**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 88 TO TITLE 44 SO AS TO ENACT THE “BEDBUG PREVENTION AND SANITATION ACT”, TO PROVIDE DEFINITIONS, TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO APPROVE BEDBUG SANITATION APPARATUSES, TO REQUIRE THE TAGGING OF CERTAIN BEDDING MATERIALS AND TO PROVIDE TAGGING PROCEDURES, TO PROVIDE THAT MATERIALS USED IN THE MANUFACTURE OF BEDDING MUST BE FREE OF TOXINS AND MADE FROM NEW MATERIALS, TO REQUIRE SEGREGATION OF UNSANITIZED BEDDING MATERIALS FROM NEW BEDDING MATERIALS, TO PROHIBIT THE ALTERATION OF BEDDING TAGS, TO PROVIDE THAT THE SALE OF BEDDING MATERIAL ONLY MAY BE MADE UNDER CERTAIN CONDITIONS AND TO PROVIDE EXCEPTIONS, TO REQUIRE MANUFACTURERS OR SANITIZERS OF BEDDING MATERIALS TO OBTAIN LICENSURE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE A FEE SCHEDULE FOR LICENSURE AND LICENSE APPLICATION REQUIREMENTS, TO ESTABLISH A BEDDING LAW ACCOUNT INTO WHICH FEES MUST BE DEPOSITED AND TO PROVIDE PURPOSES FOR WHICH THESE FEES MAY BE EXPENDED, TO PROVIDE FOR ENFORCEMENT OF THIS CHAPTER BY THE DEPARTMENT, TO EXEMPT CERTAIN NONPROFIT AND STATE AGENCIES FROM THE PROVISIONS OF THIS CHAPTER, AND TO REQUIRE THE DEPARTMENT TO ADOPT RULES AND PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS CHAPTER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This chapter is known and may be cited as the “Bedbug Prevention and Sanitation Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 88

Bedbug Prevention and Sanitation Act

Section 44‑88‑10. As used in this chapter:

(1) ‘Bedding’ means a mattress, upholstered spring, sleeping bag, pad, comforter, cushion, pillow, decorative pillow, and any other padded or stuffed item designed to be or commonly used for reclining or sleeping. This definition includes dual purpose furniture including, but not limited to, studio couches and sofa beds. The term ‘mattress’ does not include water bed liners, bladders, or cylinders unless they contain padding or stuffing. The term ‘mattress’ also does not include quilts and comforters made principally by hand sewing or stitching in a home or community workshop.

(2) ‘Department’ means the Department of Health and Environmental Control.

(3) ‘Itinerant vendor’ means a person who sells bedding from a movable conveyance.

(4) ‘Manufacture’ means the making of bedding out of new materials.

(5) ‘New material’ means any material or article that has not been used for another purpose and by‑products of industry that have not been in human use.

(6) ‘Previously used material’ means any material of which previous use has been made, but manufacturing processes are not considered previous use.

(7) ‘Renovate’ means the reworking or remaking of used bedding or the making of bedding from previously used materials, except for the personal use of the renovator or the use of the renovator’s immediate family.

(8) ‘Sanitize’ means treatment of secondhand bedding or previously used materials to be used in renovating for the destruction of pathogenic microorganisms and arthropods and the removal of dirt and filth.

(9) ‘Secondhand bedding’ means bedding of which prior use has been made.

(10) ‘Sell’ or ‘sold’ means sell, have to sell, give away in connection with a sale, delivery, or consignment; or possess with intent to sell, deliver or consign in sale.

Section 44‑88‑20. (A) A person may not sell renovated bedding or secondhand bedding unless it is sanitized in accordance with rules adopted by the department.

(B) A sanitizing apparatus or process may not be used for sanitizing bedding or material required to be sanitized pursuant to this chapter until the apparatus is approved by the department.

(C) A person who sanitizes bedding shall attach to the bedding a yellow tag containing information required by the rules of the department.

