

SENATE No. 752

The Commonwealth of Massachusetts

SENATE, September 2, 1959.

The committee on Ways and Means, to whom was committed the House Bill relative to the establishment of a bedding and furniture section and to the manufacture and sale of bedding, upholstered furniture and related products (House, No. 2003), report recommending that the same ought to pass with an amendment substituting a new draft entitled "An Act relative to the manufacture and sale of bedding, upholstered furniture and related products and providing for the establishment of a furniture and bedding inspection section" (Senate, No. 752).

For the committee,

JOHN J. BEADES.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Nine.

AN ACT RELATIVE TO THE MANUFACTURE AND SALE OF BEDDING, UPHOLSTERED FURNITURE AND RELATED PRODUCTS AND PROVIDING FOR THE ESTABLISHMENT OF A FURNITURE AND BEDDING INSPECTION SECTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 94 of the General Laws
2 is hereby amended by striking out the paragraph defining
3 “Garnetted clippings”, inserted by section 1 of chapter 581
4 of the acts of 1957, — the paragraph defining “Used or used
5 material”, inserted by section 3 of said chapter 581, the para-
6 graph defining “New”, as amended by section 2 of said chapter
7 581, the paragraph defining “Article of bedding”, the para-
8 graph defining “Previously used”, “previously been used” or
9 “been used before”, and the paragraph defining “Article of
10 upholstered furniture”, as appearing in the Tercentenary Edi-
11 tion.

1 SECTION 2. Said chapter 94 is hereby further amended by
2 striking out sections 270 to 277, inclusive, and the caption
3 preceding said sections and inserting in place thereof the fol-
4 lowing eight sections under the caption UPHOLSTERED
5 FURNITURE AND BEDDING: —

6 *Section 270.* The following words and phrases as used in
7 this section and in sections two hundred and seventy-one to
8 two hundred and seventy-seven, inclusive, which sections may
9 be cited and referred to as the furniture and bedding inspection
10 law, shall have the following meanings unless the context
11 otherwise requires: —

12 “Annually”, or any of its variants, the period beginning July
13 first of one year and ending June thirtieth of the succeeding

14 year, or any unexpired portion of such period.

15 "Bedding", includes any quilted pad, mattress pad, ham-
16 mock pad, mattress, comforter, bunk quilt, sleeping bag, box
17 spring, studio couch, pillow, cushion, or any bag or container
18 made of leather, cloth or any other material, or any other de-
19 vice that is stuffed or filled in whole or in part with concealed
20 material in addition to the structural units and filling material
21 used therein and its container, all of which is designed or con-
22 structed for use by any human being for sleeping, resting or
23 reclining purposes.

24 "Department", the department of public health.

25 "Division", the division of food and drugs in the department
26 of public health.

27 "Filling material", cotton, wool, kapok, feathers, down, hair,
28 sisal, jute, glass fiber, rubber, silk, rayon, or any other ma-
29 terial or any combination thereof, loose, carded, felted or in
30 batting form, pads or in any other prefabricated form, con-
31 cealed or not concealed, to be used or which can be used in
32 articles of bedding or upholstered furniture.

33 "Garnetted clippings", filling material intended for use in
34 an article of upholstered furniture or bedding and composed
35 entirely of defabricated new clippings which have never been
36 used. Such garnetted clippings may be labeled with the word
37 "new".

38 "Inspector", a representative of the division of food and
39 drugs.

40 "Manufacturer", a person who, either by himself or through
41 employees or agents, makes any article of upholstered furni-
42 ture or bedding in whole or in part, or who does the upholstery
43 or covering of any structural unit thereof, using either new
44 or secondhand material.

45 "New", when used with respect to an article or material, any
46 article or material which has not been previously used.

47 "Oily", when used with respect to filling material, any filling
48 material which contains more than five per cent of oil. Such
49 filling material shall be designated on the label as "oily".

50 "Owner's material", any article or material belonging to a
51 person for his own, or tenant's use, which is sent to a manu-

52 facturer, repairer or renovator to be repaired or renovated, or
53 used in repairing or renovating.

