



Virginia
Regulatory
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Proposed Regulation Agency Background Document

Agency name	Department of Health
Virginia Administrative Code (VAC) citation	12 VAC 5 -125
Regulation title	Regulations for Bedding and Upholstered Furniture Inspection Program
Action title	Adoption
Document preparation date	August 4, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Regulations governing Bedding and Upholstered Furniture Inspection, in response to Act of Assembly 1003 (HB 2810, 2003), expands bedding and upholstered furniture definitions, outlines causes for inspections, expands Exemptions to the bedding law in the Code of Virginia, and outlines penalties for violations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulations is to ensure that only safe and healthy Bedding and Upholstered Furniture products are being sold in the Commonwealth, that uniformity with other state bedding programs be maintained, and that the Code of Virginia be enforced.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

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 and 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.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The regulatory action poses no disadvantages to the public or the Commonwealth. The advantages for the action are that the regulations, when adopted, will provide assurance that used bedding is cleaned and sanitized before being resold or rented. The regulations will also limit government intrusion into upholstered furniture business in the Commonwealth by restricting inspections to only complaint investigations or inspections of those entities that are not properly licensed.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	\$0 cost. The inspection program is totally self supporting through license and permit fees.
Projected cost of the regulation on localities	\$0 cost to localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Mattress manufacturers, retailers, renovators, sanitizers and upholstered furniture manufacturers, retailers, and re-upholsterers.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses	Approximately 5,300 license or permit holders worldwide. Estimated less than 20% of these are in the Commonwealth. Estimate 600-700 small

<p>affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>businesses.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>Manufacturer of bedding, manufacturer of upholstered furniture, importers and distributors/wholesalers pay \$100 annually for license. Renovators, reupholsterers, and supply dealers pay \$25 annually for license. Sanitizers pay \$60 annually for permit. Sanitizers also must purchase sanitizing chemicals at approximately \$25 per gallon.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets 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.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

Very little comment received. All was positive.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

Enter statement here

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	10		Added definition of “Antique” for clarity
10	10		Revised definition of “Inspector” for clarity and accuracy
20	20		Revised wording for consistency and clarity.
	40		Added a section specifying entities that are exempt from the regulations.
40	50		Former section 40. Added language to detail the permitting and licensing processes.
	60		Details license and permit revocation procedure
	70		Details process for applying for a permit or license after a revocation.
50	80		Former section 50. Details inspections and procedures.
60	90		Former section 60 regarding Law labels.
70			Former section 70 deleted and replaced by language in new section 50.
80	100		Former section 80 – minor revisions for clarity and accuracy.
90	110		Former section 90
100	120		Former section 100. Revised language to clarify separation distances. Standard remains the same.
110	130		Former section 110.
	140		Added section 140 which describes process of enforcing the regulations
	150		Added section 150 which describes process to request a hearing.
	160		Added section 160 which describes hearing rights
	170		Added section 170 which details penalties, injunctions and civil penalties consistent with the Code of Virginia
120	180		Former section 120 regarding fees.

These regulations are basically the same as the existing Emergency Regulations from the standpoint of standards. However much as been added to them to inform the public in procedural requirements of the regulations, i.e., how to apply for a permit or license, hearing

requirements, etc. Also, we added a definition of “antique” to help clarify parts of the regulations.