A BILL TO BE ENTITLED
AN ACT TO EXTEND THE LAWS GOVERNING SANITATION OF BEDDING TO
SLEEP PRODUCTS AND SECONDHAND FURNISHINGS AND TO MAKE
CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO
THOSE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 8 of Article 8 of Chapter 130A of the General Statutes
reads as rewritten:


§ 130A-261. Definitions.
The following definitions shall apply throughout this Part:

(1) "Bedding" "Sleep product" means any 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
such as 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" "comforter" also does not
include quilts and comforters made principally by hand sewing or
stitching in a home or community workshop.

(2) "Itinerant vendor" means a person who sells bedding sleep products
from a movable conveyance.

(3) "Manufacture" means the making of bedding sleep products out of
new or sanitary recycled materials.

(4) "New material" means any material or article that has not been used
for any other purpose and by-products of industry that have not been in
human use.
(5) "Previously used material" means any material of which previous use has been made, but manufacturing processes shall not be considered previous use.

(6) "Renovate" means the reworking or remaking of used bedding mattresses or upholstered springs or the making of bedding mattresses or upholstered springs from previously used materials, except for the renovator's own personal use or the use of the renovator's immediate family.

(7) "Sanitize" means treatment of secondhand bedding—mattresses or upholstered springs or previously used materials to be used in renovating for the destruction of pathogenic microorganisms and arthropods and the removal of dirt and filth.

(8) "Secondhand bedding sleep products" means any bedding sleep products of which prior use has been made, which have been in a retail buyer's home or business for one night or more.

(9) "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.

(10) "Home furnishings" means tables, chairs, sofas, couches, rugs, carpets, dressers, cabinets, bed frames, bed posts, bed headboards, bed footboards, and any other furniture normally found in a home or rental unit.

(11) "Importer" means a person or business that brings goods manufactured outside of the United States into the United States for sale or distribution.

(12) "Bedbug" means any life stage of insects of the family Cimicidae.

(13) "Sanitary recycled material" means any material that has been previously used and has been sanitized or sterilized.

§ 130A-262. Sanitizing.

(a) No person shall sell any renovated bedding—sleep product or secondhand bedding—sleep product unless it is sanitized in accordance with rules adopted by the Commission.

(b) A sanitizing apparatus or process shall not be used for sanitizing bedding sleep products or material required to be sanitized under this Part until the apparatus is approved by the Department.

(c) A person who sanitizes bedding—sleep products shall attach to the bedding sleep products a yellow law tag containing information required by the rules of the Commission.

(d) A person who sanitizes material or bedding—sleep products for another person shall keep a complete record for one year after the materials or sleep products are sanitized of the kind of material and bedding—sleep products which have been sanitized. The record shall be subject to inspection by the Department.
(e) A person who receives used bedding-sleep products for renovation or storage shall attach to the bedding-sleep products a tag on which is legibly written the date of receipt and the name and address of the owner.

§ 130A-265. Manufacture regulated.

All materials used in the manufacture of bedding-sleep products in this State or used in manufactured bedding-sleep products to be sold in this State shall be free of toxic materials and shall be made from new materials or sanitary recycled materials.

§ 130A-266. Storage of unsanitized used materials.

No establishment shall store any unsanitized previously used materials-sleep products or secondhand furniture in the same room-building with bedding-sleep products or materials that are new or have been sanitized unless the new or sanitized bedding-sleep products or materials are completely segregated from the unsanitized materials in a manner approved by the rules of the Commission.

§ 130A-265. Tagging requirements.

(a) A law tag of durable material approved by the Commission shall be sewed or otherwise securely affixed to all bedding-sleep products. The tag shall be at least two inches by three inches in size. The law tag must be affixed to the product so that it is clearly visible to retail purchasers of the product. An exact facsimile of the law tag shall be affixed to or printed on the packaging of any sleep product that is sold in packaging that does not permit the buyer to clearly see the law tag affixed to the product itself.

(b) The following shall be plainly stamped or printed upon the law tag with black ink in English:

1. The name and kind of material or materials used to fill the bedding-sleep product 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-sleep product contains no previously used material; or the words "made of previously used materials", if the bedding-sleep product contains any previously used material; or the word "secondhand" on any bedding-sleep product which has been used but not remade.

(c) A white law tag shall be used for manufactured bedding-sleep products and a yellow law tag for renovated or sanitized bedding-sleep products.

(d) The tag must be sewed to the outside covering before the filling material has been inserted. No trade name, advertisement nor any other wording shall appear on either side of the tag.

(e) Renovated, remade, or remanufactured sleep products that contain used springs shall clearly state so in the law tag.

§ 130A-266. Altering tags prohibited.

No person, other than one purchasing bedding-sleep products for personal use or a representative of the Department shall remove, deface or alter the law tag required by this Part. Price tags or other tags or stickers may not be affixed to the law tag. However,
the manufacturer may affix adhesive stickers to law tags in order to correct erroneous information on the law tag.

