be issued. Such permit shall expire one year from the date of issue. Nothing herein shall prevent any person from having any sanitizing or sterilization required by this chapter performed by any person who has a valid permit for such purposes, provided the number of such permit appears on the tag attached to each article as required by §32.1-219.

C. General provisions.

1. Any person subject to this section must obtain a new license or permit when there is change of ownership or a change of Federal Taxpayer Identification Number (TIN). A new license or permit is not required for a change of company name or address if the ownership remains the same, but the person must notify the Commissioner of such change within 30 days after such change. Licenses and permits are non transferable.
2. Every person subject to this section doing business at the same address under more than one firm name shall obtain a license for each firm name.

D. Procedure for obtaining a license or permit.

1. Submit a written application for license or permit to the Bedding Program on a form provided by the Bedding Program prior to selling in the Commonwealth.
2. With the application, submit the required application fee, in accordance with the fee schedule, in the form of a check in U.S. Dollars.

E. Issuance of license or permit.

The Bedding Program shall issue the appropriate license or permit to the applicant after:

1. A properly completed application is submitted;
2. The appropriate fee, if required, is submitted;
3. A preoperational inspection shows that the manufacturer, importer, distributor, wholesaler, renovator, reupholsterer, or supply dealer is in compliance with the requirements of this chapter.

12VAC5-125-60. Revocation of a license or permit.

The Commissioner may, after providing an opportunity for a hearing, revoke a license or permit for flagrant or continuing violation of any of the requirements of this chapter.

Prior to revocation, the Commissioner shall notify in writing the holder of the license or permit of the specific reason for which the license or permit is to be revoked. The license or permit shall be revoked at the end of the 15 days following service of such notice unless a written request for a hearing is filed before then with the Commissioner. If no request for a hearing is filed within the 15 day period, the revocation of the license or permit shall be final.

12VAC5-125-70. Application after revocation.

Any person whose license or permit has been revoked, may apply for a new license or permit by following the procedures outlined in 12VAC5-125-50.

12VAC5-125-80. Bedding and upholstered furniture inspections.

A. Inspections of license and permit holders.

Inspection of the premises of a holder of a license or permit issued under this chapter will be initiated upon the following complaints when they relate to a violation of this chapter:

1. Upon complaints received by the Commissioner.
2. Upon complaints received by the Bedding Program.
3. Upon complaints received by the Department of Agriculture and Consumer Services and reported to the Commissioner or Bedding Program.
4. Upon complaints made to an inspector in the course of a routine inspection and reported to the Bedding Program.
5. Upon complaints against a licensee made by an inspector when noted in the course of a routine inspection of an ancillary operation (such as a sanitizer, distributor/wholesaler or retailer) and reported to the Bedding Program.
6. Upon complaints (or findings of violations) against a licensee by the authorities of a government jurisdiction outside the Commonwealth that the licensee has sold bedding in violation of laws, regulations or standards of that jurisdiction dealing with tagging, sanitization, or consumer protection requirements.
7. Upon late or non-renewal of permit or license by a licensee or permit holder or upon late notification of a change of location. Renewal application and payment

not received by the due date contained in the renewal notice and a failure to timely notify the Commissioner of a change of address shall result in the licensee being moved to an unlicensed status and may result in an inspection by the Bedding Program to determine if the licensee continues in business. If the licensee continues to operate, a license or permit shall not be issued until a program inspection occurs and the requirements of the law are satisfied.

Inspections will be carried out and completed as required under the law.

B. Request for information, documents; verifications.

1. Upon complaint, the Commissioner may request that a licensee provide information and documentation to substantiate its compliance with the requirements of this chapter. The Commissioner may also require that the accuracy and completeness of such information and documentation be verified.
2. Upon a finding that a licensee has failed to timely and fully comply with a request for information and documents issued by the Commissioner, or failed to substantiate the accuracy and completeness of such information and documentation, a review may be conducted by the Bedding Program.
3. Any holder of a license or permit is required to report to the Bedding Program any occurrences of insect infestation at the licensee's or permit holder's place of business or in any article of new or used bedding or upholstered furniture offered for sale, rent, or use.

