

LABOR DEPT: MATTRESSES: Used mattresses must be sterilized  
STERILIZATION OF: before sale, and during renovation.  
Failure to do so, misdemeanor, and  
ground for refusal and revocation  
of license.

November 28, 1941

Hon. Orville S. Traylor  
Commissioner  
Labor and Industrial Inspection Dept.  
Jefferson City, Missouri



Dear Sir:

This is in reply to your request for an official opinion by your recent letter which is in the following terms:

"We would like to have an opinion from your office on the following:

"If a person accepts a mattress from a private home to be renovated, rebuilt or reconditioned, etc., must the mattress be sterilized and/or disinfected before returning to the owner?

"The situation which we are trying to overcome is that of persons complaining that they put back the same mattress into a new ticking and, therefore, believe the law exempts them from sterilizing them."

In a subsequent conversation you requested us to include the question: Must a mattress be sterilized or disinfected before being sold?

A mattress is included in the term "bedding", used in

the law on mattresses, Art. 10, Chap. 68, R. S. Mo., 1939, Sections 10253 to 10264, inclusive.

Section 10253, supra, in part provides:

"The term, 'bedding,' as used in this article shall be construed to mean any mattress, upholstered spring, comforter, pad, cushion or pillow designed and made for use in sleeping or reclining purposes, except where the filling consists exclusively of sterilized feathers.

\* \* \*

" \* \* \* The words, 'previously used,' as used in this article shall mean any material which has been previously used in the manufacture of another article or used for any other purpose." (Underscoring ours.)

Section 10263, supra, in part provides:

"\* \* \* The state commission of labor and industrial inspection shall make reasonable rules and regulations for the enforcement of this article."

Section 10256, supra, provides:

"No person shall sell, offer for sale, deliver, consign for sale, or have in his possession with intent to sell, deliver or consign for sale, any article of bedding which has been used unless the said article of bedding shall first be thoroughly sterilized and disinfected by a process approved by the Missouri state board of health."

We have in our file a copy of the methods of sterilization approved by the State Board of Health, and we assume that has been made available to the mattress industry.

Section 10258, supra, provides that any failure to comply with any provision of the Article, shall be a violation thereof, and Section 10264, supra, provides:

"Any person or corporation violating the provisions of this article shall be guilty of a misdemeanor."

Under the above cited and quoted statutes, a person who sells, or possesses with intent to sell or deliver etc., any mattress which has not been thoroughly sterilized and disinfected by a process approved by the Missouri State Board of Health, is guilty of a misdemeanor.

Regarding renovation, rebuilding or reconditioning of mattresses, Section 10259, supra, in part provides:

"Every place where bedding is made, remade, or renovated, or held for sale, consignment or delivery shall be subject to supervision and inspection of the state commissioner of labor and industrial inspection. Should said commissioner find bedding being made, remade, renovated, or held for sale, consignment or delivery, in other than a sanitary condition, then the said state commissioner of labor and industrial inspection shall give the person responsible for this insanitary condition a reasonable length of time within the discretion of said commissioner, said time, however, not to exceed sixty days, in which to remedy the said insanitary conditions. If the person responsible

therefor fails to remedy the said sanitary condition, the said failure shall become a violation of this article. \* \* \* "

Said Section 10259, supra, prohibits renovation of a mattress (bedding) "in other than a sanitary condition." The word renovate is synonymous with repair. Renovate is defined in 36 Words & Phrases (perm. ed.) p. 896, as:

"'Repair' means to restore to a sound or good state after decay, injury, dilapidation, or partial destruction, and is synonymous with 'mend' and 'renovate,' \* \* \* . *Mozingo v. Wellsburg Electric Light, Heat & Power Co.*, 131 S. E. 717, 718, 101 W. Va. 79."

Renovate is defined in Webster's New International Dictionary (2d ed.) p. 2110 as:

"To renew, make over, or repair; to re-store to freshness, purity, a sound state, newness of appearance, etc; \* \* \* "  
(Underscoring ours.)

In view of those definitions, in our opinion the word renovate means the same as the words rebuild and recondition.

Definitions of the word "sanitary" in 38 Words & Phrases (perm. ed.) p. 242 are:

"The word 'sanitary,' \* \* \* embraces 'everything pertaining to the health of the inhabitants.' City of Wichita Falls v. Robison, Tex., 46 S. W. 2d 965.

"'Sanitary' is defined as that which pertains to public health with particular reference to cleanliness and freedom from infection and deleterious influences. \* \* \* City of Wichita Falls v. Robison, Tex., 46 S. W. 2d 965."