(a) No person shall sell any bedding-sleep product in this State (whether manufactured within or without this State) which has not been manufactured, tagged, and labeled in the manner required by this Part and which does not otherwise comply with the provisions of this Part.
(b) This Part shall not apply to bedding-sleep products sold by the owner and previous user from the owner's home directly to a purchaser for the purchaser's own personal use unless the bedding-sleep product has been exposed to an infectious or communicable disease or to insects or other arthropods that are biting or blood-sucking ectoparasites.
(c) Possession of any bedding-sleep products in any 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, shall constitute prima facie evidence that the item is possessed with intent to sell. No secondhand bedding-sleep product shall be possessed kept on the business premises with intent to sell for a period exceeding 60 days unless it has been sanitized.

"§ 130A-268. Registration numbers.
(a) All persons importing, manufacturing or sanitizing bedding-sleep products in this State or importing or manufacturing bedding-sleep products to be sold in this State shall apply for a registration number on a form prescribed by the Secretary. 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 Commission. A registration number will not be issued if the Department determines that there is reasonable evidence that the business or sleep products do not comply with this Part or the rules adopted pursuant to this Part.
(b) through (e) Repealed by Session Laws 1987, c. 456, s. 6.

"§ 130A-269. Payment of fees; licenses.
(a), (b) Repealed by Session Laws 1987, c. 456, s. 7.
(c) The Department shall administer and enforce this Part. 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-sleep product 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 (5.2¢) per bedding-sleep product unit. However, if this amount is less than fifty dollars ($50.00), a minimum fee of fifty dollars ($50.00) shall be paid to the Department.
(d) 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 ($720.00) 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 (h) of this section 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 (5.2¢) for each bedding-sleep product unit. However, if this amount is less than fifty dollars ($50.00), then the amount of the fee for which the person is responsible shall be fifty dollars ($50.00). 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. (d1) Payments, refunds, and adjustments shall be made in accordance with rules adopted by the Commission. (d2) Upon payment of the fees charged pursuant to subsections (c) and (d), or the first installment thereof as provided by rules adopted by the Commission, the Department shall issue a license to the person. Licenses shall be kept conspicuously posted in the place of business of the licensee at all times. The Secretary may suspend a license for a maximum of six months for two or more serious violations of this Part or of the rules of the Commission, within any 12-month period. (e) A maximum fee of seven hundred fifty dollars ($750.00) shall be charged for units of bedding-sleep products manufactured in this State but not sold in this State. (f) For the sole purpose of computing fees for which a person is responsible, the following definitions shall apply: One mattress is defined as one bedding-sleep product unit; one upholstered spring is defined as one bedding-sleep product unit; one pad is defined as one bedding-sleep product unit; one sleeping bag is defined as one bedding-sleep product unit; five comforters, pillows or decorative pillows are defined as one bedding-sleep product unit; and any other item is defined as one bedding-sleep product unit. (g) An application for license must be submitted on a form prescribed by the Secretary. No license may be issued to a person unless the person complies with the rules of the Commission governing the granting of licenses. (h) The Commission shall adopt rules for the proper enforcement of this section. The rules shall 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-sleep product 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. (i) The Commission may provide in its rules for additional proof of the number of bedding-sleep product 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. (j) The Department may require proof of ownership of the business or sanitizing equipment for a new license or the transfer of a license if the Department determines
that the ownership of the business or sanitizing equipment is being disputed or cannot be readily ascertained from the document provided, or is in question.


The Bedding-Sleep Products Law Account is established as a nonreverting account within the Department. All fees collected under this Part shall be credited to the Account and applied to the following costs:

(1) Salaries and expenses of inspectors and other employees who enforce this Part.

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

"§ 130A-271. Enforcement by the Department.

(a) The Department shall enforce the provisions of this Part and the rules adopted by the Commission.

(b) The Secretary may prohibit sale and place an "off sale" tag on any bedding sleep product which is not made, sanitized, or tagged as required by this Part and the rules of the Commission. The bedding sleep product shall not be sold or otherwise removed until the violation is remedied and the Secretary has reinspected it and removed the "off sale" tag.

(c) A person supplying material to a bedding sleep product manufacturer shall furnish an itemized invoice of all furnished material. Each material entering into willowed or other mixtures shall be shown on the invoice. The bedding sleep product manufacturer shall keep the invoice on file for one year subject to inspection by the Department.

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

"§ 130A-272. Exemptions for blind persons and State institutions.

(a) In cases where bedding-sleep products are manufactured, sanitized or renovated in a plant or place of business which has qualified as a nonprofit agency for the blind or severely handicapped under P.L. 92-28, as amended, the responsible person shall satisfy the provisions of this Part and the rules of the Commission. However, the responsible persons at these plants or places of business shall not be required to pay fees in accordance with G.S. 130A-269.
(b) State institutions and agencies engaged in the manufacture, renovation or sanitizing of bedding sleep products for their own use or that of another State institution are exempted from all provisions of this Part.


The Commission shall adopt rules required by this Part in order to protect the public health."

SECTION 2. This act becomes effective 1 December 2007.