C. Inspections of unlicensed entities.

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Inspections of unlicensed entities and of retailers of bedding and upholstered furniture

may be conducted in accordance with § 32.1-25.

Inspections shall be conducted upon receipt of application for a permit or license by an unlicensed entity.

12VAC5-125-90. Law labels conforming to the Virginia law.

A. Every importer of and every person manufacturing a new item of bedding or upholstered furniture shall attach securely thereto a substantial white cloth tag (law label) or equivalent, visible on the outside covering of such item and not less than six square inches in size, upon which shall be plainly stamped or printed, in English, the name and address of the manufacturer, importer, or distributor, the registration number of the manufacturer or importer, the kind of filling material used therein, a statement that the filling materials are new, and the number of the permit issued to the person sterilizing any new feathers, hair, or down in such item.

B. Law labels for new bedding and upholstered furniture shall be securely attached to the article or filling material at the point of manufacture, in a position where they can be conveniently examined. Law labels shall contain no advertising matter, nor anything that detracts or is likely to detract from the required statements. No mark, tag, sticker, or any other device shall be placed upon law labels by any dealer or any other person in such a way as to cover the required statements. No one may possess such law labels

outside that facility unless by prior approval of the Commissioner for correction purposes.

C. Any person sanitizing, remaking, renovating, or reupholstering any secondhand item of bedding or upholstered furniture, or manufacturing any item of bedding or upholstered furniture containing any shoddy or secondhand filling material, shall attach securely to it a substantial yellow cloth tag or equivalent (law label), visible on the outside of such item and not less than six square inches in size, upon which shall be stamped or printed, in English, the kind of filling materials used therein, a statement that the item or filling materials are secondhand, and the number of the permit issued to the person who sanitized such item or filling material. This requirement shall not apply to mattresses that contain a shoddy pad unless it otherwise contains secondhand filling materials.

D. Any person shipping or delivering filling material, however contained, shall have conspicuously attached thereto a law label upon which shall be stamped or printed, as provided in §32.1-219 or as provided in this chapter, the kind of material, whether the material is new or secondhand, the name, address, and registration number of the manufacturer or importer, and the permit number of the person who sterilized or sanitized such material.

E. The stamp or print on law labels required by this section shall be in type not less than three millimeters in height.

F. It shall be unlawful to use any false or misleading statement, term or designation on any tag required by this chapter or to remove, deface or alter, or to attempt to remove,

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deface or alter any such tag or the statement of filling materials made thereon, prior to retail sale.

G. No person shall use or have in his possession with intent to use any tag provided for in this chapter unless such person holds a license or permit issued to him pursuant to this chapter. No person shall sell, give or in any way provide such law labels to anyone who does not have a license, or permit issued to him pursuant to this chapter, or is not allowed to use such a tag pursuant to this provision.

(Specific law label requirements contained in Attachments 1-7)

THE FOLLOWING LABELS COMPLY WITH THE VIRGINIA LAW

NO. 1
WHITE LABEL FOR ALL NEW MATERIAL
For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →
In bold, black ink, minimum type size
3mm in height

→
Space for description of filling material.
Printing to be in English ONLY using
capital letters
not less than 3mm in height
→

See NOTE (3) at bottom of page. →

Required in Virginia →

“Date of Delivery” line of Manufacturer’s
stock information, etc., here.
→

<hr/> <p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</p> <hr/> <p>ALL NEW MATERIAL CONSISTING OF</p> <hr/>
<p>REG. NO.</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law</p> <hr/>
<p>MADE BY (NAME OF MANUFACTURER OR VENDOR) (ADDRESS OF MANUFACTURER OR VENDOR) Date of Delivery _____</p> <p><i>(Additional Information)</i></p>

Note:

- (1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.
- (3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another State, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

NO. 2
WHITE LABEL FOR ALL NEW MATERIAL
ARTICLES WITH EXTRA CUSHIONS AS AN
INTEGRAL PART OF UNIT
For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.
Printing to be in English ONLY using capital letters
not less than 3mm in height

→

See NOTE (3) at bottom of page. →

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock
information, etc., here.