54 "Person", includes individuals, partnerships, associations,
55 firms, auctioneers, trusts and corporations, and their agents,
56 servants and employees.

57 "Pillow", a bag or case of cloth or other soft material filled
58 or stuffed with feathers, down, kapok, cotton, hair, wool, glass
59 fiber, rubber, silk, rayon or other sanitary filling not prohibited
60 by sections two hundred and seventy-one to two hundred and
61 seventy-six, inclusive, to be used as a rest or support in reclin-
62 ing or sleeping.

63 "Remade" or "renovated", when used with respect to an
64 article of bedding or upholstered furniture, an article of bed-
65 ding or upholstered furniture which has been remade or reno-
66 vated and which is not to be resold or offered for resale but
67 is to be returned to the original owner.

68 "Renovator", "reupholsterer", "remaker" or "repairer", a
69 person who, either by himself or through employees or agents,
70 is engaged in the remaking or renovating of upholstered furni-
71 ture, or who manufactures upholstered furniture to be sold
72 by him as a retailer. Such person shall not be bound by any
73 provision of this law excepting section two hundred and seven-
74 ty-three; provided, however, that if he manufactures such
75 furniture to be sold by him as a retailer, he shall also comply
76 with the labeling provisions of section two hundred and seven-
77 ty-two.

78 "Residence dealer", a person who sells a new or used article
79 of upholstered furniture or bedding from his own or any other
80 person's place of abode or from a salesroom which does not
81 have an apparent and usual store entrance.

82 "Retailer", a person who sells, offers or exposes for sale,
83 or has in his possession with intent to sell, to a consumer or
84 user an article of bedding or upholstered furniture.

85 "Secondhand", "used" or "used material", any material
86 which has been previously used for any purpose. Manufactur-
87 ing processes shall not be considered as prior use. An article
88 of upholstered furniture returned by the purchaser for ex-
89 change, alteration or correction within thirty days from date

90 of delivery after original sale at retail shall be deemed to be
91 a new article; but after thirty days from date of such delivery,
92 such article shall be deemed to be secondhand. Any article of
93 upholstered furniture or bedding shall be deemed secondhand
94 if it contains any secondhand material, in whole or in part.

95 “Sell”, sell, offer or expose for sale, barter, trade, deliver,
96 give away, rent, consign, lease, possess with an intent to sell
97 or dispose of in any other commercial manner.

98 “Sterilizer”, a person licensed by the department to sterilize
99 any upholstered furniture or bedding and filling material or
100 component parts thereof.

101 “Supply dealer”, a person licensed by the department to
102 manufacture, process or sell at wholesale any felt, batting, pads
103 or other filling, loose, in bags, in bales, or in containers, con-
104 concealed or not concealed, to be used or which can be used in
105 articles of bedding or upholstered furniture.

106 “Upholstered furniture”, any furniture, including children’s
107 furniture, movable or stationary which (a) is made or sold
108 with cushions or pillows, loose or attached; or (b) is itself
109 stuffed or filled, in whole or in part, with any material, hidden
110 or concealed by fabric or any other covering, including cushions
111 or pillows belonging to or forming part thereof, together with
112 the structural units, the filling material and its covering and
113 its container, which can be used as a support for the body of
114 a human being, or his limbs and feet when sitting or resting in
115 an upright or reclining position.

116 “Upholstery jobber”, a person whose primary business is the
117 wholesaling of fabrics used in the reupholstery trade. Such a
118 person may also sell the basic supplies used in the trade, in-
119 cluding new filling materials purchased from a licensed supply
120 dealer. An upholstery jobber shall be excluded from the licens-
121 ing provisions of this law.

122 *Section 271.* Except as otherwise provided, any person who
123 advertises, solicits or contracts to manufacture upholstered
124 furniture or bedding and who either does the work himself or
125 has others do it for him, shall obtain the license required by
126 this section for the particular type of work which he solicits
127 or advertises he will do, regardless of whether he has a shop

128 or factory.

