S T A T E O F N E W Y O R K

4814

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the safe transfer, transport and storage of used mattresses for sale to commercial establishments

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 385-b to read as follows:

S 385-B. SAFE TRANSFER, TRANSPORT AND STORAGE OF USED BEDDING. 1. NO USED BEDDING SHALL BE SOLD OR TRANSFERRED TO A COMMERCIAL ESTABLISHMENT UNLESS SUCH BEDDING HAS BEEN:

(A) SANITIZED USING A METHOD APPROVED BY THE DEPARTMENT OF HEALTH THAT IS INTENDED TO KILL BEDBUGS, DUST MITES, OTHER INSECTS, MOLDS, FUNGI, GERMS OR OTHER ORGANISMS, AND TO REMOVE SOIL, DUST MITE AND INSECT FECES, ALLERGENS, AND OTHER CONTAMINANTS;

(B) IF A MATTRESS, TESTED AND CERTIFIED AS FULLY MEETING THE PRODUCT PERFORMANCE REQUIREMENTS SET FORTH IN THE MATTRESS FLAMMABILITY STANDARDS ESTABLISHED BY THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION AND CODIFIED AT 16 C.F.R. PARTS 1632 AND 1633 (INCLUDING ANY SUBSEQUENT AMENDMENTS THERETO);

(C) PERMANENTLY LABELED WITH A YELLOW TAG STATING IN A CLEAR AND CONSPICUOUS MANNER AND LOCATION THAT:

"THIS BEDDING CONTAINS PREVIOUSLY USED MATERIALS WHICH HAVE BEEN CLEANED AND SANITIZED IN A REASONABLE MANNER TO KILL GERMS AND INSECTS AND TO PREVENT INFECTION.";

(D) FOR MATTRESSES, SUCH TAG SHALL CONTAIN THE FOLLOWING ADDITIONAL STATEMENT IN A CLEAR AND CONSPICUOUS MANNER AND LOCATION:

"THIS MATTRESS MEETS THE REQUIREMENTS OF 16 C.F.R. PARTS 1632 AND 1633 (CIGARETTE IGNITION AND OPEN FLAME) STANDARDS FOR MATTRESSES."; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(E) FOR ANY USED MATTRESSES AND BOX SPRING INTENDED FOR SALE OR TRANSFER TO A COMMERCIAL ESTABLISHMENT, THE TAG REQUIRED BY THIS SECTION SHALL ALSO STATE IN A CLEAR AND CONSPICUOUS MANNER AND LOCATION:

"THIS LABEL MAY NOT BE REMOVED FOR ANY REASON AND MUST BE AVAILABLE FOR INSPECTION BY THE GUESTS OF THIS ESTABLISHMENT."

2. NO COMMERCIAL ESTABLISHMENT MAY PURCHASE OR OTHERWISE OBTAIN ANY USED BEDDING THAT DOES NOT MEET THE REQUIREMENTS OF THIS PROVISION.

3. NO COMMERCIAL ESTABLISHMENT THAT PURCHASES OR OTHERWISE OBTAINS ANY USED BEDDING THAT IS LABELED IN ACCORDANCE WITH THIS SECTION MAY REMOVE SUCH LABEL AT ANY TIME.

4. ANY PERSON THAT SELLS OR OTHERWISE TRANSFERS OWNERSHIP OF USED BEDDING TO A COMMERCIAL ESTABLISHMENT SHALL:

(A) MAINTAIN FOR A PERIOD OF AT LEAST FIVE YEARS APPROPRIATE RECORDS DOCUMENTING THE QUANTITY OF SUCH PRODUCTS IN QUESTION, THE NAME AND ADDRESS OF THE VENDOR AND RECIPIENT OF SUCH PRODUCTS, THE METHOD OF DISPOSITION OF SUCH USED PRODUCTS, INCLUDING, AS RELEVANT, THE DISMANTLING, DESTRUCTION, SANITIZATION, AND LABELING OF SUCH PRODUCTS, AND ALL TESTING AND OTHER RECORDS REQUIRED BY 16 C.F.R. PARTS 1632 AND 1633; AND

(B) MAKE SUCH RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH UPON REQUEST.

5. NO PERSON ENGAGED IN THE SALE, DISTRIBUTION AND DELIVERY OR TRANSPORT OF USED BEDDING TO OR FROM A COMMERCIAL ESTABLISHMENT SHALL DELIVER OR TRANSPORT SUCH USED BEDDING IN PROXIMITY TO NEW BEDDING UNLESS SUCH USED BEDDING SHALL HAVE BEEN SANITIZED AS PROVIDED BY DEPARTMENT OF HEALTH REGULATIONS. SUCH PROXIMITY SHALL INCLUDE IN THE SAME TRANSPORT VEHICLE, UNLESS THE NEW BEDDING IS PACKAGED OR WRAPPED IN A SECURE MANNER.

6. NO PERSON ENGAGED IN THE SALE OR DISTRIBUTION OF NEW OR USED BEDDING TO A COMMERCIAL ESTABLISHMENT SHALL STORE USED BEDDING IN PROXIMITY TO NEW BEDDING UNTIL SUCH USED BEDDING HAS BEEN THOROUGHLY SANITIZED IN ACCORDANCE WITH DEPARTMENT OF HEALTH REGULATIONS.

7. FOR PURPOSES OF THIS SECTION:

(A) "COMMERCIAL ESTABLISHMENT" MEANS AN ESTABLISHMENT THAT PROVIDES OVERNIGHT ACCOMMODATIONS TO THE PUBLIC INCLUDING, BUT NOT LIMITED TO, HOTELS, MOTELS, INNS, LODGES, HOSTELS AND BED AND BREAKFASTS.

(B) "BEDDING" MEANS MATTRESSES AND BOX SPRINGS.

S 2. The department of health shall promulgate regulations for the methods of sanitization to be used to kill bedbugs, dust mites, other insects, molds, fungi, germs or other organisms and the removal of soil, dust mites and insect feces, allergens and other contaminants on or before the three hundred sixtieth day after the effective date of this act.

S 3. This act shall take effect on the earliest of either: the thirtieth day after regulations for sanitization, as provided in section two of this act, have been finalized by the department of health; or on the three hundred ninetieth day after this act shall have become a law; provided that the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.