→

<hr/> UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER <hr/> ALL NEW MATERIAL CONSISTING OF BODY CUSHIONS <hr/> REG. NO. <hr/> Certification is made by the manufacturer that the materials in this article are described in accordance with law. <hr/> MADE BY (NAME OF MANUFACTURER OR VENDOR) (ADDRESS OF MANUFACTURER OR VENDOR) Date of Delivery _____ <i>(Additional Information)</i>

Note:

- (1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.
- (3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another State, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

NO. 3

WHITE LABEL FOR ALL NEW MATERIAL

For Animal and Fowl and Any Other Filling Material Requiring Sterilization

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.
Printing to be in English ONLY using capital letters
not less than 3mm in height

→

See NOTE (3) at bottom of page. →

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock
information, etc., here.

→

<hr/> UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER <hr/>	
ALL NEW MATERIAL CONSISTING OF	
<hr/> REG. NO.	<hr/> PERMIT NO.
Certification is made by the manufacturer that the materials in this article are described in accordance with law	
<hr/> CONTENTS STERILIZED	
<hr/> MADE BY	
(NAME OF MANUFACTURER OR VENDOR)	
(ADDRESS OF MANUFACTURER OR VENDOR)	
Date of Delivery _____	
<i>(Additional Information)</i>	

Note:

- (1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.
- (3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another State, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.
- (4) Virginia will accept the PERMIT NO. issued by another State if applicant so desires providing approval is granted and a Virginia Sterilization Permit is issued to applicant bearing such number.

NO. 4

YELLOW LABEL FOR ARTICLES WHICH HAVE BEEN REMADE AND
RENOVATED FOR CONSUMER, AND WHICH CONTAIN
SECONDHAND MATERIAL IN WHOLE OR IN PART

If new filling material has been added, state type in space provided

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.
Printing to be in English ONLY using capital letters
not less than 3mm in height

→

Registration number or name of person or firm that

renovated article →

**UNDER PENALTY OF LAW THIS TAG NOT TO
BE REMOVED EXCEPT BY CONSUMER**

This article contains the same material received
from the owner, to which has been added the
following New material.

The following work has been done:

YES NO

Old covering completely removed

Frame repaired

Spring retied and/or repaired

OTHER: _____

REG. NO.

This article must not be sold, it is the
property of and must be returned to:

Name _____

Address _____

REMADE AND RENOVATED BY

Date _____

(Additional Information)

Note:

- (1) All above printing in black ink on yellow vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.
- (3) If secondhand filling material is added instead of new, article is required to be sanitized and Law Label No. 6 shall be used stating Permit No. of person or firm doing the sanitizing.

NO. 5
YELLOW LABEL FOR ARTICLES CONTAINING
ALL SECONDHAND MATERIAL OFFERED
FOR SALE OR RENT "AS IS"
REQUIRED TO BE SANITIZED

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

Permit number of person or firm who sanitized

article →

<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</p> <hr/> <p>THIS ARTICLE CONTAINS ALL SECOND-HAND MATERIAL CONTENTS UNKNOWN</p> <hr/> <p>PERMIT. NO.</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with the Law .</p> <hr/> <p>SANITIZED</p> <hr/> <p>SANITIZED BY</p> <p>Date Sanitized _____</p> <p><i>(Additional Information)</i></p>

Note:

- (1) All above printing in black ink on yellow vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.

