

**R70. Agriculture and Food, Regulatory Services**

**70-101. Bedding, Upholstered Furniture and Quilted Clothing.**

**R70-101-1. Authority.**

A. Promulgated Under Authority of Section 4-10-3.

B. Scope: The purpose of these rules is to designate the license fees, labeling, terms, definitions, nomenclature and conditions as commonly used and recognized in the manufacture, sale and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

**R70-101-2. General Requirements.**

A. These rules shall apply to all persons, partnerships, corporations, limited liability companies, and associations engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, and selling items of bedding, upholstered furniture, quilted clothing, and filling materials. These rules do not apply to persons who make or renovate upholstered furniture, clothing or bedding for their own use.

B. Foreign, out-of-state articles or materials sold in Utah. This rule shall apply to bedding, upholstered furniture, quilted clothing, and filling materials sold in Utah regardless of their point of origin.

**R70-101-3. Definitions.**

A. "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling material for sale; but does not include isolated sales of such articles by persons who are not primarily engaged in the making, processing, or preparation of these articles. For the purpose of the enforcement of this rule, the term "manufacturer" shall mean a person who either by himself or through employees makes for the purpose of sale any bedding, upholstered furniture, quilted clothing, filling material, or any unit thereof.

B. "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.

C. "Old" means filling material or portion thereof which shows characteristics of aging through deterioration or changing from its original qualities.

D. "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and agents, servants and employees of them.

E. "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured, and the delivery vehicles used in their transportation.

F. "Supply dealer" means a person who manufactures, processes or sells at wholesale any felt, batting, pads or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

G. "Sell" or any of its variants includes any combination of the following: sale, offer, or expose for sale, barter, trade, deliver, rent, consign, lease, possess with the intent to sell or

dispose of in any other commercial manner; but does not include any judicial, executor, administrator or guardian sale. The possession of any article of bedding, upholstered furniture, quilted clothing, or filling material defined in these rules, by any maker, dealer, or his agents or servants in the course of business, shall be presumptive evidence of intent to sell.

H. "Uniform Registry Number", "URN", or "state-issued registry number" means the number issued by a state to be used on the law tag of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company accepting responsibility for such products.

#### **R70-101-4. License.**

Except as otherwise provided in these rules, any person who advertises, solicits or contracts to manufacture, repair or wholesale any bedding, upholstered furniture, quilted clothing, or filling materials who either does the work himself or has others do it for him, shall secure the particular license for the particular type of work that he solicits or advertises that he does, regardless of whether he has a shop or factory. This license shall be obtained before such products are offered for sale in Utah.

A. Annual license fee. The fee imposed for each license granted under these rules shall be approved by the Legislature.

When the appropriate fee is not paid on or before January 1, the license shall become delinquent, and there shall be added to the fee a late penalty, as approved by the Legislature in the Departments schedule of fees.

B. Suspension or revocation of license and procedure. In addition to other remedies provided in this rule, the Department shall have the authority to suspend or revoke any registration or license required by this rule for any violation of their provisions. A suspension or revocation shall be handled as outlined in Section 4-1-5.

#### **R70-101-5. Sanitation Requirements.**

A. Use of unsanitary filling material. The premises, delivery equipment, machinery, appliances, and devices of all persons licensed under these rules shall at all times be kept free from refuse, dirt, contamination or insects and no person shall use in the making, repair or renovating of bedding, upholstered furniture, or quilted clothing any filling material:

1. that contains any bugs, vermin or filth;
2. that is unsanitary;
3. that contains burlap or other material that has been used for baling.

#### **R70-101-6. Manufacturing, Distribution, Advertising, Labeling and Sale of Quilted Clothing.**

A. This section establishes standards and procedures relating to quilted clothing. The department adopts by reference the Rules and Regulations under the Textile Fiber Products Identification Act, July 9, 1986 edition; under the Fur Products Labeling Act, July 4, 1980 edition; and under the Wool Products

Labeling Act of 1939, July 9, 1986 edition; excepting that wherever conflicts arise, the state rule shall govern.

