

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 clean copy without 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*

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 that 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.~~

"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 substance filling material that can be used by any a human being 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 ~~commissioner~~ Health Commissioner to carry out the duties and responsibilities of this chapter.

~~"Board" means the State Board of Health.~~

~~"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"~~ "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, ~~that is used or that may be~~ 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 ~~for the purpose of manufacture or resale~~ receives from another company bedding, upholstered furniture, or filling material from any country other than the United States for the purpose of resale.

~~"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 of the Code of Virginia and § 59.1-200 of the Virginia Consumer Protection Act.~~

"Law label" means the tag bearing legal notice and information concerning the contents and manufacturing location as required by 12VAC5-125-90 § 32.1-219 of the Code of Virginia. A white tag certifies all new materials. A yellow label indicates used materials.

"License" means ~~permission~~ authorization granted in accordance with ~~§ 32.1-217~~ of the Code of Virginia ~~by the Health Commissioner for every that allows a person manufacturing, importing, distributing/wholesaling, processing or selling to manufacture, distribute, or import bedding and upholstered furniture, or 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.~~

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

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

"Permit" means ~~consent~~ authorization granted in accordance with ~~§ 32.1-216~~ of the Code of Virginia ~~to approve a process by the Health Commissioner that allows a person to sanitize or sterilize filling material, or to sanitize, reupholster, or renovate secondhand bedding or upholstered furniture by a person treating used products for resale.~~

"Person" means ~~an individual, corporation, partnership, association~~ 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, ~~makes over, re-covers, recovers,~~ restores, renovates or renews used secondhand bedding 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 ~~of the article as purchased.~~

"Reupholsterer" means a person who, ~~by himself~~ solely or ~~through employees or employed agents,~~ rebuilds, repairs, ~~reupholsters, 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 either 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 ~~having been previously owned, made prior use of, or containing any previously used filling material of which prior use has been made, or that has been 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 ~~variants~~ tenses, ~~includes~~ means any of, or any combination of, the following: to possess with an intent to sell, to sell, offer or expose for sale, barter, trade, deliver, delivery, give away, rent, rental, consign, lease, possess with an intent to sell or to dispose of in any other commercial manner.

"Shoddy" means any material ~~that 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 nonwoven material made from byproducts 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", URN, 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, ~~or renovator, or importer~~ of bedding and upholstered ~~products~~ furniture. The Uniform Registry Number begins with the initials of the licensing state, followed by the assigned number, ~~then and ends with~~ the initials of the state or country where the manufacturer, reupholsterer, sanitizer, ~~or renovator, or importer~~ is physically located. Each location of a manufacturer, reupholsterer, sanitizer, ~~or renovator, or importer~~ uses only one Uniform Registry Number.

"Upholstered furniture" means any ~~article of furniture designed to be item~~ used for sitting, resting, or reclining ~~by a human, including limbs, that is~~ wholly or partly stuffed ~~or filled~~ with any filling material. Upholstered furniture may include, ~~but is not limited to,~~ children's furniture, fitness and exercise equipment, ~~furniture used exclusively for the purpose of physical fitness and exercise, and medical equipment, or furniture or seats in RVs, boats or automobiles.~~ Upholstered furniture may be movable or stationary, ~~made or and may be~~ sold with loose or attached 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 that can be used as a support for the body of a human being, or his 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 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. (Repealed.)

~~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 of the Code of Virginia, 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 12VAC5-125-80.~~
- ~~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. Compliance with the Virginia Administrative Process Act

~~The board reserves the right to authorize a procedure for enforcement of this chapter that 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. 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 or pursuant to § 55-419 of the Code of Virginia, or any sale settlement of a decedent's estate or any sale by any individual of his household effects.
2. Upholstered furniture and bedding products that are antiques as defined in 12VAC5-125-10. 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 items of bedding or upholstered furniture manufactured, reupholstered or renovated by it.
5. Any retailer who offers for sale or 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~~ 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 ~~that are~~ handmade by individuals and whose gross annual receipts from the sale of such articles ~~are not in excess of~~ do not exceed \$2,000, shall be exempt from this chapter. ~~deemed to be the manufacturer of such articles and shall not be required to obtain a license to make such articles. Each such~~ However, each handmade article of bedding article shall have a securely attached label affixed stating the kind of filling materials used in such the article but shall be exempt from any other requirement as to tags set forth in this chapter.

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 ~~registration~~ uniform registry numbers.

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

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. Only persons complying with the requirements of this chapter shall receive or retain a license or permit.~~

2. ~~Such license shall be numbered; shall, unless sooner revoked, All licenses and permits shall 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. 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. ~~Every person who, on his 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. 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 Permits for sterilizers and sanitizers. Every person who, on his own account or for others, is a sterilizer or a sanitizer Sterilizer, Sanitizer, Reupholsterer, and Renovator shall obtain from the commissioner a permit for each location place of business where bedding and upholstered furniture are sterilized, sanitized, reupholstered, or renovated, before offering those products for sale in the Commonwealth, 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 of the Code of Virginia.~~

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.