ATTACHMENT 6

NO. 6
YELLOW LABEL FOR ARTICLES WHICH HAVE BEEN RENOVATED
FOR RESALE AND WHICH CONTAIN
SECONDHAND MATERIAL IN WHOLE OR IN PART
REQUIRED TO BE SANITIZED

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Registration number of person or firm who renovated
article. Permit number of person or firm who

sanitized article →

<hr/> UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER <hr/>	
THIS ARTICLE CONTAINS	
SECOND HAND MATERIAL	
TO WHICH HAS BEEN ADDED	
<hr/> REG. NO.	<hr/> PERMIT NO.
Certification is made by the manufacturer that the materials in this article are described in accordance with the law.	
<hr/> CONTENTS SANITIZED <hr/>	
REMADE AND RENOVATED BY	
RENOVATOR NAME _____	
RENOVATOR ADDRESS _____	
Date Sanitized _____	
<i>(Additional Information)</i>	

Note:

- (1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.

NO. 7
WHITE LABEL FOR ALL NEW MATERIAL
ARTICLES IMPORTED INTO THE UNITED STATES
For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →
In bold, black ink, minimum type size 3mm in height

→
Space for description of filling material.
Printing to be in English Only using capital letters
not less than 3mm in height

→
See NOTE (3) at bottom of page. →

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock
information, etc., here.

→
Name of country where factory is located

→

<hr/> <p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</p> <hr/> <p>ALL NEW MATERIAL CONSISTING OF</p> <hr/> <p>REG. NO.</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law</p> <hr/> <p>IMPORTED BY _____</p> <p>Date of Delivery _____</p> <p>MADE IN _____</p>

Note:

- (1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.
- (2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (6) square inches, but may be greater as the need demands.
- (3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another State, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and the two letter abbreviation of the country in which factory is located shall follow the registration number in parenthesis.

12VAC5-125-100. Sanitization of used bedding and upholstered furniture.

A. No person engaged in commerce shall rent, offer or expose for sale, barter, give away, or dispose of in any other commercial manner any article of bedding or upholstered furniture made, remade, reupholstered or renovated in violation of § 32.1-213 or § 32.1-214 or any secondhand article of bedding or upholstered furniture unless since last used such secondhand article has been sanitized by a reasonable process approved by the Commissioner. However, a retailer may sell, give away, or rent used upholstered furniture when the used upholstered furniture has been purchased by the retailer as new furniture and has been used in the course of business. Such used furniture shall be (i) conspicuously identified as used furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.

B. No person shall use in the making, remaking, reupholstering or renovating of any bedding or upholstered furniture any shoddy or any fabric from which shoddy is made or any secondhand filling material or any secondhand feathers, animal hair or down, unless such shoddy, secondhand filling material, feathers, animal hair or down has been sanitized by a reasonable process approved by the Commissioner.

C. Steri-Fab or Microban, or a comparable product approved by the Commissioner meeting all the qualities and specifications of these chemicals, are the industry recognized chemicals for sanitizing and disinfecting mattresses, bedding or upholstered furniture. This process is required for any business sanitizing used, secondhand or

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renovated mattresses, box springs, or similar articles of bedding or upholstered furniture offered for resale or rent in Virginia. The use of these chemicals in compliance with the specific instructions from the product manufacturers is deemed a reasonable sanitization process approved by the Commissioner. All licensees are required to follow all product application, safety, storage, and disposal instructions provided by the product manufacturers. It is a violation of federal law to use Steri-Fab or Microban disinfectant in a manner inconsistent with its labeling. Diluting or mixing with other chemicals is prohibited.

D. Yellow Law Labels must be attached and dated as soon as sanitizing process is completed.

E. Persons donating (no monetary exchange) secondhand articles of bedding and upholstered furniture are not required to sanitize those articles if the donation is to a holder of a valid sanitizing permit. Any items sold (monetary exchange) must be sanitized first.

F. Persons dealing in used bedding and upholstered furniture shall maintain a log of sanitized items, indicating identification of item, date sanitized, and date rented or sold.

