

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 1114

(Senator Ramirez)

Finance

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**Consumer Protection - Sale of Bedding by Merchants - Limitations**

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This bill prohibits a merchant from selling (or offering to sell) “bedding” to a consumer unless the bedding has labeling attached in a prominent location that may be seen by a consumer before purchase. New bedding must have a white label attached that contains the words “all new material.” Used bedding must have a yellow label attached that contains the words “used bedding” or “used material.” The bill also prohibits a merchant from using any false or misleading statement on a label required under the bill.

A merchant who violates any provision of the bill is guilty of a misdemeanor and, if convicted, is subject to a fine of up to \$500.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues due to the bill’s penalty provision for those cases heard in the District Court. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** The bill defines several terms related to the sale of bedding in Maryland.

- “Bedding” means a mattress or box spring that is stuffed or filled with concealed matter (either wholly or partly) and can be used by an individual for sleeping or reclining.
- “Consumer” means an actual or prospective purchaser of goods that are primarily for personal, household, or family purposes.
- A “merchant” is a person who offers or makes available to consumers (either directly or indirectly) any consumer goods, consumer services, consumer realty, or consumer credit. A “merchant” includes a person (1) who either directly or indirectly purchases (or offers to purchase) any consumer goods or consumer realty from a consumer and (2) whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.
- “New” means not used previously for any purpose.
- “Used” means preowned or having a component that was used previously for any purpose.

In addition to the labeling requirement, a merchant who sells new bedding to a consumer must indicate on the sales receipt that the bedding is new. The bill also prohibits a merchant from selling as new any bedding unless the bedding is made *entirely* from new material.

**Current Law/Background:** Although bedding sales are not regulated under State law, federal law requires that any mattress containing used stuffing contain a tag or label with that information. According to the Federal Trade Commission (FTC), depending on the state, used mattresses may contain a tag (sometimes red or yellow in color) that indicates the mattress contains used materials. For states that have labeling requirements for the sale of used mattresses, requirements can vary. For example, in many places, old mattresses that have been recovered with new ticking (strong, tightly woven cotton or linen fabric) can be sold as long as they are sanitized or disinfected before sale. In other states, only certain parts of mattresses (such as the springs) can be reused. If there is no tag present on a mattress, FTC advises consumers to consider doing business with another retailer.

### *2008 Repeal of State Bedding Law*

Chapter 54 of 2008 repealed the State bedding law which offered consumer protection and safety standards for bedding products and upholstered furniture. Prior to the enactment of Chapter 54 of 2008, the Department of Health and Mental Hygiene (DHMH) issued annual licenses to those in the business of:

- selling, making, or renovating bedding, upholstered furniture, or filling material; or
- disinfecting bedding, bedding component parts, or filling material.

Except for importers, retailers and wholesalers who sold only bedding or upholstered furniture made by a licensed manufacturer were exempted.

Any bedding or upholstered furniture that had been disinfected was required to have a tag with the words “content disinfected” and the license number of the disinfector of the article or material. In addition, manufacturers or supply chain dealers were required to attach tags to bedding or upholstered furniture indicating (1) whether it contained new or secondhand material; (2) whether it was secondhand bedding or material; and (3) the materials used in the filling. All tags were required to be in a form approved by DHMH.

Enforcement inspections were conducted as needed. At any reasonable time, the Secretary of Health and Mental Hygiene or a DHMH representative was authorized to enter and inspect any place where (1) bedding or upholstered furniture was made or renovated; (2) bedding, bedding component parts, or filling material was made or disinfected; or (3) bedding, upholstered furniture, or filling material was sold.

Any person who violated any provision of the State bedding law was guilty of a misdemeanor and subject to a fine of up to \$250 per violation.

DHMH advised at the time that consumer complaints related to the State bedding law were infrequent.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Federal Trade Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - March 22, 2016  
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