

## **IC 16-41-32**

### **Chapter 32. Regulation of Lodging Facilities and Bedding Materials: Materials Used in Mattresses and Bedding**

#### **IC 16-41-32-1**

##### **Regulation and inspection**

Sec. 1. The regulation and inspection of the use of unsanitary material in the manufacture, renovation, or repair of bedding and the sale of articles of bedding containing unsanitary material is necessary for the protection of the health and welfare of the people of Indiana and is declared to be a proper exercise of the police powers of the state.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-2**

##### **Sales of bedding by householders; application of chapter**

Sec. 2. This chapter does not apply to the sale by a householder of bedding that meets the following conditions:

- (1) Was owned and used by the householder and the householder's family.
- (2) Was not acquired for resale.

However, the sale of the bedding by a householder through an agent must be within the provisions of this chapter.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-3**

##### **Manufacture and renovation of bedding by owners; application of chapter**

Sec. 3. This chapter does not apply to the making, remaking, or renovating of any article of bedding by or for the owner, for the owner's own use, and for the purpose of sale:

- (1) if the same or new material is used; or
- (2) if sterilized material is used and that fact is indicated on a label prescribed by the state department.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-4**

##### **Bedding sold by court order; application of chapter**

Sec. 4. This chapter does not apply to any articles of bedding sold under court order.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-5**

##### **Bedding**

Sec. 5. As used in this chapter, "bedding" means any mattress, mattress pad, mattress protector pad, box spring, upholstered spring, upholstered sofa bed, quilted pad, comforter, bolster, cushion, pillow, featherbed, sleeping bag, or any other bag, case, or covering that meets the following conditions:

- (1) Is made of leather, textile, or other material.

- (2) Is stuffed or filled with any soft material or substance.
- (3) Is designed or made for sleeping or reclining purposes or that is an integral part of a bed or couch or other device used for sleeping or reclining purposes.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-6**

##### **Filling material**

Sec. 6. As used in this chapter, "filling material" means the following:

- (1) Hair.
- (2) Down.
- (3) Feathers.
- (4) Wool.
- (5) Cotton.
- (6) Kapok.
- (7) Plant fibers.
- (8) Any other soft material used in the manufacture of and the filling or stuffing of articles of bedding.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-7**

##### **Manufacture**

Sec. 7. (a) As used in this chapter, "manufacture" means making, remaking, or renovating.

(b) The term includes altering, repairing, finishing, refinishing, or preparing articles of bedding for sale or resale made of either new or secondhand material.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-8**

##### **New**

Sec. 8. As used in this chapter, "new" means an article of bedding or filling material that has not been previously used for any purpose. Manufacturing processes may not be considered a prior use.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-9**

##### **Renovate**

Sec. 9. As used in this chapter, "renovate" means to restore to former condition or to place in a good state of repair.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-10**

##### **Secondhand**

Sec. 10. As used in this chapter, "secondhand" means any article of bedding or material or part of bedding or material of which prior use of any kind has been made. An article of bedding must be considered secondhand if the article contains any secondhand material in whole or in part.

*As added by P.L.2-1993, SEC.24.*

### **IC 16-41-32-11**

#### **Sell**

Sec. 11. As used in this chapter, "sell", or a variation of "sell", includes any of the following, or any combination of the following:

- (1) Sell.
- (2) Offer.
- (3) Expose for sale.
- (4) Barter.
- (5) Trade.
- (6) Lend.
- (7) Deliver.
- (8) Give away.
- (9) Rent.
- (10) Consign.
- (11) Lease.
- (12) Possess with intent to sell.
- (13) Dispose of in any other commercial manner.

*As added by P.L.2-1993, SEC.24.*

### **IC 16-41-32-12**

#### **Supply dealer**

Sec. 12. As used in this chapter, "supply dealer" means any person manufacturing, processing, or selling at wholesale any felt batting, pads, or loose material in bags or containers, concealed or not concealed, to be used in articles of bedding.

*As added by P.L.2-1993, SEC.24.*

### **IC 16-41-32-13**

#### **Wholesaler**

Sec. 13. (a) As used in this chapter, "wholesaler" means a person located outside Indiana who, on the person's own account, sells or distributes an article of bedding or filling material to another for the purpose of resale.

(b) The term does not include an affiliate or a subsidiary:

- (1) if the ownership and name are identical; and
- (2) that is the exclusive sales outlet of a manufacturer.