B. Articles of plumage-filled clothing shall meet the following requirements:

1. Articles labeled "Down" shall contain a minimum of 75% down and plumules. The minimum down cluster percentage must be listed.

2. Articles containing less than 75% down, shall label the percentages of down and feathers contained therein and shall contain at a minimum the percentage of "Down" printed on the tag.

**R70-101-7. Manufacturer Identification and Tag Requirements.**

A. The identification of a manufacturer, wholesaler, or supply dealer of quilted clothing or filling material which is to appear on the label and on the tag shall be the same as required in rule 19-20 of the Federal Textile Fiber Products Identification Act and Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.

The form of identification used on labels and on the tags shall be the same supplied to the Department on the application for registration.

B. For articles of bedding and upholstered furniture, the law tag shall use the format adopted by the International Association of Bedding and Furniture Law Officials (IABFLO), as listed in the "Tagging Law Manual" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Tagging Law Manual" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

1. Tags on articles manufactured wholly of new material shall be white in color.

2. Tags on articles manufactured in whole or in part of secondhand materials and tags for "Owners Own Material" shall be yellow.

3. Color of ink on tags shall be black.

4. Tags shall be made of material that cannot be torn or easily abraded, and shall be the required color on both surfaces.

5. All required information shall be clearly and legibly printed in English and printed on one side of the tag only.

6. Tags shall be firmly attached to the article(s) in a position easily visible for examination. Regulated products which are offered for sale in boxes or in some other packaging which makes the law tags attached to the products themselves inaccessible, shall reproduce a fully legible facsimile of the law tag on the outer container or covering.

7. No mark, label, printed matter, illustration, sticker or any other device shall be placed upon the tags in such a way as to cover the required information.

8. A single uniform registry number (URN), issued by the state in which the firm is first registered, shall be used on the law tag. The firm's license with the state that issued the URN must be kept current for the number to be valid for use on products sold or offered for sale in Utah.

C. Every firm doing business under more than one state-

issued uniform registry number (URN) shall obtain a license for each number used on products that are offered for sale in Utah. (A change of suffix on a URN shall constitute a new number and require an additional license.)

**R70-101-8. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.**

A. The filling material shall be described on the label and on the tag by the true generic name, grade, description term, or definitions of the filling material as accepted and approved by the Department. When more than one kind of filling material is used in a mixture, the percent by weight of each shall be listed in order of their predominance. Federal fiber tolerance standards are applicable, except as pertains to plumage products.

B. Blends may be described, if applicable, as under Section 14 in this rule. In the case of non-down and/or non-feather filled articles of quilted clothing, any fiber or groups of individual fibers present in an amount of less than 5% by weight, of the total fiber content may be designated only as "other fiber" or "other fibers".

C. When different filling materials are used in various parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area. Examples:

Body - 50% Down, 50% Feathers

Sleeves - Polyester Fiber

Pockets - Nylon Fiber

D. Use of trade names and non-generic terms to describe filling material(s) is prohibited.

**R70-101-9. Use of Rubber Stamp or Stencil.**

A rubber stamp or stencil may be used in lieu of a tag on articles having a smooth backing on which the imprint can be legibly and indelibly stamped, and on suitable surfaces of bales or containers of felt, batting, pads, or other filling material used or to be used in bedding, upholstered furniture, and quilted clothing products.

**R70-101-10. Making or Selling Material or Parts.**

A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is plainly tagged as described in this rule.

**R70-101-11. Labeling of Foreign Articles.**

Responsibility for labeling of unlabeled foreign-made bedding, upholstered furniture, quilted clothing, and filling material in compliance with this rule shall rest with the person selling the merchandise in Utah.

**R70-101-12. Violation of This Rule.**

A. It shall be a separate violation of this rule for each improperly labeled or tagged or unlabeled or untagged article of

bedding, upholstered furniture, quilted clothing, or filling material made, sold, exposed or offered for sale, delivered, consigned, rented or possessed with intent to sell contrary to the provisions of this rule.