129 Every person manufacturing upholstered furniture or bed-
130 ding shall annually obtain a manufacturer's license from the
131 department bearing a serial number assigned by the depart-
132 ment, except as otherwise provided.

133 A wholesaler of upholstered furniture or bedding shall an-
134 nually obtain a wholesale dealer's license from the department,
135 unless he holds a manufacturer's license.

136 Every person manufacturing, processing or selling at whole-
137 sale any felt or batting or any pads or loose material in bags,
138 bales or containers intended for use as filling material in bed-
139 ding or upholstered furniture shall annually obtain a supply
140 dealer's license from the department bearing a serial number
141 assigned by it, unless he holds a manufacturer's license.

142 Any person who sells directly or indirectly to any person,
143 either at wholesale or retail, any merchandise subject to this
144 law by means of a catalog, or in any other manner, shall com-
145 ply with this law.

146 Every person doing business at the same address under more
147 than one firm name shall be subject to the licensing provisions
148 of this section for each firm name.

149 Such manufacturers, wholesale dealers and supply dealers
150 located outside the commonwealth, who ship their products
151 into the commonwealth, shall first obtain a license from the
152 department.

153 The department shall prescribe the procedure relative
154 to: —

155 (a) Assignment or reassignment of serial numbers.

156 (b) Transfer of licenses between persons, where such trans-
157 fer is effected through rent, lease or sale of the business.

158 (c) Change in name, ownership, address or of license classi-
159 fication.

160 The director of the division, after a hearing, and with the
161 advice and consent of a majority of the advisory board, may
162 (1) revoke or suspend for violation of any provision of this
163 law, the license of any person located outside the common-
164 wealth who ships his products into the commonwealth and (2)
165 suspend or refuse to renew, for a period of not more than six

166 months, for violation of any provision of this law twice within
167 a period of twelve months, the license of any other person.

168 No person required to have a license under the provisions
169 of this section, shall manufacture, sell, offer or expose for
170 sale, have in his possession with intent to sell, repair, remake,
171 or renovate any article of bedding or filling material without
172 first obtaining such a license. No dealer or distributor shall
173 sell, or purchase for purposes of sale, an article of bedding or
174 an article of upholstered furniture from a manufacturer or
175 wholesale dealer who is not duly licensed or whose license has
176 been revoked.

177 This section shall not apply to upholstered furniture or
178 articles of bedding sold by an officer or other person by order
179 of the court.

180 *Section 272.* No person shall manufacture or sell at whole-
181 sale or retail or otherwise, directly or indirectly, make, repair,
182 renovate or offer or expose for sale, or have in his possession
183 with intent to sell, any article of new or secondhand uphol-
184 stered furniture or bedding which can be used by human beings,
185 if it is made of any new or secondhand material which is hidden
186 or concealed by fabric or any other covering, unless such
187 article is plainly labeled as provided in this law, and prescribed
188 by the department.

189 No person shall, at wholesale or retail or otherwise, directly
190 or indirectly, sell or have in his possession with intent to sell
191 any filling material or other component parts to be used or
192 which can be used in upholstered furniture or bedding, unless
193 such material is plainly labeled with a tag or other marking as
194 provided in this law and prescribed by the department.

195 No person shall, directly or indirectly, sell in this common-
196 wealth, at wholesale or retail, any article of upholstered furni-
197 ture or bedding, or any filling material or other component
198 part to be used or which can be used in upholstered furniture
199 or bedding manufactured out of the commonwealth, unless it
200 is labeled in accordance with the provisions of this law and
201 fully complies with all the requirements of this law.

202 All labels required by this law shall be securely attached to
203 the article during the process of manufacture at the factory.

204 Such labels shall be fixed in such position that they may be
205 conveniently examined and shall be in accordance with the
206 rules and regulations pertaining to labeling promulgated under
207 authority of this law.

208 For the purposes of this section, possession of any article of
209 bedding or of upholstered furniture or of any filling material
210 not labeled as provided herein, by any person engaged in the
211 business of manufacturing, selling or offering for sale any such
212 article shall be prima facie evidence that such article is being
213 manufactured, repaired, renovated or is offered or exposed for
214 sale in violation of the provisions of this section.