*As added by P.L.2-1993, SEC.24.*

### **IC 16-41-32-14**

#### **Administration of chapter**

Sec. 14. (a) The state department shall administer this chapter. The state department may:

- (1) adopt rules under IC 4-22-2 to administer this chapter;
- (2) employ persons as necessary under IC 4-15-2.2;
- (3) make expenditures;
- (4) require reports and records;
- (5) make investigations; and
- (6) take other action;

as the state department considers necessary or suitable for the proper administration of this chapter.

(b) The state department may authorize persons to do any act that may be done by the state department.

*As added by P.L.2-1993, SEC.24. Amended by P.L.6-2012, SEC.122.*

#### **IC 16-41-32-15**

##### **Inspections of articles and records**

Sec. 15. (a) The state department may take possession of an article of bedding or filling material made or offered for sale for inspection and may open the article of bedding to examine the contents.

(b) The state department may also inspect the purchase records of the owner of the articles of bedding to determine the kinds of materials used.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-16**

##### **Prohibitions of sale; labels**

Sec. 16. (a) If an article of bedding does not meet the requirements of this chapter, the state department shall do the following:

(1) Prohibit the sale of the article.

(2) Affix to each article of bedding a label designed and prescribed by the state department.

(b) The article of bedding may not be sold without the written consent of the state department. The label may not be removed except by an agent of the state department.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-17**

##### **Inspections of sites**

Sec. 17. A location where:

(1) an article of bedding covered by this chapter is made, remade, or renovated;

(2) material for the article of bedding is manufactured, prepared, or stored;

(3) the article of bedding is offered for sale or is possessed with intention to sell; or

(4) sterilization or disinfection is performed;

is subject to periodic inspection by the state department for the purpose of administering or enforcing this chapter.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-18**

##### **Interference with inspections**

Sec. 18. It is unlawful for any person to interfere with any inspection under this chapter.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-19**

##### **Sterilization and disinfection of materials**

Sec. 19. A person engaged in:

(1) the manufacturing, remaking, or renovating of an article of bedding; or

(2) processing or selling felt, batting, pads, or loose material to be used in articles of bedding covered by this chapter;

may not use any secondhand material, new or secondhand feathers, down, or any material that comes from an animal unless the secondhand material, feathers, down, or other material has been thoroughly sterilized or disinfected by a process approved by the state department.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-20**

##### **Prohibited sales**

Sec. 20. A person may not sell:

(1) an article of bedding covered by this chapter that is made, remade, or renovated in violation of this chapter; or

(2) a secondhand article of bedding or filling material covered by this chapter unless, since the article's last use, the article has been sterilized or disinfected by a process approved by the state department.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-21**

##### **Sterilization and disinfection permits**

Sec. 21. (a) A person desiring to secure approval of the process by which the articles of bedding or filling materials are sterilized or disinfected, in accordance with sections 19 and 20 of this chapter, shall submit to the state department a plan of the apparatus and the process intended to be used for such sterilization or disinfection.

(b) After the state department inspects and approves the process and equipment to be used, the state department shall issue a numbered permit for use.

(c) A sterilization or disinfection permit issued under subsection (b) must be conspicuously posted on the premises near the sterilizer.

(d) A person holding a sterilization or disinfection permit shall keep an accurate written record of all articles of materials that are sterilized or disinfected, including the following:

(1) The date the sterilization or disinfection was performed.

(2) In the case of articles of bedding, the name and address of the buyer or owner of the articles.

This record shall be available for examination at any time by the state department.

(e) An application for a permit for the approval of a sterilization or disinfection process and equipment located outside Indiana may be approved only after the state department conducts a personal inspection of that process and equipment, unless the other state has an inspection service that is acceptable to the state department. The applicant shall pay the expenses for an inspection outside Indiana.

(f) The state department shall revoke the sterilization or

disinfection permit of a person who, after fair hearing or opportunity to be heard by the state department, is found to be in noncompliance with the sterilization or disinfection provisions of this chapter. The state department may not issue a new permit to the person until the person does the following:

- (1) Satisfies the state department that the person will comply with this chapter and the rules adopted under this chapter.
- (2) Posts a five hundred dollar (\$500) bond in favor of the state department to guarantee compliance.

