

VIRGINIA DEPARTMENT OF HEALTH BEDDING AND UPHOLSTERED FURNITURE PROGRAM

Virginia is currently (April and May 2019) accepting stakeholder input and feedback on this in-progress draft text. After the review and publication of the amendments there will be a formal public comment period, followed by a second opportunity for stakeholder engagement and amendment before the final publication of the regulation. The full regulatory process takes approximately 2-3 years; amendments in-progress will not take effect in 2019 (estimated date 2021).

The following is a draft version of VDH's amended regulations; contact information and a full version showing tracked changes is available at <http://www.vdh.virginia.gov/environmental-health/bedding-and-upholstered-furniture/proposed-changes-to-bedding-regulations/>

VDH has four goals for this amendment project:

- 1). Simplify description of enforcement and administrative processes
- 2). Update law label templates to match national standards
- 3). Clarify and clearly state existing administrative processes
- 4). Simplify importer licensing; adjust fees for neutral revenue*

AMENDMENTS IN PROGRESS TO THE REGULATIONS FOR BEDDING AND UPHOLSTERED FURNITURE (12VAC5-125)

12VAC5-125-10. Definitions.

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

"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 that is stuffed or filled in whole or in part with concealed filling material that can be used by a human for sleeping or reclining purposes.

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

"Distributor" means any person who receives bedding, upholstered furniture, or filling materials from another company inside the United States 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 in any prefabricated form, concealed or not concealed, used or potentially used in articles of bedding or upholstered furniture.

"Health Commissioner" means the chief executive officer of the Board of Health or authorized agent.

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

"Law label" means the tag bearing notice and information required by 12VAC5-125-90.

"License" means authorization by the Health Commissioner that allows a person to manufacture, distribute, or import bedding and upholstered furniture, or any filling materials to be used in bedding and upholstered furniture.

"Manufacturer" means a person who, using new materials, makes or employs agents who 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 are not considered new. Manufacturing process shall not be considered prior use.

"Permit" means authorization by the Health Commissioner that allows a person to sterilize filling material, or to sanitize, reupholster, or renovate secondhand bedding or upholstered furniture.

"Person" means any individual or group of individuals, named party, partnership, firm, private or public association or corporation, state, county, city, town, or anyone who by covenant, restriction, or agreement has care, control, custody, ownership, or management of property or parts thereof, or any combination of the above, or any other legal entity.

"Renovator" means a person who, either solely or through employed agents, rebuilds, repairs, recovers, restores, renovates or renews secondhand mattresses, and box springs.

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

"Reupholsterer" means a person who, either solely or employed agents, rebuilds, repairs, recovers, restores, or renews bedding (except mattresses and box springs) and upholstered furniture; or who makes to order and specification of the user any article of bedding (except mattresses and box springs) and upholstered furniture, using new or secondhand 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 previously owned, made prior use of, containing any previously used filling material, or in a customer's possession outside of the place of purchase. Customer-purchased items in the uninterrupted possession of a retailer are not secondhand.

"Sell" or any of its tenses, means any of the following: to possess with an intent to sell, to sell, offer or expose for sale, barter, trade, delivery, give away, rental, lease, or to dispose of in any other commercial manner.

"Shoddy" means any material 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 nonwoven material made from byproducts of textile or manufacturing processes free from dirt, insects, and other contamination.

"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 in articles of upholstered furniture or bedding.

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

"Upholstered furniture" means any item used for sitting, resting, or reclining by a human, including limbs, wholly or partly stuffed with any filling material. Upholstered furniture may include, children's furniture, fitness and exercise equipment, and medical equipment. Upholstered furniture may be movable or stationary, and may be sold with loose or attached cushions or pillows.

12VAC5-125-30. Compliance with the Virginia Administrative Process Act

The provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the promulgation and administration of this chapter, including the procedures for rendering and appealing any case decision.

