

Senate Bill 314

By: Senators Jackson of the 2nd, Thompson of the 5th, Stoner of the 6th and James of the 35th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide for regulation of the use of previously used material in mattresses and similar
3 consumer products; to provide for definitions; to provide for related matters; to provide for
4 an effective date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
8 Chapter 25, which is reserved, as follows:

9 "CHAPTER 25

10 31-25-1.

11 As used in this chapter, the term:

12 (1) 'Articles of bedding' means any of the following types of goods which are intended
13 for use by any human being for sleeping purposes: any mattress, mattress pad, mattress
14 protector, upholstered spring, comforter, quilted pad, quilt, cushion, or pillow which is
15 stuffed or filled in whole or part with concealed material.

16 (2) 'Manufacturer' means a person who either by himself or herself or through employees
17 or agents makes any article of bedding in whole or in part or who does the upholstery or
18 covering of any unit thereof, using either new or previously used material.

19 (3) 'New material' means any material which has not been used in the manufacture of
20 another article or used for any other purpose.

21 (4) 'Person' means any individual, corporation, company, business, partnership, or
22 association.

23 (5) 'Previously used material' means any material, including jute and shearings, which
24 has been used in the manufacture of another article and subsequently torn, shredded,
25 picked apart, or otherwise disintegrated or altered.

26 (6) 'Renovator' or 'reupholsterer' means any person who repairs, makes over, re-covers,
27 restores, or renews any article of bedding for consideration.

28 (7) 'Sell' means sell, offer to sell, barter, trade, rent, or possess with intent to sell, deliver
29 or consign in sale, or dispose of in any other commercial manner.

30 31-25-2.

31 (a) No person, except for his or her own use, shall make, reupholster, or renovate articles
32 of bedding for sale in this state without first securing a numbered certificate of registration
33 from the Department of Agriculture and paying the fee established for the certificate of
34 registration as set forth in this subsection. The charge for this certificate shall constitute
35 an inspection fee for the purpose of enforcing this chapter. The certificate of registration
36 shall expire one year from the date of issue. The charge shall be paid according to the
37 following schedule:

38 (1) Manufacturers of articles of bedding \$1,000.00

39 (2) Renovators and reupholsterers of articles of bedding 250.00

40 (b) Fees collected by the Department of Agriculture under this chapter shall be deposited
41 in the general fund of the state treasury.

42 31-25-3.

43 Every person applying for a certificate of registration shall furnish a detailed drawing and
44 description of any sterilizing apparatus and process to be used, which apparatus and
45 process shall be approved by the Department of Agriculture before the applicant shall be
46 entitled to a certificate of registration.

47 31-25-4.

48 (a) No person subject to this chapter shall use any previously used material which, since
49 last used, has not been sterilized by a process approved by the Department of Agriculture.

50 (b) No person shall sell a used article of bedding which has not been sterilized, since last
51 used, by a process approved by the Department of Agriculture, provided that nothing in this
52 chapter shall be construed as prohibiting public sales under process of law or sales by an
53 executor or an administrator of an estate.

54 31-25-5.

55 Any person who receives articles of bedding for renovation, reupholstering, or storage shall
56 keep attached thereto, from the time of receipt, a tag on which is legibly written the date
57 of receipt and the name and address of the owner.

58 31-25-6.

59 (a) No person shall manufacture, renovate, reupholster, or sell any article of bedding to
60 which there is not securely sewed a cloth-backed tag which is at least six square inches in
61 area and upon which there shall be stamped or printed with ink in the English language:

62 (1) The name of the material or materials used to fill the article of bedding;

63 (2) The name and address of the manufacturer, renovator, upholsterer, or vendor of the
64 article of bedding;

65 (3) The manufacturer's, upholsterer's, or renovator's certificate of registration number
66 issued by the Department of Agriculture; and

67 (4) The words 'Made of New Material' if such article contains no previously used
68 material; or the words 'Made of Previously Used Material' if such article contains any
69 material classified as 'Previously Used Material'; or the word 'Secondhand' if such article
70 has been previously used but not remade.

71 The words so stamped shall be in letters at least 1/4 inch high. The tag shall contain
72 nothing of a misleading nature and shall be sewed to the outside cover of every article of
73 bedding being manufactured, renovated, or reupholstered before the filling material has
74 been placed therein.

75 (b) No person, other than a purchaser for his or her own use, shall remove from articles of
76 bedding or deface or alter the tag required under this Code section.

77 31-25-7.

78 The Department of Agriculture is authorized and empowered, through its duly authorized
79 representatives, to enforce this chapter. This chapter shall have no application to articles
80 of bedding manufactured by inmates for use by prisoners, detainees, or other government
81 purposes. The Department of Agriculture shall not be authorized to enforce this chapter
82 against the Department of Corrections or other local, state, or federal agencies.

83 31-25-8.

84 The Department of Agriculture is authorized and empowered to inspect every place where
85 articles of bedding are manufactured, renovated, reupholstered, or sold or where material
86 used in such manufacture, renovating, or reupholstering is mixed, worked, sold, or stored.

87 31-25-9.

88 When a duly authorized representative of the Department of Agriculture has reasonable
89 cause to believe that an article of bedding is not tagged or filled as required under Code
90 Section 31-25-6, he or she shall have authority to open a seam of such article of bedding
91 for the purpose of examining the filling and shall likewise have authority and power to
92 examine any purchase records or invoices necessary to determine the kind of material used
93 in such article of bedding. He or she shall have power to seize and hold for evidence any
94 article of bedding or material made, possessed, or offered for sale contrary to this chapter.

95 31-25-10.

96 The Department of Agriculture shall have the power to require any person supplying
97 material to a manufacturer, renovator, or reupholsterer to furnish such manufacturer,
98 renovator, or reupholsterer an itemized invoice of all materials so supplied, which shall be
99 retained by the manufacturer, renovator, or reupholsterer for one year. All such invoices
100 shall be subject to inspection by the Department of Agriculture.

101 31-25-11.

102 It is the intention of this chapter to prevent both the manufacture and sale in this state of
103 articles of bedding unless manufactured and sold in conformity with its provisions. The
104 Department of Agriculture may make and enforce reasonable rules and regulations for the
105 enforcement of this chapter and may suspend, revoke, and void the certificate of
106 registration of any person convicted of violating this chapter. Any person, a nonresident
107 of this state, who has been issued a certificate of registration and who fails or refuses to
108 enter an appearance in any court of record in this state to answer a charge or charges of
109 violation after service upon such person of a notice by registered or certified mail to so
110 appear or respond, shall have his or her certificate of registration peremptorily revoked by
111 the Department of Agriculture. The articles of bedding manufactured or sold by such
112 person shall not thereafter be sold in this state until such person has paid a special
113 inspection fee of \$1,000.00 and the Department of Agriculture has determined that such
114 person is complying with this chapter, whereupon the Department of Agriculture shall
115 reinstate or reissue the certificate of registration to such person.

116 31-25-12.

117 The possession of one or more articles covered by this chapter, when found in any store,
118 warehouse, or place of business other than a private home, hotel, or other place where such
119 articles are ordinarily used, shall constitute prima-facie evidence that the article or articles
120 so possessed are possessed with intent to sell or process the same for sale.

121 31-25-13.

122 Any person who violates any provision of this chapter shall be guilty of a high and
123 aggravated misdemeanor punishable by not more than one year in prison or a fine of not
124 more than \$10,000.00, or both."

125 **SECTION 2.**

126 This Act shall become effective on January 1, 2013, and shall apply to violations committed
127 on or after such date.

128 **SECTION 3.**

129 All laws and parts of laws in conflict with this Act are repealed.