(g) This chapter does not prevent a person engaged in the making, remaking, renovation, or sale of an article of bedding or material that requires sterilization or disinfection under this chapter from having the sterilization or disinfecting performed by a person who has a valid permit for the purposes if the number of the permit appears on the tag attached to each article of bedding or filling material as described in section 22 of this chapter.

*As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.27.*

## **IC 16-41-32-22**

### **Information tags**

Sec. 22. (a) Each new article of bedding governed by this chapter must have securely attached to the article a substantial white cloth tag that meets the following conditions:

- (1) Is visible on the outside covering, with the visible part being not less than six (6) square inches in size.
- (2) Will not flake when abraded.
- (3) Upon which is indelibly stamped or printed in the English language a statement of the following:
  - (A) Describing the kind of materials used in filling the article of bedding.
  - (B) Stating that the materials are new.
  - (C) Disclosing the name and address of the manufacturer, distributor, or vendor.
  - (D) For articles of bedding made of feather, down, or material that comes from an animal, the number of the permit issued to the processor who sterilized or disinfected the materials.
  - (E) For articles of bedding containing mixtures of material from animal or fowl, the percentage by weight of each kind of material contained in the article of bedding.

(b) Each article of bedding containing secondhand material, in whole or in part, must have securely attached to the article a similar tag of yellow cloth upon which is stamped or printed in the same manner as required in subsection (a) a statement of the following:

- (1) Describing the kind of materials used in filling the article of bedding.
- (2) Stating that the article of bedding or materials in the bedding are secondhand.
- (3) Disclosing the number of the permit issued to the processor

who sterilized or disinfected the article of bedding or materials in the bedding.

(c) A shipment or delivery, however contained, of material used for filling articles of bedding must have conspicuously attached to the material a tag upon which is stamped or printed, as required in this section, a statement of the following:

- (1) Describing the kind of material.
- (2) Stating whether the material is new or secondhand.
- (3) Disclosing the name and address of the manufacturer, distributor, or vendor.
- (4) For secondhand material or material from animal or fowl, disclosing the permit number of the processor who sterilized or disinfected the material.

(d) The terms used on the tag to describe filling materials must be restricted to those defined in the rules adopted under this chapter. A trade or substitute term may not be used, and no additional information may be contained in the statement. The description of the filling material and the statement of whether new or secondhand must be in plain type not less than one-eighth (1/8) inch in height.

*As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.28.*

#### **IC 16-41-32-23**

##### **Bedding labels; false or misleading statements; removal, defacing, or alteration**

Sec. 23. A person may not:

- (1) use a false or misleading statement, term, or designation on a bedding label; or
- (2) remove, deface, or alter or attempt to remove, deface, or alter the label or the statement of filling materials that appears on the label.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-24**

##### **Repealed**

*(Repealed by P.L.142-1995, SEC.32.)*

#### **IC 16-41-32-25**

##### **Intent to sell; presumptive evidence**

Sec. 25. The possession of an article of bedding or filling material by a maker, remaker, or dealer in the course of business is presumptive evidence of intent to sell.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-26**

##### **Repealed**

*(Repealed by P.L.142-1995, SEC.32.)*

#### **IC 16-41-32-27**

##### **Renovation tags**

Sec. 27. A person who receives an article of bedding governed by this chapter for renovation shall attach, at the time received, a red tag on which the date of receipt and the name and address of the owner are legibly written.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-28**

##### **Clean materials**

Sec. 28. Filling material that is used in the manufacture of bedding governed by this chapter must be free from extraneous foreign matter, dirt, or trash.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-29**

##### **Clean premises and equipment**

Sec. 29. The premises, delivery equipment, machinery, appliances, and devices of:

- (1) bedding manufacturers;
- (2) supply dealers;
- (3) renovators;
- (4) sterilizers or disinfectors; and
- (5) retailers;

must at all times be kept free from refuse, dirt contaminations, insects, and vermin.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-30**

##### **Violations**

Sec. 30. (a) A person who:

- (1) knowingly makes a false statement, misrepresentation, or report to the state department; or
- (2) knowingly fails to disclose a material fact to avoid liability under this chapter;

commits a Class B misdemeanor.

(b) A person who knowingly violates or fails to comply with this chapter commits a Class B misdemeanor.

*As added by P.L.2-1993, SEC.24.*

#### **IC 16-41-32-31**

##### **Enforcement**

Sec. 31. All proceedings for the enforcement of this chapter or to restrain violations of this chapter shall be in the name of the state.

*As added by P.L.2-1993, SEC.24.*