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, in enforcement of lien pursuant to § 55-419 of the Code of Virginia, or any settlement of a decedent's estate.
2. Any sale by any individual of their household effects, either directly to another individual, or through consignment.
3. Any interstate public carrier.
4. Any state institution, agency, or department, unless such institution, agency, or department manufactures, reupholsters, or renovates bedding or upholstered furniture and offers items for sale to the public.
5. Any retailer who offers for sale or sells, gives away, or rents used upholstered furniture purchased by the retailer as new furniture and used in the course of business, when such used furniture is (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 handmade by individuals and whose gross annual receipts from the sale of such articles do not exceed \$2,000, shall be exempt from this chapter. However, each handmade article of bedding shall have a securely attached label stating the kind of filling materials used in the article

7. A Retailer may sell, give away, or rent secondhand upholstered furniture when purchased by the retailer as new furniture and used in the course of business. Such secondhand 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.

8. Persons engaged in commerce, not exempt from this chapter as provided by 12VAC5-125-40, who donate 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, and the articles are not represented as sanitized.

12VAC5-125-50. Licenses, permits, and uniform registry numbers.

A. General Provisions.

1. Only persons complying with the requirements of this chapter shall receive or retain a license or permit.
2. All licenses and permits shall expire one year from the date of issue-
3. Any person subject to this section must obtain a new license or permit when there is a change of ownership or a change of Federal Taxpayer Identification Number. Licenses and permits are nontransferable and void upon change of ownership or Federal Taxpayer Identification Number.
4. A new license or permit is not required for a change of company name or address; however, licenses and permits are void if a license or permit holder fails to notify the Bedding Program of any address change within 30 days. Reapplication for the purposes of having a void permit reissued shall be the responsibility of the former license or permit holder, and such reapplication shall be handled as an initial application.
5. Any person subject to this section doing business at the same address under more than one firm name shall obtain a license or permit for each firm name.

B. Procedure for obtaining a license or permit.

1. A person applying to obtain a license or permit shall submit an application on a form provided by the Bedding Program. The required fee, as provided in 12VAC5-125-180, shall be submitted together with the application.
2. Before license or permit issuance, the Bedding Program must conduct one or more preoperational inspections of all Manufacturers, Supply Dealers, Sterilizers, Sanitizers, Reupholsterers, and Renovators, located in the Commonwealth of Virginia, not licensed or permitted in the previous year. This preoperational inspection must demonstrate the Manufacturer, Supply Dealer, Sterilizer, Sanitizer, Reupholsterer, or Renovator complies with the requirements of this chapter.

C. Licenses.

Every Manufacturer, Importer, Distributor, and Supply Dealer shall obtain a license for each business, subsidiary, or branch where bedding and upholstered furniture products are manufactured, imported, or distributed, before offering those products for sale in the Commonwealth. Each location of a Manufacturer must obtain a separate license for each place of manufacture.

1. Importers and Distributors shall be licensed to import or distribute only from Manufacturers listed on the license application. To add a Manufacturer to this list during the license year, the Importer or Distributor shall notify the Bedding Program in writing on an approved form, and ensure the license fees paid during that license year are current with the new total number of manufacturers (as provided by the fee schedule at 12VAC5-125-180).
2. A Manufacturer must be licensed as required under this chapter prior to an Importer or Distributor obtaining a license to import or distribute from that Manufacturer.

D. Permits.

Every Sterilizer, Sanitizer, Reupholsterer, and Renovator shall obtain a permit for each place of business where bedding and upholstered furniture are sterilized, sanitized, reupholstered, or renovated, before offering those products for sale in the Commonwealth.

1. Any person applying for a Sanitizer or Sterilizer permit must submit a description of the process by which filling materials, bedding, or upholstered furniture will be sanitized or sterilized.
2. All processes used to sanitize bedding and upholstered furniture shall comply with the requirements of 12VAC5-125-100.
3. All processes used to sterilize animal feathers, hair, or down shall comply with the requirements of 12VAC5-125-110.

E. Uniform Registry Numbers.

Licensed or permitted Manufacturers, Supply Dealers, Sterilizers, Sanitizers, Reupholsterers, and Renovators will be assigned a uniform registry number (URN). The Bedding Program will recognize a URN issued by another state and assign the URN if the applicant has a currently valid license for that URN from the issuing state at the time of application, and the URN and copy of the valid license are supplied together with the license or permit application.