(D) A person who sanitizes material or bedding for another person shall keep a complete record of the kind of material and bedding which has been sanitized. The record is subject to inspection by the department.

(E) A person who receives used bedding for renovation or storage shall attach to the bedding a tag on which is legibly written the date of receipt and the name and address of the owner.

Section 44‑88‑30. Materials used in the manufacture of bedding in this State or used in manufactured bedding to be sold in this State must be free of toxic materials and must be made from new materials.

Section 44‑88‑40. An establishment may not store unsanitized, previously used materials in the same room with bedding or materials that are new or have been sanitized unless the new or sanitized bedding or materials are completely segregated from the unsanitized materials in a manner approved by the rules of the department.

Section 44‑88‑50. (A) A tag of durable material approved by the department must be sewn securely to all bedding. The tag must be at least two inches by three inches in size.

(B) The following must be plainly stamped or printed upon the tag with ink in English:

(1) the name and kind of material or materials used to fill the bedding which are listed in the order of their predominance;

(2) a registration number obtained from the department; and

(3) in letters at least one‑eighth inch high the words ‘made of new material’, if the bedding contains no previously used material; or the words ‘made of previously used materials’, if the bedding contains any previously used material; or the word ‘secondhand’ on any bedding which has been used but not remade.

(C) A white tag must be used for manufactured bedding and a yellow tag for renovated or sanitized bedding.

(D) The tag must be sewn to the outside covering before the filling material has been inserted. A trade name, advertisement, or other wording may not appear on the tag.

Section 44‑88‑60. A person, other than one purchasing bedding for personal use or a representative of the department, may not remove, deface, or alter the tag required by this chapter.

Section 44‑88‑70. (A) A person may not sell bedding in this State, whether manufactured within or without this State, which has not been manufactured, tagged, and labeled in the manner required by this chapter and which does not otherwise comply with the provisions of this chapter.

(B) This chapter does not apply to bedding sold by the owner and previous user from the home of the owner directly to a purchaser for his personal use unless the bedding has been exposed to an infectious or communicable disease.

(C) Possession of bedding in a store, warehouse, itinerant vendor’s conveyance, or place of business, other than a private home, hotel, or other place where these articles are ordinarily used, constitutes prima facie evidence that the item is possessed with intent to sell. Secondhand bedding may not be possessed with intent to sell for a period exceeding sixty days unless it has been sanitized.

Section 44‑88‑80. A person who manufactures or sanitizes bedding in this State or manufactures bedding to be sold in this State shall apply for a registration number on a form prescribed by the commissioner of the department. Upon receipt of the completed application and applicable fees, the department shall issue to the applicant a certificate of registration showing the person’s name and address, registration number, and other pertinent information required by the rules of the department.

Section 44‑88‑90. (A) The department shall administer and enforce the provisions of this chapter. A person who has done business in this State throughout the preceding calendar year shall obtain a license by paying a fee to the department in an amount determined by the total number of bedding units manufactured, sold, or sanitized in this State by the applicant during the calendar year immediately preceding, at the rate of five and two tenths cents per bedding unit. However, if this amount is less than fifty dollars, a minimum fee of fifty dollars must be paid to the department.

(B) A person who has not done business in this State throughout the preceding calendar year shall obtain a license by paying an initial fee to the department in the amount of seven hundred twenty dollars for the first year in which business is done in this State, prorated in accordance with the quarter of the calendar year in which the person begins doing business.  After submission of proof of business volume in accordance with subsection (F) for the part of the preceding calendar year in which the person did business in this State, the department shall determine the amount of fee for which the person is responsible for that time period by using a rate of five and two tenths cents for each bedding unit. However, if this amount is less than fifty dollars, the amount of the fee for which the person is responsible is fifty dollars. If the person’s initial payment is more than the amount of the fee for which the person is responsible, the department shall make a refund or adjustment to the cost of the fee due for the next year in the amount of the difference.  If the initial payment is less than the amount of the fee for which the person is responsible, the person shall pay the difference to the department.

