

The House Committee on Agriculture and Consumer Affairs offers the following substitute to HB 678:

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 an
4 effective date; 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 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 or resale by combining new
28 material with previously used material.

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

31 (8) 'Thrift store' means any store or private sale that offers primarily used products or
32 merchandise, including Goodwill stores, Salvation Army stores, garage sales, community
33 bazaars, thrift markets, and consignment stores. In order to qualify as a thrift store, at
34 least 90 percent of the items sold shall be used, previously owned items not obtained
35 directly from any wholesale supplier.

36 (9) 'Used article of bedding' means an article of bedding that has been previously used
37 and that has not been renovated or reupholstered and that contains no new material.

38 31-25-2.

39 (a) No manufacturer, renovator, or reupholsterer shall make, reupholster, or renovate
40 articles of bedding with previously used material for sale in this state without first securing
41 a numbered certificate of registration from the Department of Agriculture and paying the
42 fee established for the certificate of registration as set forth in this subsection. The charge
43 for this certificate shall constitute an inspection fee for the purpose of enforcing this
44 chapter. The certificate of registration shall expire one year from the date of issue. The
45 charge shall be paid according to the following schedule:

- 46 (1) Manufacturers of articles of bedding \$1,000.00
- 47 (2) Renovators and reupholsterers of articles of bedding 250.00

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

50 (c) The provisions of this Code section shall not apply to a person who is not a
51 manufacturer, renovator, or reupholsterer, and who sells or donates used articles of bedding
52 to or from a thrift store.

53 31-25-3.

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

58 31-25-4.

59 (a) No manufacturer, renovator, or reupholsterer subject to this chapter shall use any
60 previously used material which, since last used, has not been sterilized by a process
61 approved by the Department of Agriculture.

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

66 31-25-5.

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

70 31-25-6.

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

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

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

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

80 (4) The words 'Made of New Material,' if such article contains no previously used
81 material, or the words 'Made of Previously Used Material,' if such article contains any
82 material classified as previously used material.

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

87 (b) The provisions of this Code section requiring labels to be placed onto articles of
88 bedding shall not apply to persons selling articles of bedding from thrift stores or persons
89 donating articles of bedding to thrift stores; provided, however, that any such person selling
90 used articles of bedding or articles of bedding with previously used material from a thrift
91 store shall be required to cross out or line through any words on the attached label
92 indicating that the article of bedding is made of new material. In addition, any person who

93 sells used articles of bedding from a thrift store shall have a sign posted with letters that are
94 four inches or larger immediately next to the used articles of bedding for sale that
95 prominently reads: 'Used Bedding.'

96 (c) Except as provided in subsection (b) of this Code section, no person, other than a
97 purchaser for his or her own use, shall remove from articles of bedding or deface or alter
98 the tag required under this Code section.

99 31-25-7.

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

105 31-25-8.

106 The Department of Agriculture is authorized and empowered to inspect every place where
107 articles of bedding are manufactured, renovated, reupholstered, or sold or where material
108 used in such manufacturing, renovating, or reupholstering is mixed, worked, sold, or
109 stored.

110 31-25-9.

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

118 31-25-10.

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

124 31-25-11.

125 It is the intention of this chapter to prevent both the manufacture and sale in this state of
126 articles of bedding unless manufactured and sold in conformity with its provisions. The
127 Department of Agriculture may make and enforce reasonable rules and regulations for the
128 enforcement of this chapter and may suspend, revoke, and void the certificate of
129 registration of any person convicted of violating this chapter. Any person, a nonresident
130 of this state, who has been issued a certificate of registration and who fails or refuses to
131 enter an appearance in any court of record in this state to answer a charge or charges of
132 violation after service upon such person of a notice by registered or certified mail to so
133 appear or respond shall have his or her certificate of registration peremptorily revoked by
134 the Department of Agriculture. The articles of bedding manufactured or sold by such
135 person shall not thereafter be sold in this state until such person has paid a special
136 inspection fee of \$1,000.00 and the Department of Agriculture has determined that such
137 person is complying with this chapter, whereupon the Department of Agriculture shall
138 reinstate or reissue the certificate of registration to such person.

139 31-25-12.

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

144 31-25-13.

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

148 **SECTION 2.**

149 This Act shall become effective on January 1, 2013.

150 **SECTION 3.**

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