215 The label shall show or state: —

216 (a) Whether the concealed materials are new or secondhand.
217 If the materials are wholly new, the heading shall read "All
218 New Material". If the materials are in whole or in part second-
219 hand, the heading shall read "Secondhand Material".

220 (b) An accurate description of the kind of material used for
221 filling including an accurate statement as to the percentage of
222 the components of said filling material in accordance with the
223 regulations of the department. In the case of feathers and
224 down and mixtures thereof or articles containing such mix-
225 tures, the label shall specify the kind of fowl from which
226 feathers and down were obtained and the physical condition
227 of such feathers and down. In the case of mattresses or up-
228 holstered furniture containing hair, the label shall specify the
229 animal source of such hair. In all regulations requiring per-
230 centages to be specified upon the label, the department may in-
231 clude generally accepted tolerances.

232 (c) If sterilized, the statement "Contents Sterilized".

233 (d) The serial number of the manufacturer, assigned by the
234 department.

235 Every person who repairs or renovates bedding, for any
236 owner or customer or for his own or tenant's use, upon receiv-
237 ing each article for such repair or renovation, shall immedi-
238 ately securely affix a tag of identification showing the owner's
239 or dealer's name, address and date upon which it was received,
240 and when completed, shall attach the "Owner's Material" label
241 prescribed by the department.

242 The department is hereby authorized to prescribe the word-
243 ing, form style, size, material, lettering, tolerances, require-
244 ments or any changes on labels in order to carry out the pro-
245 visions of this law.

246 The department may issue regulations permitting reciprocity
247 of registration or permit numbers with such states having such
248 a requirement.

249 It shall be a violation of this law to use in the description on
250 any label any false or misleading term or designation, or term
251 or designation likely to mislead.

252 Every person, except the purchaser for his own use, or an
253 inspector in the performance of his duties under this law, who
254 attempts to remove, or does remove, deface, alter, or causes to
255 be removed, the label or any mark or statement placed upon
256 any upholstered furniture or bedding under the provisions of
257 this law shall be guilty of a violation of this law.

258 No person shall manufacture for purposes of sale, sell, offer
259 or expose for sale, or have in his possession with intent to sell,
260 any article of bedding, consisting in part of metal which has
261 previously been used, or any upholstered spring bed, box
262 spring, studio couch, davenport, day bed, bed spring, metal bed,
263 metal folding bed, metal couch, metal cradle, metal bassinet or
264 similar article designed for the use of persons when sleeping
265 or reclining, consisting in whole or in part of metal which has
266 previously been used, unless such article is plainly and per-
267 manently marked or tagged "Secondhand metal used in this
268 article" and unless, if any such article is enclosed in a bale, box,
269 crate or other receptacle, there shall be plainly marked upon
270 such receptacle, or upon a tag securely attached thereto, a state-
271 ment that the contents of such receptacle are marked as herein
272 required. In the case of springs which have not previously
273 been used, said springs shall be labeled as "New Material".

274 *Section 273.* No person shall engage in the business of
275 sterilizing articles or filling materials referred to in sections
276 two hundred and seventy to two hundred and seventy-six, in-
277 clusive, without first obtaining a license from the depart-
278 ment.

279 Every such person shall apply for a license and set forth the

280 place where the sterilizer's apparatus will be located, the type
281 and kind of equipment to be used, the names and addresses of
282 the true owners of the sterilizing establishment and such other
283 data as the department may from time to time require.

284 The department shall cause an investigation to be made and
285 if it is satisfied that the apparatus will comply with the regu-
286 lations of the department made pursuant to sections two hun-
287 dred and seventy to two hundred and seventy-six, inclusive, the
288 license shall be issued.

289 Inspection shall be made from time to time to determine
290 whether the sterilizer is fully and faithfully complying with all
291 of the provisions of this law and with the regulations promul-
292 gated by the department with respect to sterilization.