(1) Payments, refunds, and adjustments must be made in accordance with rules adopted by the department.

(2) Upon payment of the fees charged pursuant to subsections (A) and (B), or the first installment as provided by rules adopted by the department, the department shall issue a license to the person.  Licenses must be kept conspicuously posted in the place of business of the licensee at all times.  The commissioner may suspend a license for a maximum of six months for two or more serious violations of this chapter or of the rules of the department, within any twelve‑month period.

(C) A maximum fee of seven hundred fifty dollars must be charged for units of bedding manufactured in this State but not sold in this State.

(D) For the sole purpose of computing fees for which a person is responsible:

(1) one mattress is defined as one bedding unit;

(2) one upholstered spring is defined as one bedding unit; (3) one pad is defined as one bedding unit;

(4) one sleeping bag is defined as one bedding unit;

(5) five comforters, pillows, or decorative pillows are defined as one bedding unit; and

(6) any other item is defined as one bedding unit.

(E) An application for license must be submitted on a form prescribed by the commissioner. A license may not be issued to a person unless he complies with the rules of the department governing the granting of licenses.

(F) The department shall adopt rules for the proper enforcement of this section. The rules must include provisions governing the type and amount of proof which must be submitted by the applicant to the department in order to establish the number of bedding units that were, during the preceding calendar year:

(1) manufactured and sold in this State;

(2) manufactured outside of this State and sold in this State; and

(3) manufactured in this State but not sold in this State.

(G) The department may provide in its rules for additional proof of the number of bedding units sold during the preceding calendar year when it has reason to believe that the proof submitted by the manufacturer is incomplete, misleading or incorrect.

Section 44‑88‑100. The Bedding Law Account is established as a nonreverting account within the department. All fees collected pursuant to this chapter must be credited to the account and applied to the following costs:

(1) salaries and expenses of inspectors and other employees who enforce this chapter; and

(2) expenses directly connected with the enforcement of this chapter, including attorney’s fees, which are expressly authorized to be incurred by the commissioner without authority from any other source when in the commissioner’s opinion it is advisable to employ an attorney to prosecute any persons.

Section 44‑88‑110. (A) The department shall enforce the provisions of this chapter and the rules adopted by the department.

(B) The commissioner may prohibit sale and place an ‘off sale’ tag on any bedding which is not made, sanitized, or tagged as required by this chapter and the rules of the department. The bedding may not be sold or otherwise removed until the violation is remedied and the commissioner has reinspected it and removed the ‘off sale’ tag.

(C) A person who supplies material to a bedding manufacturer shall furnish an itemized invoice of all furnished material. Each material entering into willowed or other mixtures must be shown on the invoice. The bedding manufacturer shall keep the invoice on file for one year subject to inspection by the department.

(D) When the commissioner has reason to believe that bedding is not tagged or filled as required by this chapter, the commissioner has authority to open a seam of the bedding to examine the filling, and, if unable after this examination to determine if the filling is of the kind stated on the tag, has the authority to examine purchase or other records necessary to determine definitely the kind of material used in the bedding. The commissioner has the authority to seize and hold for evidence any records and any bedding or bedding material which in the commissioner’s opinion is made, possessed, or offered for sale in violation of this chapter or the rules of the department. The commissioner has the authority to take a sample of any bedding or bedding material for the purpose of examination or for evidence.

Section 44‑88‑120. (A) When bedding is manufactured, sanitized, or renovated in a plant or place of business which has qualified as a nonprofit agency for the blind or severely handicapped, the responsible person shall satisfy the provisions of this chapter and the rules of the department. However, the responsible persons at these plants or places of business are not required to pay fees.

(B) State institutions engaged in the manufacture, renovation, or sanitizing of bedding for their own use or that of another state institution are exempted from the provisions of this chapter.

Section 44‑88‑130. The department shall adopt rules and promulgate regulations necessary to effectuate the provisions of this chapter.”

SECTION 3. This act takes effect upon approval by the Governor.

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