

# Articles of Bedding

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New York State  
DEPARTMENT OF STATE  
**Division of Licensing Services**  
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## **Articles of Bedding**

### **Article 25-A General Business Law**

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# Articles of Bedding

## Article 25-A General Business Law

### §383. Definitions.

For the purposes of this article:

1. "Bedding" shall mean any mattress or box spring which can be used by any human being for sleeping or reclining purposes:

2. "New" shall mean any material or article which has not been previously used for any purpose, including by-products produced in the manufacture of new fabric, and material reclaimed from new fabric; except that an article of bedding returned by the purchaser for exchange, alteration, or correction, within 30 days after date of delivery after original sale at retail, shall be deemed to be a new article, but 30 days after date of such delivery such article shall be deemed to be used;

3. "Used" shall mean any components from previously used bedding.

### §384. Registration of manufacturers of new bedding.

1. Every manufacturer of new bedding sold in this state shall file a notice with the Department of State which:

- (a) states its name and address; and
- (b) affirms that it uses new material when it manufactures new bedding.

2. Each registration shall expire one year from the date of issue.

### §385. Registration of manufacturers of used bedding and repairer-renovators or rebuilders of bedding.

1. Every manufacturer of used bedding sold in this state and repairer-renovator or rebuilder of bedding sold in this state shall file a notice with the Department of State which:

- (a) states its name and address; and
- (b) affirms that it sanitizes its used bedding in accordance with the standards established in regulation by the Department of State in consultation with the Department of Health.

2. Each registration shall expire one year from the date of issue.

### §385-a. Registration of sellers of used bedding.

1. Every person engaged in the sale of used bedding, including any mattress or boxspring which in its entirety is used and not repaired or renovated, shall file a notice with the Department of State which:

- (a) states such person's name and address; and
- (b) affirms that such used bedding has been sanitized in accordance with the standards established in regulation by the Department of State in consultation with the Department of Health.

2. The provisions of this section shall not apply to a person selling used bedding in a private sale from his or her home directly to the consumer.

3. Each registration shall expire one year from the date of issue.

### §386. Fees.

1. Every manufacturer of new or used bedding and each repairer-renovator or rebuilder of bedding shall pay a registration fee of \$150.00 to the Department of State.

2. Every person engaged in the sale of used bedding shall pay a registration fee of \$100.00 to the Department of State.

### §387. Inspections.

Every place where articles of bedding are made, remade or renovated, or materials therefor are prepared or sterilized, or where such articles or materials are sold, shall be subject to inspection by the Secretary of State who shall have power to inspect the manufacture, sale or delivery, and sanitation of all articles or materials covered by this article, to open and examine the contents thereof and power to seize and hold for evidence any article of bedding, in whole or in part, which the Secretary has reason to believe is made or sold or held in possession in violation of this article. For the purpose of administering and enforcing the provisions of this article, the Secretary shall have and may use the powers conferred on him by the Executive Law in addition to the powers conferred in this article.

### §388. Suspension and revocation of registrations.

The Secretary of State shall have the power to revoke or suspend any registration or deny any registration upon proof:

- (a) that the applicant or registrant has violated any of the provisions of this article or the rules and regulations promulgated hereunder;
- (b) that the applicant or registrant has practiced fraud, deceit or misrepresentation; or
- (c) that the applicant or registrant has made a false statement in the notice of registration.

### §389. Deceptive acts or practices prohibited.

It shall be a deceptive act or practice and unlawful, under §349 of this chapter, for any merchant, as defined in §2-104 of the Uniform Commercial Code, to manufacture, rebuild or sell bedding in this state that contains any used material, or to sell any mattress or boxspring which is made, in whole or in part, from used materials, unless it bears a conspicuous yellow label notifying the consumer of that fact.

### §389-a. Label requirements for used bedding.

The label indicating that an article of bedding contains used material, in whole or in part, shall be at least 15 square inches in area, contain the phrase "used material" or "used bedding," as the case may be, in prominent print, be yellow in color, and be stitched or otherwise securely attached to the bedding in such a manner that it may be seen by consumers prior to purchase.