1. Manufacturers, Supply Dealers, Sterilizers, Sanitizers, Reupholsterers, and Renovators shall use their assigned URN on all law labels as provided in 12VAC5-125-90.
2. Importers and Distributors shall use the URNs assigned to the licensed Manufacturers of the imported or distributed product on all law labels as provided in 12VAC5-125-90.

12VAC5-125-60. Enforcement, Notices, Informal Conferences

A. The Health Commissioner may, after providing a notice of intent to revoke a license or permit, and after providing an opportunity for an informal conference in accordance with § 2.2-4019 of the Code of Virginia, revoke a license or permit for flagrant or continuing violation of this chapter. Any person to whom a notice of revocation is directed shall immediately comply with the notice. Upon revocation, the former license or permit holder shall be given an opportunity for appeal of the revocation in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). 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.

B. The Health Commissioner may summarily suspend a sanitizer, reupholsterer, or renovator permit if continued operation constitutes a substantial and imminent threat to public health. Upon receipt of such notice that a permit is suspended, the permit holder shall cease permitted operations immediately. Whenever a permit is suspended, the holder of the permit shall be notified in writing by certified mail or by hand delivery. Upon service of notice that the permit is immediately suspended, the former permit holder shall be given an opportunity for an informal conference in accordance with § 2.2-4019 of the Code of Virginia. The request for an informal conference shall be in writing and shall be filed with the local health department by the former holder of the permit. If written request for an informal conference is not filed within 10 working days after the service of notice, the suspension is sustained. Each holder of a suspended permit shall be afforded an opportunity for an informal conference within three working days of receipt of a request for the informal conference. The Health Commissioner may end the suspension at any time if the reasons for the suspension no longer exist. Working days means days on which the central office of the health department is open for business and does not include holidays and closures.

C. Any person affected by a determination issued in connection with the enforcement of this chapter may challenge such determination in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

D. The Health Commissioner may enforce this chapter through any means lawfully available pursuant to § 32.1-12 of the Code of Virginia, and nothing in this chapter shall be construed as preventing the Health Commissioner from making efforts to obtain compliance through warning, conference, or any other appropriate enforcement means.

12VAC5-125-80. Inspections.

A. Inspections of license and permit holders.

Inspection of the premises of license or permit holder under this chapter may be initiated in the following circumstances:

1. Upon receipt of a complaint relating to a violation of this chapter;
2. Upon the receipt of a complaint of insect infestation required by CITATION; and
3. Pursuant to alleged violations of this chapter observed during inspections resulting from circumstances in 80A1 and 80A2 above, any subsequent steps taken by the permit holder to comply with this chapter, or as necessary to verify compliance.

B. Inspections of unlicensed entities.

Inspections of unlicensed entities may be conducted in the following circumstances:

1. Upon receipt of an application for a license or permit;
2. Upon nonrenewal of a sanitizer, reupholsterer, or renovator permit, or upon failure by a permit holder to notify the Health Commissioner of a change of address within timelines established by CITATION, resulting in a former permit holder being moved to an unlicensed status;
3. To verify retailer compliance with this chapter; and
4. Pursuant to alleged violations of this chapter observed during inspections resulting from circumstances in 80B1-3 above, any subsequent steps taken by the permit holder to comply with this chapter, or as necessary to verify compliance.

C. All inspections shall be conducted in accordance with § 32.1-25 of the Code of Virginia. Whenever an inspection is conducted, a completed inspection report shall be provided to the license or permit holder or inspected retailer. The inspection report shall contain descriptions of observations made and citations to the alleged violations of this chapter. The report shall provide an opportunity for due process in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

12VAC5-125-90. Law label requirements.

