

BEDDING AND UPHOLSTERY LAW

Act No. 249, May 27, 1937 as amended

May 22, 1953 and August 23, 1961

AN ACT

Relating to the manufacture, repair, renovating, cleansing, sterilizing, and disinfecting of mattresses, pillows, bolsters, feather beds, and other filled bedding, cushions, upholstered furniture and bulk materials intended for use in such products intended for sale or lease, and to the sale or lease thereof; requiring the placing of tag and adhesive stamp on such material; providing for the sale of adhesive stamps; authorizing and requiring the Department of Labor and Industry to adopt rules and regulations; providing penalties; and repealing certain acts. (Title amended Aug. 23, 1961, P.L.1075, No.485)

Section 1. Be it enacted, &c., That the provisions herein set forth shall be construed to cover and apply to the manufacture, repair, and renovation of all mattresses, pillows, bolsters, feather beds, and other filled bedding of any description, also to cushions and all types of upholstered furniture which are intended for sale or lease in this Commonwealth, and to the sale or lease thereof.

(1 amended May 11, 1979, P.L. , No.8)

Section 2. (a) The term "Department," when used in this act, shall mean the Department of Labor and Industry, and the term "secretary" shall mean the Secretary of the Department of Labor and Industry. ((a) amended Aug. 23, 1961, P.L.1075, No.485)

(b) The term "new," as used in this act, shall mean any article or material which has not been subjected to a previous manufacturing process, or which has not been previously used for any purpose.

(c) The term "secondhand," as used in this act, shall mean any article or material, or portion thereof, of which prior use has been made in any manner whatsoever.

(d) The term "person," as used in this act, shall include persons, partnerships, companies, corporations, and associations.

(e) The term "renovate," as used in this act, shall mean to restore to former condition or to place in a good state of repair.

(f) The term "auction," as used in this act, shall mean a public sale of property or effects conducted upon the principle of the highest bidder becoming the purchaser of any particular article or lot offered for sale.

(g) Wherever in this act the singular is used the plural shall be included, and where the masculine gender is used the feminine and neuter shall be included.

Section 3. (a) No person shall manufacture, offer for sale or lease, or have in his possession with intent to sell, auction, or include in a sale, lease or auction, any new or secondhand article or material covered by this act, unless all provisions of this act have been complied with.

(b) It is intended that the responsibility for compliance with this section, in the case of any article or material imported into the Commonwealth, shall rest upon the vendor, lessor or other person having such article or material in his possession.

Section 4. (a) No person shall use any secondhand material in the renovation of any article covered by this act, unless, since last used, such secondhand material has been effectively cleansed and sterilized or disinfected by a process approved by the department, and in accordance with the regulations of the department, and such article, if not so cleansed, sterilized or disinfected, shall be returned to its original owner, and shall not thereafter be offered for sale.

(b) The use of secondhand material previously used in any article covered by the act, shall be prohibited in the manufacture of any article covered by this act other than an article to be returned to its original owner.

Section 5. (a) No secondhand article covered by this act, except upholstered furniture, shall be offered for sale, lease, or auction, or be in the possession of any person with intent to sell, lease, or auction, unless such article, since last used, has been effectively cleansed and sterilized or disinfected by a process approved by the department and in accordance with regulations of the department. Secondhand upholstered furniture shall be so treated when required by the rules and regulations of the department.

Section 6. (a) No person shall be considered to have qualified to apply an acceptable sterilizing or disinfecting process, as required by the provisions of this act, until such process has been registered with and approved by the department, after which a numbered permit shall then be issued by the department. Such permit shall expire one year from date of issue and shall thereafter be annually renewed at the option of the permit holder, upon submission of proof of continued compliance with the provisions of this act and the regulations of the department. Every person to whom a permit has been issued shall keep such permit conspicuously posted on the premises of his place of business near the sterilizer. Holders of permits to apply sterilization or disinfection shall be required to keep an accurate record of all articles or material which have been sterilized or disinfected, including the date of the same, and name and address of the buyer of each, and such records shall be available for inspection at any time by authorized representatives of the department.

(b) For all initial permits issued, as required by the preceding section, there shall, at the time of issue thereof, be paid by the applicant to the Department of Labor and Industry a fee of twenty-five dollars (\$25.00). An annual renewal charge of ten dollars (\$10.00) shall be paid to the same department. ((b) amended May 22, 1953, P.L.206, No.21)

(c) Every application for a sterilizing or disinfecting permit to be held in a state, other than Pennsylvania, shall be approved only after personal inspection of said sterilizer or disinfectant by the Secretary of Labor and Industry or his authorized representative. The expenses for such inspections out of the State shall be paid by the applicant.

