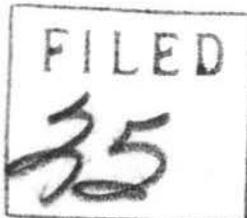


MATTRESSES: Section 421.070, RSMo. 1949, regulates the sale of  
USED BEDDING: used bedding only. Said section does not regulate  
SALE OF USED BEDDING: the renting of used bedding.  
Section 421.070:  
RSMo. 1949:

JOHN M. DALTON  
XXXXXXXXXXXX



April 13, 1953

XXXXXXX

Mr. L. L. Duncan  
Director, Division of Industrial Inspection  
Department of Labor and Industrial Relations  
Jefferson City, Missouri

J. C. Johnsen

Dear Mr. Duncan:

This opinion is rendered in accordance with your recent request relative to Section 421.070, RSMo. 1949, and the question posed in the attached letter of Mr. H. H. Goetze, under the date of January 22, 1953, the pertinent part taken from Mr. Goetze's letter, is as follows:

"If that is the case, kindly give me your interpretation of the following wording in the very chapter you refer me to. Elsewhere, mattresses are defined as bedding. On Page 38, Paragraph 421.070 reads 'No person shall deliver or have in his possession with intent to deliver any bedding which has been used unless the said bedding shall be first thoroughly sterilized by a process approved by the Division of Health.' If you can rent out for use without delivering, I wish you would please tell me how you can do it."

Section 421.070, RSMo. 1949, reads as follows:

"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 division of health."

Mr. L. L. Duncan

After studying the above set-out section it is our opinion that the statute applies to only the sale, offering for sale, delivering or consigning for sale or having in possession with the intent to sell, any article of bedding which has been used the said article or articles shall first have been sterilized and disinfected by a process approved by the Division of Health. Therefore, you see it only has to do with the selling of bedding and not with its rental.

The word "delivery" has acquired a fixed meaning in law. When used regarding a delivery upon a sale it means the permanent transfer of the title of the article sold from the seller to the buyer. Where delivery is made upon an article rented there is no transfer of title or ownership of the article delivered only a temporary transfer of its possession and use from the owner to the renter, the article to be returned to the owner.

We, after a thorough search, have been unable to find any statute regulating the sterilization and disinfection of used bedding which is rented.

#### CONCLUSION

It is, therefore, the opinion of this department that Section 421.070, supra, is a regulatory statute regulating the sale of used bedding only and does not regulate the rental of used bedding.

This opinion, which I hereby approve, was written by my assistant, Mr. A. Bertram Elam.

Yours very truly,

JOHN M. DALTON  
Attorney General