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 nontransferable.~~

~~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. 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.

~~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. Enforcement, Notices, Informal Conferences

A. The commissioner Health 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. 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.

12VAC5-125-70. Application after revocation. (Repealed.)

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 Inspections.

A. Inspections of license and permit holders.

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

1. Upon complaints received by the commissioner. Upon receipt of a complaint relating to a violation of this chapter;
2. Upon complaints received by the Bedding Program. Upon the receipt of a complaint of insect infestation required by CITATION; and
3. Upon complaints received by the Department of Agriculture and Consumer Services and reported to the commissioner or Bedding Program. 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.
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 nonrenewal 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.~~

~~CB. Inspections of unlicensed entities.~~

~~Inspections of unlicensed entities and of retailers of bedding and upholstered furniture may be conducted in accordance with § 32.1-25 of the Code of Virginia. 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.~~

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

~~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 labels conforming to the Virginia 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.

Every importer of and every person manufacturing a new item of bedding or upholstered furniture shall attach securely thereto a substantial ~~A~~ white cloth tag (law label) or equivalent law label shall be securely attached, in a position where it can be conveniently examined, visible on the outside covering of such every item of new bedding or upholstered furniture, or any filling material, however contained, and not less than 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 upon which shall be plainly stamped or printed, in English, and clearly legible. 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. Law label contents shall conform to the layout and requirements indicted 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.

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

~~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. Secondhand, reupholstered, or renovated articles.

~~Any person sanitizing, remaking, renovating, or reupholstering any 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 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. The law label shall be made of durable yellow cardstock paper, cloth, or equivalent, and shall be at least and not less than 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 upon which shall be stamped or printed, in English. The label contents shall be composed according to the layout and requirements indicated by Figures 2, as appropriate. 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.~~

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	
UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER	UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER	UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER	Uppercase text in these rows shall be at least 1/8th inch.
THIS ARTICLE CONTAINS ALL SECONDHAND MATERIAL CONTENTS UNKNOWN CONTENTS SANITIZED Date Sanitized: _____	THIS ARTICLE CONTAINS THE SAME MATERIAL RECEIVED BY THE OWNER, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: [LIST] CONTENTS SANITIZED Date Sanitized: _____	THIS ARTICLE CONTAINS SECONDHAND MATERIAL, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: [LIST] CONTENTS SANITIZED Date Sanitized: _____	
PERMIT NO.	PERMIT NO.	SAN. PERMIT NO. RE. PERMIT NO.	
Certification is made by the retailer that the materials in this article are sanitized in accordance with law.	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 rebbed and/or repaired Other: _____	Certification is made by the retailer that the materials in this articles are described and sanitized in accordance with law.	The 1/8th inch font size requirement does not apply to this section.
	This article must not be sold, it is the property of & must be returned to: Name and address of owner	SANITIZED BY: Name and address of Sanitizer	
SANITIZED BY: Name and address of Sanitizer	REUPHOLSTERED [or RENOVATED] BY: Name and address of Reupholsterer or Renovator	REUPHOLSTERED [or RENOVATED] BY: Name and address of Reupholsterer or Renovator	Uppercase text in these rows shall be at least 1/8th inch. *These rows may be combined in TAG 3 if Sanitizer and Reupholsterer/Renovator permits held by same person
(Other Information Section)	(Other Information section)	(Other Information section)	The 1/8th inch font size requirement does not apply to this section.

~~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 of the Code of Virginia 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, 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 through 7)

~~ATTACHMENT 1~~

~~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 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.~~

~~→~~

~~-
-
-~~

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

~~ALL NEW MATERIAL
CONSISTING OF~~

~~-
-~~

~~REG. NO.~~

~~Certification is made by the manufacturer
that the materials in this article are
described in accordance with law.~~

~~-
-~~

~~MADE BY~~

~~(NAME OF MANUFACTURER OR VENDOR)~~

~~(ADDRESS OF MANUFACTURER OR
VENDOR)~~

~~Date of Delivery~~

~~→~~

~~-~~

~~(Additional Information)~~

~~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 (six) 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.~~

~~ATTACHMENT 2~~

~~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 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.~~

~~→~~

~~-
-
-~~

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

~~_____~~

~~**ALL NEW MATERIAL
CONSISTING OF
BODY
CUSHIONS**~~

~~-
-
-~~

~~REG. NO.~~

~~_____~~

~~**Certification is made by the manufacturer
that the materials in this article are
described in accordance with law.**~~

~~-
-~~

~~_____~~

~~**MADE BY
(NAME OF MANUFACTURER OR VENDOR)
(ADDRESS OF MANUFACTURER OR
VENDOR)**~~

~~**Date of Delivery**~~

~~_____~~

~~-(Additional Information)~~

~~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 (six) 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.~~

~~ATTACHMENT 3~~

DRAFT

~~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 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.~~

~~→~~

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

**ALL NEW MATERIAL
CONSISTING OF**

REG. NO. PERMIT NO.