B. Defense. No person shall be guilty of a violation of this rule if he has received, from the person by whom the articles were manufactured or from whom they were received, a guarantee in good faith that the articles are not contrary to the provisions of these rules. The guarantee shall be in the form prescribed by the Federal Textile Fiber Products Identification Act, the Federal Wool Products Labeling Act and the Federal Trade Commission Rules and Regulations.

### **R70-101-13. Enforcement Procedures.**

A. Removal of Inspector's Tag. Any person who removes, or causes to be removed, any tag or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material, by an inspector in the performance of his official duties, is guilty of violation of this rule.

B. Failure to Produce Articles Condemned. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on inspection notice signed by the person, or an inspection notice that the person has refused to sign, is a violation of this rule.

C. Interfere, Hinder Inspector. No person shall interfere with, obstruct, or otherwise hinder any inspector of the Department in the performance of his duties.

D. Retailers are Responsible to:

1. ensure that any article of bedding, upholstered furniture, or filling material they sell is labeled with a uniform law tag;

2. ensure that quilted clothing tags list filling material(s) and the name or Registered Number (RN) of the manufacturer or distributor;

3. fully comply with the Department's laws and rules governing false and misleading advertisement;

4. and make sure that all manufacturers from whom they purchase products that come under the purview of the act, hold a valid license with the Department.

5. In addition, upon request of any representative of the Department, a retailer shall provide the Department with the identity of the manufacturer or wholesaler of any article of bedding, upholstered furniture, quilted clothing, or filling material sold by that retailer.

6. If the manufacturer or wholesaler so identified is not registered pursuant to this rule and fails or refuses to register upon notification by the Department, any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by the manufacturer or wholesaler and sold or offered for sale in this state may be withheld from sale until the manufacturer or wholesaler registers; provided, that in the event the manufacturer or wholesaler fails to register, the retailer may register in lieu of the manufacturer or wholesaler.

**R70-101-14. Rules and Regulations for Filling Material.**

A. All terms and definitions of all filling materials shall be those terms which have been submitted to and approved by IABFLO, except those terms and definitions listed in this rule.

B. The document entitled "Plumage Regulations", the 2001 edition, approved by IABFLO, is adopted and incorporated by reference within this rule.

C. Cleanliness of Filling Materials.

All filling materials shall be reasonably clean and free from extraneous material, dirt, dust, filth, epidermis, excreta, disagreeable odors, or other contamination.

"Cleanliness" shall mean the oxygen number of any filling material consisting of whole feathers, down, or a combination thereof; and the oxygen number of any filling material consisting of an admixture of feathers and down which contains five percent (5%) of crushed feathers shall not exceed 25 grams of oxygen per 100,000 grams of sample. (Oxygen number is considered to be the amount, by weight, of oxidizable matter such as blood, excreta, and/or fecal matter present.)

D. "Imperfect, irregular foam" shall mean any foam products which show major imperfections or that fall below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

E. "Imperfect, irregular fibers" shall mean fibers that have imperfections or that fall below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

F. The terms "Prime", "Super", "Northern" and other terms of similar import shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement. Industry shall be responsible for proving to the Department that the fill is superior to the industry standard rating of 550 cubic inches of fill power.

**R70-101-15. Products Not Intended for Uses Subject to This Rule.**

A. The Commissioner hereby excludes from this rule all textile fiber products related to quilted clothing except:

1. Articles of down, feather, or fiber filled clothing.
2. Down, feather, or fiber filled hats and hoods.
3. Down, feather, or fiber filled slippers and booties with fabric outer-covering.
4. Down, feather, or fiber filled gloves.
5. Bulk filling material used in the above.

**KEY: quality control**

**Date of Enactment or Last Substantive Amendment: April 3, 2006**

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**Authorizing, and Implemented or Interpreted Law: 4-10-3**