293 No person shall use any material to make any article of
294 bedding or upholstered furniture for sale that is made from
295 material

296 (a) that comes from an animal or fowl,

297 (b) that contains any bugs, vermin, insects or filth,

298 (c) that is unsanitary,

299 (d) that contains burlap or other material which has been
300 used for balings, or

301 (e) any secondhand filling material,

302 unless such material has been thoroughly sterilized by a proc-
303 ess approved by the department.

304 Every article of upholstered furniture or bedding from any
305 private or public hospital, jail or other institution or which has
306 been used by any person suffering from an infectious or con-
307 tagious disease, shall be sterilized before it is repaired or
308 renovated.

309 New or sterilized articles of upholstered furniture or bed-
310 ding or materials shall at all times be kept separate from any
311 secondhand articles or materials that are unsterilized.

312 Secondhand upholstered furniture or bedding, or secondhand
313 filling materials or other component parts to be used or which
314 can be used in upholstered furniture or bedding, received from
315 outside of this commonwealth shall comply with all the sterili-
316 zation provisions of sections two hundred and seventy to two
317 hundred and seventy-six, inclusive, before it is accepted, sold

318 or delivered, either directly or indirectly by any person.

319 All secondhand mattresses, if intended for resale, shall be
320 sterilized as required by sections two hundred and seventy to
321 two hundred and seventy-six, inclusive.

322 A person engaged in the business of renting articles of bed-
323 ding shall cause such articles of bedding to be sterilized before
324 being returned to use.

325 *Section 274.* The department is authorized to establish and
326 promulgate all rules and regulations, including those pertaining
327 to labeling and sterilization, necessary to carry out the pro-
328 visions of sections two hundred and seventy to two hundred
329 and seventy-six, inclusive. The department is further author-
330 ized to establish further definitions for filling material.

331 There shall be within the department an advisory board
332 consisting of seven members to be appointed by the governor,
333 with the advice and consent of the council, and upon the rec-
334 ommendation of the department. Two of said members shall
335 be designated in their original appointments to serve for one
336 year, two for two years and three for three years. Upon the
337 expiration of the term of a member, his successor shall be
338 appointed in the manner aforesaid for three years. Such per-
339 sons shall be recommended by the department on the basis of
340 their qualifications, as determined by their business and civic
341 interests and affiliations, to represent both the industry and
342 the consumer.

343 Members of the advisory board shall serve without com-
344 pensation, and shall meet quarterly and at other times at the
345 discretion of the chairman. They shall receive their necessary
346 travel and other expenses when engaged in the work of the
347 board.

348 The director of the division directly responsible for the en-
349 forcement of this law shall appoint a chairman of the advisory
350 board and shall designate an employee of the division to be
351 secretary.

352 The board shall: —

353 (a) Act entirely in an advisory capacity, except as provided
354 in section two hundred and seventy-one. A majority of the
355 members of the board present and voting shall constitute the

356 basis for an official action or recommendation of said board.

357 (b) Consider all matters submitted to it by the director.

358 (c) On its own initiative recommend to the department such
359 rules and regulations and any changes thereon which the ad-
360 visory board may deem important and necessary.

361 (d) Co-operate in the preparation of rules and regulations
362 supplemental to the provisions of this law.

363 *Section 275.* The application for each license and annual
364 license renewal shall be accompanied by a fee of fifty dollars
365 payable to the commonwealth of Massachusetts, which fee
366 shall be returned to the applicant if the license is not granted.

367 *Section 276.* The inspector shall have access to any premises
368 in which is kept or stored any article of bedding, upholstered
369 furniture or filling material regulated by this law. He may
370 inspect on the premises any materials intended for the manu-
371 facture of upholstered furniture or bedding, partly finished
372 and finished articles of upholstered furniture and bedding, and
373 may open such articles, including pillows or cushions belonging
374 to or forming part thereof, for the purpose of inspecting con-
375 cealed filling material and may take either the entire article
376 or filling material in such quantities as he may deem necessary
377 for analysis. This section shall not apply to antique furniture.