12VAC5-125-110. Sterilization of new animal hair, feathers and down.

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No person shall use in the making, remaking, reupholstering or renovating of any bedding or upholstered furniture any new animal hair, new feathers, or new down unless such new animal hair, new feathers, or new down shall have been sterilized by a reasonable process approved by the Commissioner.

12VAC5-125-120. Separation and storage of new and sanitized items.

A. New and sanitized upholstered furniture, bedding and filling materials shall be kept separate from any secondhand upholstered furniture, bedding and filling materials that have not been sanitized. To prevent contamination, a distance of at least 20 feet or a dividing wall must be kept between new and sanitized articles, and unsanitized used articles of bedding and upholstered furniture.

B. Delivery vehicles shall be disinfected before delivering new or sanitized items if that vehicle has been used to previously transport unsanitized used merchandise, not limited to bedding and upholstered furniture.

C. Mattresses shall be stored at least 6 inches from the floor or the height of one standard pallet (whatever is greater) in a dry room preferably above ground, and so spaced to allow a four inch separation around the four sides of the mattresses. The storage as well as workroom areas for sanitized items shall be clean and free from trash, vermin, insects, filth and any hazardous waste. Pets and other animals shall be prohibited in storage and workroom areas.

12VAC5-125-130. Violation of regulations.

A. It is the responsibility of the retailer to make certain that any article of bedding or upholstered furniture which he offers for sale in the Commonwealth of Virginia regardless of where manufactured, is properly labeled and is in compliance with all provisions of the law.

B. Upon a complaint made to the Commissioner as provided in § 32.1-224 of the Code of Virginia, the Commissioner may order the return of any item of bedding or upholstered furniture or any filling material made, remade, renovated, reupholstered, prepared, processed, labeled, or not labeled in violation of the provisions of this chapter to the manufacturer or importer thereof. The manufacturer or importer shall be liable to the person returning such item for the costs of crating, shipping and the invoice price to the purchaser. Failure of a manufacturer or importer to pay such costs to the person returning such item shall be grounds for revocation or suspension of a license issued pursuant to this chapter.

C. The Commissioner or his designee may order "off sale" all improperly sanitized or unsanitized articles of secondhand bedding or upholstered furniture. A significant number of violations in any one business location will result in a sign being placed on the business door taking off sale all used bedding and upholstered items in the store.

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These items may not be bartered, given away, rented or disposed of in any manner inconsistent with this chapter until properly sanitized

D. The Commissioner may refuse to issue, may suspend or may revoke the license or permit of any person who violates any provision of this chapter, or who is not a resident of the Commonwealth and fails or refuses to enter an appearance in any circuit court in the Commonwealth to answer a charge or charges of violation of any provision of this chapter, or order of the Board or Commissioner within 25 days after service upon him of a notice by certified mail.

E. Any violation of the provisions of this chapter shall constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

F. Any person violating any provision of this chapter shall be guilty of a Class 2 misdemeanor, pursuant to § 32.1-226.

12VAC5-125-140. Enforcement of regulation.

A. This chapter shall be enforced by the Board and the Commissioner, as executive officer of the Board.

B. All persons shall operate in compliance with the requirements set forth in this chapter and shall not operate without a valid license or permit.

C. Pursuant to the authority granted in § 32.1-224, the Commissioner may issue orders to require any license or permit holder or other person to comply with the provisions of this chapter. The order may require the following:

1. The immediate cessation and correction of the violation;
2. Appropriate remedial action to ensure that the violation does not continue or recur;
3. The submission of a plan to prevent future violations;
4. Any other corrective action deemed necessary for proper compliance with the regulations, and safety and health of the consumers of the Commonwealth.

F. Before the issuance of an order, the Commissioner must comply with the requirements of § 32.1-26.

G. All orders issued pursuant to subsection E. shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the license or permit holder or person violating this chapter.