A. General provisions.

No law label required by this chapter shall contain false or misleading statements, terms, or designations. Filling materials shall be listed by generic textile names in order of descending predominance. The removal, defacement, or alteration of any law label prior to retail sale is prohibited. Law labels shall contain no advertising matter, nor anything that detracts from the required statements. No person shall place a mark, tag, sticker, or any other device on a law label that covers the required statements indicated in Figures 1 and 2, unless the Bedding Program provides written approval. No person shall use any law label unless licensed or permitted under this chapter.

All stamp or print on law labels required by this section shall be legible and at least 1/8th inch in height and capitalized, unless otherwise indicated in Figures 1 and 2.

B. New bedding and upholstered furniture, filling material.

A white law label shall be securely attached, in a position where it can be conveniently examined on the outside covering of every item of new bedding or upholstered furniture, or any filling material, however contained. Law labels shall be made of durable, tear-resistant white cloth or equivalent, and shall be at least six square inches in size. All label printing shall be resistant to fading, bleeding, and abrasion, and all text shall be in English and clearly legible. Law label contents shall conform to the layout and requirements indicated by Figure 1, as appropriate. Law labels for new bedding and upholstered furniture shall be securely attached to the article at the point of manufacture; labels for filling material shall be securely attached to shipment packaging, or printed directly on retail packaging, prior to delivery or shipment.

C. Secondhand, reupholstered, or renovated articles.

A yellow law label shall be securely attached, in a position where it can be conveniently examined, to every secondhand item of bedding or upholstered furniture, or item of bedding or upholstered furniture containing any shoddy or secondhand filling material. The law label shall be made of durable yellow cardstock paper, cloth, or equivalent, and shall be at least six square inches in size. All writing on the law label shall be resistant to fading, bleeding, and abrasion, and all text shall be plainly stamped or printed in English. The label contents shall be composed according to the layout and requirements indicated by Figures 2, as appropriate. This requirement shall not apply to mattresses that contain a shoddy pad unless it otherwise contains secondhand filling materials.

Figure 1. White law labels for new articles.

TAG 1. Bedding, single-component articles, filling material	TAG 2. Furniture, multiple component articles where each component is an integral piece of the item	TAG 3. Items containing filling materials requiring sterilization	
<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p> <p>ALL NEW MATERIAL consisting of</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p> <p>ALL NEW MATERIAL consisting of [BODY] [CUSHIONS]</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p> <p>ALL NEW MATERIAL consisting of [FEATHERS] [DOWN] [SPECIFIC TYPE ANIMAL HAIR] CONTENTS STERILIZED</p>	<p>Uppercase text in these rows shall be at least 1/8th inch.</p>
<p>REG NO. Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p>	<p>REG NO. Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p>	<p>REG NO. PER NO. Certification is made by the manufacturer that the materials in this article are described in accordance with law.</p>	<p>The 1/8th inch font size requirement does not apply to this section.</p>
<p>MADE BY [or MADE FOR] Name and address of manufacturer, importer, or distributor as appropriate [Other Information section]</p>	<p>MADE BY [or MADE FOR] Name and address of manufacturer, importer, or distributor as appropriate [Other Information section]</p>	<p>MADE BY [or MADE FOR] Name and address of manufacturer, importer, or distributor as appropriate [Other Information section]</p>	<p>Uppercase text in these rows shall be at least 1/8th inch.</p>
<p>MADE IN [COUNTRY]</p>	<p>MADE IN [COUNTRY]</p>	<p>MADE IN [COUNTRY]</p>	<p>This section may contain dimensions, FTC, RNW, or other information. No advertising material is allowed. The "MADE IN" statement text shall be at least 1/8th inch.</p>

Figure 2. Yellow law labels for secondhand, reupholstered, or renovated articles.