**Certification is made by the manufacturer
that the materials in this article are
described in accordance with law.**

**CONTENTS
STERILIZED**

MADE BY
(NAME OF MANUFACTURER OR VENDOR)
(ADDRESS OF MANUFACTURER OR
VENDOR)

Date of Delivery

(Additional Information)

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 (six) 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.~~

ATTACHMENT 4

DRAFT

NO. 4

**YELLOW LABEL FOR ARTICLES THAT HAVE BEEN REMADE AND
RENOVATED FOR CONSUMER AND THAT 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 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. VA.

**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 (six) 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.~~

ATTACHMENT 5

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

→

Space for description of filling material.

Printing to be in English using capital
letters

not less than 3mm in height

→

-
-
-

Permit number of person or firm who
sanitized
article →

-
-
-

Required in Virginia →

-
-
-

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

THIS ARTICLE CONTAINS

ALL SECOND-HAND MATERIAL
CONTENTS UNKNOWN

-
-
-

PERMIT NO.

**Certification is made by the manufacturer
that the materials in this article are
described in accordance with law.**

SANITIZED

SANITIZED BY

-
-
-

Date Sanitized

-

(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 (six) square inches, but may be greater as the need demands.~~

ATTACHMENT 6

NO. 6

YELLOW LABEL FOR ARTICLES THAT HAVE BEEN RENOVATED
FOR RESALE AND THAT 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

→

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

→

-
-
-

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

→

-
-

Required in Virginia →

-
-
-

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

→

**THIS ARTICLE CONTAINS
SECOND HAND MATERIAL
TO WHICH HAS BEEN ADDED**

-
-
-

REG. NO. PERMIT NO.

→

**Certification is made by the manufacturer
that the materials in this article are
described in accordance with the law.**

→

CONTENTS
SANITIZED

→

REMADE AND RENOVATED BY

-
-

RENOVATOR NAME

RENOVATOR ADDRESS

-

Date Sanitized

→

-

(Additional Information)

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 (six) square inches, but may be greater as the need demands.

ATTACHMENT 7

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 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

→

-

-

-

-

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

→

**ALL NEW MATERIAL
CONSISTING OF**

-

-

→

REG. NO.

→

**Certification is made by the manufacturer
that the materials in this article are
described in accordance with law.**

-

-

→

IMPORTED BY

-

-

Date of Delivery

→

-

MADE IN

-

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 (six) 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 Secondhand bedding and upholstered furniture.

~~A. No article of secondhand bedding or upholstered furniture person engaged in commerce shall be offered for sale or sold 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 of the Code of Virginia or any secondhand article of bedding or upholstered furniture unless since last used use such secondhand article has been sanitized by a reasonable process approved by the commissioner permitted Sanitizer in accordance with this chapter.~~

~~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, 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 reasonable process approved by the commissioner 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.~~

~~CB. 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 renovated mattresses, box springs, or similar articles of bedding or upholstered furniture offered for resale or rent in Virginia. The use of these chemicals 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 to 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.~~

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 degrees 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 must shall be attached to all sanitized articles and dated as soon as the approved 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. 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 dealing in used secondhand bedding and upholstered furniture, unless otherwise exempt from this chapter as considered in 12VAC5-125-40, shall maintain a log of sanitized items, bedding and upholstered furniture, indicating the identification of each sanitized item, and the date the item was sanitized, and date rented or sold. 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 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 has been sterilized by a permitted Sterilizer in accordance with this chapter reasonable process approved by the commissioner.

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).

§ 32.1-12 of the Code of Virginia.

~~12VAC5-125-120. Separation and storage of new and sanitized items (Repealed).~~

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

~~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.~~

~~CB. The commissioner Health Commissioner or his designee may order "off sale" all any improperly sanitized or unsanitized articles of secondhand bedding or upholstered furniture "off sale". A significant number of violations in any one business location will 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.~~

~~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.~~

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

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

12VAC5-125-140. Enforcement of regulation. (Repealed.)

~~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 of the Code of Virginia, 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.~~

~~D. Before the issuance of an order, the commissioner must comply with the requirements of § 32.1-26 of the Code of Virginia.~~

~~E. All orders issued pursuant to subsection C of this section 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.~~

~~F. 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.~~

~~G. Not exclusive means of enforcement. Nothing contained in this section 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.~~

~~H. 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 of the Code of Virginia.~~

~~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 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.

12VAC5-125-150. Request for hearing. (Repealed.)

~~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 reasons 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.~~

12VAC5-125-160. Hearing as a matter of right. (Repealed.)

~~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 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.~~

12VAC5-125-170. Penalties, injunctions, civil penalties and charges for violations.(Repealed)

~~A. 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.~~

~~B. 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.~~

~~C. Without limiting the remedies that may be obtained pursuant to subsection B of this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection B of this section 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.~~

~~D. 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 of the Code of Virginia, 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 subsection C of this section. Such civil charges shall be in place of any appropriate civil penalty that could be imposed under subsection C of this section.~~