H. The Commissioner may act as the agent of the Board to enforce all effective orders and these regulations. Should any license or permit holder fail to comply with any effective order or these regulations, the Commissioner may:

1. Institute a proceeding to revoke the license or permit in accordance with 12VAC5-125-60;
2. Request the attorney for the Commonwealth to bring a criminal action;
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Do any combination of the above.

I. Not exclusive means of enforcement. Nothing contained in 12 VAC 5-125-140 shall be interpreted to require the Commissioner to issue an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

J. Hearings before the Commissioner or his designee shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved:

1. Informal hearings. An informal hearing is a meeting with the Bedding Program Supervisor presiding and held in conformance with § 2.2-4019.

2. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding before the Commissioner, or his designated hearing officer, and held in conformance with § 2.2-4020.

12 VAC 5-125-150. Request for hearing.

A request for an informal hearing shall be made by sending the request in writing to the Bedding Program. Requests for hearings shall cite the reason(s) for the hearing request and shall cite the section(s) of these regulations involved and must be received within 15 days of the decision by the Department that lead to the hearing request.

12 VAC 5-125-160. Hearing as a matter of right.

Any person holding a license or permit or named party whose rights, duties, or privileges have been, or may be affected by any case decision of the Board or its subordinates in the administration of these regulations shall have a right to both informal and adjudicatory hearings. The Commissioner may require participation in an informal hearing before granting the request for a full adjudicatory hearing. Exception: No

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person other than an owner shall have the right to an adjudicatory hearing to challenge the issuance of a license or permit unless the person can demonstrate at an informal hearing that the minimum standards contained in these regulations have not been applied and that he will be injured in some manner by the issuance of the license or permit.

12 VAC 5-125-170. Penalties, injunctions, civil penalties and charges for violations.

1. Any person willfully violating, or refusing, failing, or neglecting to comply with any regulations or order of the Board or Commissioner, or any provision of this chapter, shall be guilty of a Class 2 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

2. Any person violating, or failing, neglecting, or refusing to obey any order of the Board or Commissioner, or any provision of this chapter may be compelled, in a proceeding instituted in an appropriate court by the Board or Commissioner, to obey and comply with such regulations, order, or any applicable provision of Title 32.1 of the Code of Virginia. The proceeding may be by injunction, mandamus, or other appropriate remedy.

3. Without limiting the remedies which may be obtained pursuant to the above subsection, any person violating or failing, neglecting, or refusing to obey any

injunction, mandamus, or other remedy obtained pursuant to the above subsection shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation. Each day of violation shall constitute a separate offense.

4. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any applicable provision of Title 32.1, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit set forth in the above subsection. Such civil charges shall be in place of any appropriate civil penalty that could be imposed under the above subsection

12VAC5-125-180. Fees.

The Board shall set the annual fees imposed for licenses and permits issued pursuant to this chapter. All fees collected shall be deposited and held by the Department in a separate fund, from which shall be paid all expenditures necessary in carrying out the provisions of this chapter.

The Board shall review the fees being charged for the services delivered by the Department pursuant to Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1 as such

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services and fees were in effect prior to July 1, 2003, and shall revise such fees, as appropriate, consistent with the level of services required by this chapter.

The fee schedule established by the Board is as follows:

<u>Vendor Description:</u>	<u>Annual Fee:</u>
<u>Manufacturer of Bedding</u>	<u>\$ 100.00</u>
<u>Manufacturer of Upholstered Furniture</u>	<u>100.00</u>
<u>Renovator (Bedding)</u>	<u>25.00</u>
<u>Reupholsterer</u>	<u>25.00</u>
<u>Supply Dealer</u>	<u>25.00</u>
<u>Importer</u>	<u>100.00</u>
<u>Sanitizer</u>	<u>60.00</u>
<u>Distributor/Wholesaler</u>	<u>100.00</u>

I certify that this regulation is full, true and correctly dated.

Robert B. Stroube, M.D., M.P.H.
State Health Commissioner

Date: _____, 2007