### §389-b. Label requirements for new bedding.

The label indicating that an article of bedding contains new material must be at least six square inches in area, contain the phrase "new material" in prominent print, and be stitched or otherwise securely attached to the bedding in such a manner that it may be seen by consumers prior to purchase.

### **§389-c. Special application of section 349 of this chapter.**

In addition to the power set forth in subdivision (b) of §349 of this chapter, the Attorney General shall have the power to assess a fine of up to \$1,000.00 for each violation of this article; and the defense under subdivision (d) of §349 of this chapter shall not be available in connection with any violation of this article.

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## **Bedding**

### **Rules and Regulations**

### **Title 19 NYCRR, Part 199**

#### **§ 199.1 Label Requirements for new and used bedding.**

In addition to the requirements set forth in § 389-a and § 389-b of the General Business Law, each label for new or used bedding shall identify, as appropriate, the name of the seller of the used bedding, the name of the manufacturer of the new bedding, the name of the manufacturer of the used bedding, or the name of repairer, renovator or rebuilder of used bedding. Each label shall also indicate the method used to sanitize the used bedding.

#### **§ 199.2 Sanitizing standards for used bedding.**

Every seller of used bedding, manufacturer of used bedding and repairer, renovator or rebuilder of used bedding shall, prior to the sale or distribution of such bedding, perform at least one of the following sanitizing practices:

(a) Replacement with new materials

(1) Remove and discard the outer fabric and all soft filling materials such as the inner foam, pad and other bedding components and materials except the springs and, if a box spring, its frame; and

(2) Sanitize the springs and, if a box spring, its frame, with a detergent and bleach solution following product label directions; and

(3) Replace, with new material, the outer fabric and all soft filling materials and other bedding components except the springs and, if a box spring, its frame. Ensure springs and frame are thoroughly dry before replacing outer fabric, soft filling materials and other bedding components.

(b) Or, Sanitization, treatment and encasement

(1) Remove the outer fabric, inner foam, pad and other bedding components and materials. Inspect each item for soiling, malodor or pest infestation; and

(2) If any material or component appears soiled, malodorous or infested, sanitize with a detergent and bleach solution following the product label directions. Ensure that the material or component is thoroughly dry prior to repairing, renovating or rebuilding. If the item cannot be sanitized without causing damage, it may not be reused; and

(3) All other materials or components used in the process of manufacturing, repairing, renovating or rebuilding used bedding must be inspected for soiling, malodor or pest infestation. Soiled, malodorous or infested components may not be used unless sanitized with a detergent and bleach solution following the product label directions. Ensure that sanitized components are thoroughly dried prior to repairing, renovating or rebuilding; and

(4) Treat the article of bedding and its materials following product label directions, with a NYS registered pesticide product labeled for use on bedding or mattresses and shown to be an effective sanitization treatment to destroy pathogens and pest infestation on surfaces treated. Ensure the treated article is thoroughly dry prior to encasement; and

(5) Encase the bedding in a permanent, non-permeable covering intended to limit the migration of allergen-containing particles from the bedding. New material may be applied over the non-permeable covering. A label indicating the use of the non-permeable covering must be permanently affixed to the outer covering of the bedding. The non-permeable cover shall be of a type specifically manufactured for the intended use. Shipping bags or similar products shall not be used as the non-permeable cover.

(c) Or, Alternative method. Use of an alternative method that has been approved by the Department of State, in consultation with the Department of Health. For an alternative method to be approved, the applicant must demonstrate to the satisfaction of the Department of State that the proposed alternative method will both sanitize the bedding and protect a consumer from pathogens, allergens and pest infestation that may be present inside bedding.

#### **199.3 Segregation of unsterilized articles of bedding or materials.**

All bedding and other materials which have not been sanitized in accordance with this Part shall be separately stored and completely segregated from new or sanitized articles or materials.