(d) A sterilization or disinfection permit may be revoked by the Secretary of Labor and Industry upon proof of violation of any of the provisions of this act. A reissue of said permit shall be subject to provisions as set forth for an initial permit.

Section 7. (a) Every article containing only new material covered by this act shall bear securely attached thereto and plainly visible a substantial white tag of approved material, upon which shall be indelibly stamped or printed, in the English language, the registration number of the manufacturer or vendor and a statement showing the kind of materials used in filling such article, with approximate percentages when mixed, and with the word new clearly printed thereon. When required to be sterilized or disinfected, the number of the permit of the person who sterilized or disinfected such material shall appear thereon. ((a) amended Aug. 23, 1961, P.L.1075, No.485)

(b) Every article covered by this act containing secondhand material, or a portion thereof, shall bear securely attached thereto and plainly visible a yellow tag of approved material upon which shall be indelibly stamped or printed, in the English language, the registration number of the manufacturer, vendor or renovator and a statement showing the kind of materials used in filling such article, with approximate percentages when mixed, and shall state STERILIZED AND DISINFECTED, with the permit number of the person who performed such work. ((b) amended Aug. 23, 1961, P.L.1075, No.485)

(c) The terms used on the tag to describe filling materials shall be restricted to those defined in the regulations of the department, and no trade or substitute terms shall be used.

(d) It shall be unlawful to make any false or misleading statements on the tag required by this section. It shall be unlawful for any person to remove, deface, or alter, or cause to be removed, defaced, or altered, any tag or statement contained thereon. The placing of stamps required in the next succeeding section of this act over any lettering on the tag shall be construed to be defacement of the tag.

(e) The size of the tag required by this section shall be not less than six (6) square inches, and the lettering thereon, covering the statement of filling materials and whether new or secondhand, shall be in plain type not less than one-eighth (1/8) inch in height. ((e) amended May 11, 1979, P.L. , No.8)

Section 8. (a) No person shall sell or lease, or have in his possession with intent to sell or lease, in the Commonwealth of Pennsylvania, any article covered by the provisions of this act, unless there be affixed to the tag required by this act by the person manufacturing, selling, or leasing the same, an adhesive stamp prepared and issued by the department, except that any person desiring to do so may make application to the secretary on an approved form for a license which, if issued, will relieve him of the requirement that an adhesive stamp be attached to every tag. Each license shall expire one year from the date of issue unless revoked prior thereto.

(b) The department shall register all applicants for stamps or licenses and assign to every such person a registration number, which thereafter shall constitute his identification record, and said identification shall not be used by any other person. Each registration shall expire one year from the date of issue unless revoked prior thereto. The annual registration fee for an applicant for stamps shall be ten dollars (\$10.00). The annual registration fee for an applicant for a license shall be fifty dollars (\$50.00).

(c) Adhesive stamps as provided for by this act shall be furnished by the Secretary of Labor and Industry in quantities of not less than one thousand (1000), for which the applicant shall pay twenty-five dollars (\$25.00) for each one thousand stamps. The Secretary of Labor and Industry is hereby authorized to prepare and cause to be printed adhesive stamps, which shall contain a replica of the seal of the Commonwealth, and such other matter as the secretary shall direct.

(d) Every licensee shall make a report to the secretary every three months. The report shall show the exact number of articles sold in this Commonwealth, or shipped into this Commonwealth, for sale in this Commonwealth by the licensee, which are covered by the provisions of this act during the period covered by the report, and the licensee shall, at the same time, pay to the secretary two and one-half cents (2 1/2¢) for each such article. The reports shall be made within thirty days of the expiration of the three month period unless the period is extended by the secretary. Whenever any licensee shall fail to make the report and payment required herein or whenever a report is unsatisfactory, the secretary may cause the books and records of such licensee to be examined for the purpose of determining the correct amount due from such licensee. Any licensee failing to pay any amount found to be due, or the expenses incurred in making the examination, shall forfeit its license and registration. ((d) amended Nov. 6, 1985, P.L.301, No.73)

(8 amended Aug. 23, 1961, P.L.1075, No.485)

