



Virginia Regulatory Town Hall

Emergency Regulation Agency Background Document

Agency Name:	Department of Health (State Board of)
VAC Chapter Number:	12 VAC 5-125
Regulation Title:	Regulations for Bedding and Upholstered Furniture Inspection Program
Action Title:	Promulgate Regulations for Bedding and Upholstered Furniture Inspection Program
Date:	October 24, 2003

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an “emergency situation” means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

This emergency regulation is required by Act of Assembly 1003 (HB2810, 2003), which calls on the State Board of Health to promulgate regulations to implement the provisions of this act within 280 days of the bill's enactment. The Act also requires that, in promulgating the regulations required by the above enactment clause, the Board of Health shall review the fees being charged for the services delivered by the Department of Health pursuant to Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1 as such services and fees were in effect prior to July

1, 2003, and shall revise such fees, as appropriate, consistent with the level of services required by this act.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

The bill noted above authorizes these regulations. This action would implement the provisions of §§ 32.1-212 through 32.1-226 and 59.1-200 of the Code of Virginia, relating to the regulation of bedding and upholstered furniture.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

The proposed regulations are a result of actions of the 2003 session of the General Assembly, as specified in House Bill 2810, requiring that the Department promulgate the Bedding and Upholstered Furniture laws into regulations. No regulations previously existed. Thus, all sections of Chapter 125 of 12VAC5 are new regulations.

The regulations adhere closely to the requirements of the Code of Virginia. The Code covers basic definitions, use of new and used filling materials, sale or disposal of bedding or upholstered goods, permitting and licensing requirements and fees, tagging of goods with appropriate law labels (tags), offenses relating to tags, violations of the Code, prohibited practices, exemptions to the Code and administrative enforcement of the Code. The substantive regulatory additions to the requirements contained in the Code are:

1. Expansion of definitions as provided by other state bedding and upholstered furniture inspection programs.

2. Inspection conditions. A key element of HB 2810 was to prohibit inspections of licensed vendors to only when a complaint is made to the Commissioner of Health. Given this limitation, these regulations identify those conditions initiating an inspection. These conditions include, but are not limited to, receipt of a complaint against a licensed manufacturer or vendor, inspections of vendors not possessing a permit or license, inspections resulting from observations made by a bedding inspection in the course of an inspection of an unlicensed vendor, late receipt of a renewal fee, and application for a license or permit.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

This action is mandated by an act of the 2003 Session of the General Assembly, signed into law by the Governor. No appropriate alternative exists.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

No longer required, per Executive Order.