The Commissioner of Labor and Industrial Inspection has the power to find and determine whether a condition is sanitary (Sec. 10259, supra), and the authority and duty to make reasonable rules and regulation. Under the foregoing definitions, the term "sanitary condition" includes everything pertaining to the health of the public, with particular reference to cleanliness and freedom from infection and injurious influences. Used mattresses which have not been sterilized and disinfected may readily affect the health of the public; they may readily cause the spread of infectious diseases and such deleterious influences. According to the above definition the word renovate connotes a purifying or cleansing, as well as repairing, operation, performed upon a previously used object. In our opinion, the Commissioner has a legal right to determine that used mattresses which have not been sterilized and disinfected are not in a sanitary condition, and to make a rule and regulation to that effect. To renovate used mattresses without sterilizing and disinfecting them would in our opinion, be renovating them in other than a sanitary condition, and would be a violation of the law above quoted.

Section 10264, supra, providing that any violation of Article 10 is a misdemeanor, applies alike to renovation

as well as to sale of mattresses.

A criminal prosecution is not the only method of enforcement available. In addition, the Commissioner of Labor and Industrial Inspection may, for a violation of this law, refuse to renew or issue, or may revoke the license required by law of a person making or renovating mattresses. Section 10259, above quoted, in part provides that certain acts, "shall become a violation of this article, and the said state commissioner of labor and industrial inspection shall revoke and void the permit specified in section 10260. \* \* \* " Section 10260 provides:

"When the state commissioner of labor and industrial inspection has inspected any factory in the state of Missouri where bedding is being made or is to be made, remade or renovated, and has found that the factory conforms to the sanitary conditions prescribed by the state commissioner of labor and industrial inspection, then it shall be the duty of said commissioner to issue to the person operating such factory a permit showing that it has been inspected and declared a proper place in which to make, remake or renovate bedding; and assign it a registry number by which said factory shall thereafter be known and designated in applying and enforcing the labeling and inspection provisions of this article. Said permit shall be posted by the person to whom it is so issued in a conspicuous place in said factory or office thereof."

The license there specified is the same license that is required by Section 10261, which provides:

"No person shall make, remake or renovate bedding, except a person, making, re-making or renovating bedding for his own use, until he has secured a permit from the state commissioner of labor and industrial inspection and has paid to the state commissioner of labor and industrial inspection an inspection and permit fee of twenty dollars, which such payment or charge shall constitute a factory inspection charge for the purpose of enforcing this article. The permit so issued by the state commissioner of labor and industrial inspection shall remain in force and effect until the end of the calendar year in which it was issued or until voided by the state commissioner of labor and industrial inspection for failure to maintain the required sanitary conditions in and around a factory in which bedding is made, remade or renovated or for failure to sterilize and disinfect properly all previously used materials used in making, remaking or renovating bedding."

Sections 10260 and 10261 first appeared together in their present form in Laws of Missouri, 1929, pages 245, 246, Sections 6863 and 6864. There was no requirement of a license in the original law, Laws of Missouri, 1919, p. 496; (R. S. Mo. 1919, Sections 6863, 6864).

Both Sections 10260 and 10261 refer to the license as a factory permit or license, and the place licensed as a place in which to make, remake or renovate bedding (mattresses). In recent conferences you informed us that the establishments involved engage in both making and renovating mattresses, and are licensed as factories engaged in that business.

Section 10260 provides it is the duty of the commissioner to issue the license only after he has found that the establishment conforms to the sanitary conditions prescribed by him. As above stated, the commissioner may require that used mattresses be sterilized and disinfected as a part of the process of renovation, and may, accordingly, refuse to issue or renew a license unless that is done. Section 10261 provides that no person shall make or renovate mattresses without a permit or license from the commissioner; it further provides that the license when granted "shall remain in force and effect until the end of the calendar year in which it was issued or until voided by the state commissioner of labor and industrial inspection for failure . . . to sterilize and disinfect properly all previously used materials used in making, remaking or renovating bedding." Those provisions of Section 10261, and the above quoted provisions of Section 10259, show the legislature intended sterilization and disinfection to be necessary elements of a proper sanitary condition for renovation of mattresses. These statutes plainly mean that all previously used materials used to make or renovate bedding and mattresses shall be sterilized and disinfected, and mean that for a failure to sterilize and disinfect, the commissioner may revoke the license of the offender. For such offense, the commissioner may refuse to issue, or may revoke the license of such offender.

#### CONCLUSION

It is our opinion that it is unlawful and is a misdemeanor for any person to sell, offer for sale, deliver, consign for sale, or possess with intent to sell, deliver or consign, or for any person to remake, renovate, rebuild or recondition, any used mattress, without sterilizing and disinfecting the same. For such offense, the commissioner may refuse to issue, or may revoke the license of such offender.

APPROVED:

Respectfully submitted

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VANE C. THURLO  
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ERNEST HUBBELL  
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