TAG 1. Secondhand bedding or upholstered furniture requiring sanitization	TAG 2. Reupholstered or Renovated articles to be returned to original owner, not requiring sanitization	TAG 3. Reupholstered or Renovated articles for sale (not to original owner), requiring sanitization	
<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</p>	
<p>THIS ARTICLE CONTAINS ALL SECONDHAND MATERIAL CONTENTS UNKNOWN</p>	<p>THIS ARTICLE CONTAINS THE SAME MATERIAL RECEIVED BY THE OWNER, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: [LIST]</p>	<p>THIS ARTICLE CONTAINS SECONDHAND MATERIAL, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: [LIST]</p>	<p>Uppercase text in these rows shall be at least 1/8th inch.</p>
<p>CONTENTS SANITIZED Date Sanitized: _____</p>		<p>CONTENTS SANITIZED Date Sanitized: _____</p>	
<p>PERMIT NO. _____ Certification is made by the retailer that the materials in this article are sanitized in accordance with law.</p>	<p>PERMIT NO. _____ Certification is made by the retailer that the materials in this articles are described in accordance with law. The following work has been done: YES NO Old covering completely removed _____ Frame repaired _____ Spring retied and/or repaired _____ Other: _____</p>	<p>SAN. PERMIT NO. _____ RE. PERMIT NO. _____ Certification is made by the retailer that the materials in this articles are described and sanitized in accordance with law.</p>	<p>The 1/8th inch font size requirement does not apply to this section.</p>
<p>_____</p>	<p>This article must not be sold, it is the property of & must be returned to: Name and address of owner</p>	<p>SANITIZED BY: Name and address of Sanitizer</p>	<p>Uppercase text in these rows shall be at least 1/8th inch.</p>
<p>SANITIZED BY: Name and address of Sanitizer</p>	<p>REUPHOLSTERED [or RENOVATED] BY: Name and address of Reupholsterer or Renovator</p>	<p>REUPHOLSTERED [or RENOVATED] BY: Name and address of Reupholsterer or Renovator</p>	<p>*These rows may be combined in TAG 3 if Sanitizer and Reupholsterer/Renovator permits held by same person</p>
<p>[Other information Section]</p>	<p>[Other information section]</p>	<p>[Other information section]</p>	<p>The 1/8th inch font size requirement does not apply to this section.</p>

12VAC5-125-100. Secondhand bedding and upholstered furniture.

A. No article of secondhand bedding or upholstered furniture shall be offered for sale or sold unless since last use such secondhand article has been sanitized by a permitted Sanitizer in accordance with this chapter.

No person shall use any shoddy, secondhand filling material, feathers, animal hair, or down, in the manufacture, reupholstery, or renovation of bedding and upholstered furniture unless such shoddy, secondhand filling material, feathers, animal hair, or down has been sanitized by a permitted Sanitizer in accordance with this chapter.

Any reupholstered or renovated bedding or upholstered furniture, sold to a customer not the original owner of the item, must be sanitized by a permitted Sanitizer in accordance with this chapter.

B. Persons applying for approval of a process by which filling materials, bedding, or upholstered furniture are sanitized shall submit to the Bedding Program a description of the process, test results, apparatus, and method to be used in such process. The following general processes are considered approved methods of sanitization; a list of specific approved products and methods shall be maintained by the Bedding Program:

1. The application of an approved isopropyl-alcohol solution via direct spray onto the filling materials, bedding, or upholstered furniture item. Application shall reach and treat all surfaces, seams, piping, and other design features of the item. Application, storage, and disposal of the isopropyl-alcohol solution shall be performed according instructions provided by product manufacturers.

2. Heat treatment, via containment in a heat chamber, or direct application of steam. All submersion heat treatment methods shall exceed the temperature and time duration necessary to reach the thermal death point for bedbugs (113°F for 90 minutes). All steam applications shall be designed to reach and treat all surfaces, seams, piping, and other design features of the article to be sanitized, and shall be conducted at a pace of 12'' of article per 30 seconds, unless otherwise approved as provided in subsection B of this section.

C. Unsanitized, secondhand bedding and upholstered furniture shall be separated from new or sanitized, secondhand bedding or upholstered furniture by a dividing wall or a distance of at least 20 feet.

D. Yellow law labels in compliance with 12VAC5-125-90 shall be attached to all sanitized articles as soon as the approved sanitizing process is completed.