378 The inspector may seize, order destroyed or order off-sale
379 any article of bedding or upholstered furniture or filling ma-
380 terial which has been contaminated in any way, including but
381 not limited to fire, water, flood, obnoxious odors or radiation
382 which cannot in the opinion of the division be properly proc-
383 essed so as to be safe and sanitary if used. Said material shall
384 be destroyed or salvaged in accordance with the directions set
385 forth by the division, so that said contamination may be
386 rendered safe and sanitary.

387 The inspector may order off-sale, and may so tag, any
388 article of bedding or upholstered furniture or material there-
389 for which is not tagged as required by section two hundred and
390 seventy-two or which is tagged with a tag bearing a mislead-
391 ing term, description, designation or statement. The inspector
392 may tag as being unfit any article or material damaged or
393 found unfit from any cause.

394 No articles or materials placed off-sale or declared to be un-
395 fit by the inspector shall be sold nor shall the contents thereof
396 be altered, interfered with, or removed in whole or in part, nor
397 shall the articles or contents thereof be removed or permitted
398 to be removed from the premises when placed off-sale until
399 such articles or materials are released by the inspector. The
400 inspector shall release such articles or materials upon the com-
401 pletion of corrective measures taken to effect compliance with
402 this law. All articles placed off-sale or removed shall be sub-
403 ject to examination by the inspector and shall be so placed or
404 stored so as to be readily accessible at all times and shall be
405 produced for examination upon demand by any such inspector
406 made upon the person or persons in charge of the establish-
407 ment or premises where such articles or materials are placed
408 off-sale.

409 Samples of filling material shall be taken by opening the
410 seam of the article at a point where it may be resealed with a
411 minimum of difficulty and where it will not affect the quality
412 of the article, if possible.

413 The off-sale tag to be affixed by an inspector in accordance
414 with the provisions of this section to any article of suspected
415 upholstered furniture or bedding or any filling material shall
416 be a red tag and shall contain such information as may be
417 required by the department. It shall be removed upon proof
418 that the provisions of sections two hundred and seventy to two
419 hundred and seventy-six, inclusive, have been complied with.

420 Any person who removes, or causes to be removed, any tag
421 or device placed by an inspector upon any article of upholstered
422 furniture or bedding or any material shall be guilty of a viola-
423 tion of this law.

424 No person shall interfere with, obstruct or otherwise hinder,
425 any inspector of the department in the performance of his
426 duties.

427 Any police officer, member of any local board of health, or
428 other town official, who has reason to believe that any provision
429 of sections two hundred and seventy to two hundred and
430 seventy-six, inclusive, has been or is being violated, shall give
431 notice to the department.

432 The director or any inspector may cite any person engaged
433 in manufacturing, repairing, renovating, sterilizing or selling
434 any upholstered furniture or bedding materials intended to be
435 used, or which can be used, in its manufacture, repair or reno-
436 vation, to a hearing to show cause why he should not be subject
437 to disciplinary action or prosecution for any act or omission in
438 violation of sections two hundred and seventy to two hundred
439 and seventy-six, inclusive.

440 *Section 277.* Whoever violates any provision of sections two
441 hundred and seventy to two hundred and seventy-six, inclusive,
442 shall be punished by a fine of not less than twenty-five dollars
443 nor more than five hundred dollars or by imprisonment for not
444 more than six months, or both. Any person convicted of a
445 violation of any rule or regulation made under authority of
446 section two hundred and seventy-four shall be punished by a
447 fine of not more than one hundred dollars, as provided in the
448 rule or regulation.

1 SECTION 3. Section 4 of chapter 17 of the General Laws is
2 hereby amended by striking out the second paragraph, as ap-
3 pearing in section 1 of chapter 612 of the acts of 1958, and
4 inserting in place thereof the following paragraph: — There
5 shall be within the division of food and drugs a furniture and
6 bedding inspection section, a drugs control section and such
7 other sections as the director, with the approval of the depart-
8 ment, may from time to time determine.

1 SECTION 4. If any of the provisions of this act are deter-
2 mined to be unconstitutional, all the remaining provisions shall
3 continue in full force and effect.

