

4071

2009-2010 Regular Sessions

I N S E N A T E

April 9, 2009

Introduced by Sen. MONSERRATE -- read twice and ordered printed, and
when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to articles of
bedding

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

1 Section 1. Subdivisions 2 and 3 of section 383 of the general business
2 law, as added by chapter 309 of the laws of 1996, are amended to read as
3 follows:

4 2. "New" shall mean any material or article which has not been previ-
5 ously used for any purpose, including by-products produced in the manu-
6 facture of new fabric, and material reclaimed from new fabric[; except
7 that an article of bedding returned by the purchaser for exchange,
8 alteration, or correction, within thirty days after date of delivery
9 after original sale at retail, shall be deemed to be a new article, but
10 thirty days after date of such delivery such article shall be deemed to
11 be used];

12 3. "Used" shall mean any components, ARTICLES OR MATERIALS from
13 [previously used] bedding NOT CLASSIFIED AS NEW.

14 S 2. Subdivision 1 of section 385 of the general business law, as
15 amended by chapter 249 of the laws of 1999, is amended to read as
16 follows:

17 1. Every manufacturer of used bedding sold in this state and repair-
18 er-renovator or rebuilder of bedding sold in this state shall file a
19 notice with the department of state which: (a) states its name and
20 address; [and] (b) affirms that it sanitizes its used bedding in accord-
21 ance with the standards established in regulation by the department of
22 state in consultation with the department of health; AND (C) DESCRIBES
23 THE MANNER OF SANITIZATION AND CHEMICALS USED.

24 S 3. The general business law is amended by adding a new section 385-b
25 to read as follows:

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

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1 S 385-B. TRANSPORT, STORAGE AND SALE OF USED BEDDING. NO USED BEDDING
2 SHALL BE TRANSPORTED, STORED OR SOLD WITH NEW BEDDING UNLESS THE USED
3 BEDDING HAS BEEN SANITIZED USING A METHOD APPROVED BY THE DEPARTMENT OF
4 HEALTH THAT IS INTENDED TO KILL BEDBUGS, DUST MITES, OTHER INSECTS,
5 MOLDS, FUNGI, GERMS OR OTHER ORGANISMS, AND TO REMOVE SOIL, DUST MITE
6 AND INSECT FECES, ALLERGENS, AND OTHER CONTAMINANTS.

7 S 4. Section 387 of the general business law, as amended by chapter
8 249 of the laws of 1999, is amended to read as follows:

9 S 387. Inspections. Every place where articles of bedding are made,
10 remade or renovated, or materials therefor are prepared or sterilized,
11 or where such articles or materials are sold, shall be subject to BI-AN-
12 NUAL inspection by the secretary of state who shall have power to
13 inspect the manufacture, sale or delivery, and sanitization of all arti-
14 cles or materials covered by this article, to open and examine the
15 contents thereof and power to seize and hold for evidence any article of
16 bedding, in whole or in part, which the secretary has reason to believe
17 is made or sold or held in possession in violation of this article. For
18 the purpose of administering and enforcing the provisions of this arti-
19 cle the secretary shall have and may use the powers conferred on him by
20 the executive law in addition to the powers conferred in this article.

21 S 5. Section 389-a of the general business law, as amended by chapter
22 249 of the laws of 1999, is amended to read as follows:

23 S 389-a. Label requirements for used bedding. The label indicating
24 that an article of bedding contains used material, in whole or in part,
25 shall be at least fifteen square inches in area, contain the phrase
26 ["used material" or "used bedding", as the case may be,] "THIS BEDDING
27 CONTAINS PREVIOUSLY USED MATERIALS WHICH HAVE BEEN SANITIZED" in promi-
28 nent print, be yellow in color, and be stitched or otherwise securely
29 attached to the bedding in such a manner that it may be seen by consum-
30 ers prior to purchase.

31 S 6. Section 389-c of the general business law, as added by chapter
32 309 of the laws of 1996, is amended to read as follows:

33 S 389-c. Special application of section three hundred forty-nine of
34 this chapter. 1. In addition to the power set forth in subdivision (b)
35 of section three hundred forty-nine of this chapter, the attorney gener-
36 al shall have the power to assess a fine of up to one thousand dollars
37 for each violation of this article; and the defense under subdivision
38 (d) of section three hundred forty-nine of this chapter shall not be
39 available in connection with any violation of this article.

40 2. IN ADDITION TO THE POWER SET FORTH IN SUBDIVISION (B) OF SECTION
41 THREE HUNDRED FORTY-NINE OF THIS CHAPTER AND SUBDIVISION ONE OF THIS
42 SECTION, ANY PERSON WHO HAS BEEN SOLD USED BEDDING WHICH HAS NOT BEEN
43 SANITIZED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL HAVE A CAUSE
44 OF ACTION FOR DAMAGES AGAINST THE PERSON WHO TRANSPORTED, STORED OR SOLD
45 SUCH USED BEDDING IN VIOLATION OF THIS ARTICLE FOR THE COST OF THE
46 MATTRESS, THE COST REQUIRED TO SANITIZE THE MATTRESS AND FOR MEDICAL
47 EXPENSES RESULTING FROM THE FAILURE TO SANITIZE SUCH USED BEDDING PURSU-
48 ANT TO THE PROVISIONS OF THIS ARTICLE.

49 S 7. This act shall take effect on the sixtieth day after it shall
50 have become a law.