E. A delivery vehicle used to transport secondhand, unsanitized bedding and upholstered furniture must be sanitized by a process approved by subsection B of this section before it is used to transport new or secondhand, sanitized products. Such sanitization shall include the entirety of the inside of the transport portion of the vehicle; however, any area not used for transport separated from the storage portion of the vehicle by a wall or partition shall not require sanitization.

F. Persons selling secondhand bedding and upholstered furniture, unless otherwise exempt from this chapter as considered in 12VAC5-125-40, shall maintain a log of sanitized bedding and upholstered furniture, indicating the identification of each sanitized item, and the date the item was sanitized. Identification shall be by visual description, of sufficient detail to allow identification of any sanitized item offered for sale, or by a unique number also printed in the Additional Information section of the yellow law label. A separate log shall be maintained in each vehicles sanitized as required by subsection E of this section; this log shall indicate the dates of all sanitization events for that vehicle.

G. All areas where secondhand bedding or upholstered furniture are stored, rebuilt, recovered, or presented for sale shall be kept clean and free of trash, hazardous waste, insects, rodents, pets, or other animals. Permit holders shall report to the Bedding Program any infestations of insects or rodents at the permit holder's place of business, or in any bedding or upholstered furniture offered for sale by the permit holder.

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

A. No article of new bedding or upholstered furniture using animal hair, feathers or down for filling material shall be sold or offered for sale unless such animal hair, feathers, or down has been sterilized by a permitted Sterilizer in accordance with this chapter.

B. Persons applying for approval of a process by which animal hair, feathers, or down are sterilized shall submit to the Bedding Program a description of the process, test results and any apparatus and method to be used in such process. The following general processes are considered approved methods of sterilization; a list of specific methods and products shall be maintained by the Bedding Program.

1. Treatment by steam under pressure, at 15 pounds maintained for 30 minutes or at 20 pounds maintained for 20 minutes. A gauge for registering steam pressure, visible from the outside of the room, shall be provided.

2. Treatment by two applications of streaming steam, maintained for a period of one hour each, applied at intervals of not less than six, nor more than 24 hours. Valved outlets shall be provided near the top and bottom of the room.

3. Containment in a closed container held at a temperature of 235°F(113°C) for 2 hours.
4. Washing at a temperature of at least 140°F (60°C), followed by complete drying at a temperature of at least 158°F (70°C).

12VAC5-125-130. Violation of regulations.

A. Any article of bedding or upholstered furniture offered for sale in the Commonwealth of Virginia by a retailer, regardless of where manufactured, shall be properly labeled and in compliance with all provisions of this chapter.

B. The Health Commissioner may order any improperly sanitized or unsanitized articles of secondhand bedding or upholstered furniture “off sale”. A significant number of violations in any one location may result in a sign being placed on the business door taking off sale all used bedding and upholstered items in the store. These items may not be bartered, given away, rented, or disposed of in any manner inconsistent with this chapter until properly sanitized.

C. Any person who violates this chapter may be subject to enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia), and penalties provided by § 32.1-27 of the Code of Virginia.

12VAC5-125-145. Variances.

A. One or more of the regulations in this chapter may be waived in whole or in part when, as determined by the Health Commissioner, the hardship imposed by the regulations, which may be economic, outweighs the benefits that may be received by the public, and that granting such a variance does not subject the public to unreasonable health risks. Variances shall be issued in writing by the Health Commissioner.

B. Any person who seeks a variance shall apply in writing to the Bedding and Upholstered Furniture Program. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Evidence that establishes that the public health and welfare would not be adversely affected if the variance were granted;
4. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
5. Other information believed pertinent by the applicant; and
6. Such other information as the Bedding and Upholstered Furniture Program or Health Commissioner may require.

C. If the Health Commissioner proposes to grant the variance request, the applicant shall be notified in writing of this decision within 90 days of receipt of the variance request. If the Health Commissioner proposes to deny the variance request, the Health Commissioner shall notify the applicant of the proposed denial within 90 days of receipt of the variance request and provide an opportunity for an informal fact-finding conference as provided in § 2.2-4019 of the Code of Virginia.