Section 9. (a) The Department of Labor and Industry is hereby charged with the administration and enforcement of this act, and it is further empowered and its duty shall be to make, amend, alter or repeal general rules and regulations for carrying into effect all the provisions of this act and to prescribe means, methods and practices to make effective such provisions. ((a) amended Aug. 23, 1961, P.L.1075, No.485)

(b) All places where mattresses, pillows, bolsters, feather beds, and other filled bedding, cushions, or articles of upholstered furniture are manufactured, repaired, or renovated, or where materials for the herein named articles are prepared, or where said articles are offered for sale or lease, or where there is possession with intent to sell or lease, or where sterilizing and disinfecting is performed, shall be subject to inspection by authorized representatives of the department to ascertain whether the requirements of this act and of regulations of the department have been met.

The department, through its officers and employees, is hereby empowered to take samples of materials under the authority of this act and to hold for evidence at a trial for the violations of this act any articles or materials manufactured or offered for sale or lease in violations of this act.

(c) Properly accredited representatives of the department shall have authority to place "off sale" any article or material which is offered for sale or lease, or found in the possession of any person with intent to sell or lease in violation of any of the provisions of law herein set forth. When articles or materials are removed from sale, they shall be so tagged, and such tags shall not be removed except by an authorized representative of the department, after satisfactory proof of compliance with all requirements of this act and of regulations of the department.

(d) The department is also empowered to test samples of materials when requested to do so by any reputable person.

(e) All auctioneers shall be required to be registered in the Department of Labor and Industry, and shall secure thereupon a certificate authorizing the sterilization of articles under the jurisdiction of this act by an approved process. Each certificate at the time of issue thereof shall be subject to a fee of twenty-five dollars (\$25.00), with an annual renewal of ten dollars (\$10.00). ((e) amended May 22, 1953, P.L.206, No.21)

(f) An auctioneer's certificate may be revoked by the Secretary of Labor and Industry upon proof of violation of the provisions of this act. A reissue of said certificate shall be subject to provisions set forth for initial certificate.

Section 10. (a) All proceeds of the sale of stamps and all fines and other monies collected in the administration of this act shall be payable to the Secretary of Labor and Industry, and when collected shall thereafter be transmitted by him to the State Treasury, through the Department of Revenue.

Section 11. (a) Prosecution for violations of the provisions of this act or of the rules and regulations adopted by the

department may be instituted by said department, and shall be in the form of summary proceedings before an alderman, magistrate or justice of the peace. Upon conviction, after a hearing, the penalties herein provided for shall be imposed.

Section 12. (a) Any person, who shall be convicted of violation of any of the provisions of this act, or of the rules and regulations established thereunder, shall be sentenced to pay a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) for each offense, and in default of payment of such fine, to undergo an imprisonment of not less than thirty days for each separate offense, provided that the term of imprisonment at any one time for total computed offenses shall not exceed six (6) months.

(b) Of all monies collected by the magistrates of cities of the first class and turned over to the department, one-half shall be returned to the treasurer of such cities, and the other half to the General Fund of the Commonwealth of Pennsylvania.

(c) Each mattress, pillow, bolster, feather bed, or other filled bedding, cushion, or article of upholstered furniture manufactured, repaired, or renovated, sold, offered for sale, or leased or possessed with intent to sell or lease, contrary to the provisions of this act or of the rules and regulations established thereunder, shall constitute a separate offense and shall be punishable as provided in subsection (a) of this section. ((c) amended May 11, 1979, P.L. , No.8)

(d) The Secretary of Labor and Industry may revoke any permit issued under the provisions of this act if the person to whom the permit was issued has violated any provisions of this act or of the rules and regulations established thereunder.

Section 13. This act shall become effective and operative immediately upon final enactment.

Section 14. It is intended that the various provisions of this act are severable, and if any such provisions are declared to be unconstitutional at any time by courts of authorized jurisdiction, the said action shall not be considered to affect the remainder of the provisions of this act.

Section 15. The following act, which this act is to replace, approved the fourteenth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, eight hundred two), entitled "An act relating to mattresses, pillows, bolsters, feather beds, comfortables, cushions, and upholstered furniture; regulating the making, remaking, renovating, sterilizing, disinfecting, sale, leasing, delivering, and consigning thereof, and the possession thereof with intent to sell, lease, deliver, or consign," and the amendments thereto, are hereby repealed. All other acts or parts of acts inconsistent herewith are hereby repealed.