

SUBJECT: Modifying the treatment and sale of certain bedding materials

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Delisi, Laubenberg, Jackson, Cohen, Coleman, Gonzales, S. King, Olivo

0 nays

1 absent — Truitt

WITNESSES: (*On original version:*)
For — (*Registered, but did not testify:* Brad Shields, Texas Retailers Association; Liz Seabaugh, Highland Furniture; April Seabaugh; Norman C. Frye; Eddie Bowden)

Against — None

On — Annabelle Dillard, Department of State Health Services

(*On committee substitute:*)
For — Mary Frye, Home Furnishings International Association; Linda Ledger, Ledger Furniture; Dale Seabaugh, Highland Furniture

BACKGROUND: Health and Safety Code, ch. 345 allows the Department of State Health Services (DSHS) to regulate the composition, labeling, sanitation, and sale of bedding products. Bedding is defined to include a range of materials associated with mattresses, other sleep-related artifacts, couches, and sofas. The statute defines “secondhand” as furniture that has had previous use in any manner.

Sec 345.024 prohibits the sale of bedding that has been used or is manufactured from secondhand or recycled materials unless the bedding has been germicidally treated and cleaned by a method approved by DSHS. The statute requires a person performing the germicidal treatment to affix to the bedding an approved label stating the article has undergone treatment and containing basic information about the treatment.

DIGEST: HB 2471 would amend Health and Safety Code provisions governing the sale and manufacture of bedding. The bill would strike from the definition of bedding: sofa beds, studio couches, chairbeds, convertible beds, convertible lounges, lounge-type cushions, and stuffed or filled articles used for reclining.

The bill would define a “floor model” as any new bedding placed in a retail sales area for display purposes and would redefine “secondhand” to exclude such bedding.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: HB 2471 would eliminate undue regulatory burdens on bedding retailers that have little public sanitary value. The bill would update an antiquated definition of bedding to exclude recliners and other furnishings that stray from the term’s core meaning. Outdated provisions of the bedding statute would be modified to reflect modern retail practices in current market conditions.

Many retailers in Texas have a large percentage of their furniture on display. This practice allows customers to browse inventory and make purchasing decisions based on the appearance and color of particular furnishings. Current law requires that any bedding materials, including recliners and couches, deployed as display floor models be considered used. This classification has a significant, negative impact on retailers, who display floor furniture to allow consumers to see the range of available choices. Retailers have a decided interest in maintaining such floor furnishings in pristine condition because any signs of use or wear have an adverse impact on retail value. The used classification takes a disproportionately heavy toll on smaller retailers with limited inventory who display most or all of their products as floor models.

Used bedding materials also must be germicidally treated before sale. Current law would require that a customer wait to buy a floor model while a retailer arranged for the product to be germicidally treated and labeled. Germicidal treatments can be expensive and cut into already narrow profit margins. Existing statutory provisions place unfair obligations on furniture retailers. Similar treatments are not required for autos and other vehicles that have been test-driven. HB 2471 would bring standards for bedding materials into alignment with other state consumer-protection policies.

OPPONENTS
SAY:

HB 2471 would reduce important consumer protections for purchasers of bedding and would keep the state from regulating recliners and couches. The bill would change significantly the definition of “bedding,” with the result that DSHS could not regulate sofa beds, studio couches, chairbeds, and other recliner-related furnishings. For these product types, DSHS would lose the authority to license the manufacture, distribution, wholesale, and importation of new products, as well as the renovation and sanitization of secondhand products.

For those items deleted from the definition of “bedding,” DSHS would be unable to protect Texas consumers from illness or injury associated with the use of unapproved or contaminated products. DSHS would lose authority to respond to consumer complaints, to ensure products were manufactured and stored under sanitary conditions, or to provide regulatory oversight of the importation and distribution of these products to ensure that they were safe, properly manufactured, and correctly labeled. The bill would remove safeguards designed to prevent manufacturers and distributors from engaging in deceptive and otherwise abusive business practices in Texas with respect to certain bedding material. The conveniences the bill would provide retailers would not outweigh the erosion of consumer safeguards.

HB 2417 also effectively would eliminate the distinction between a floor model and new bedding received in original packaging. The bill would negate the requirement that floor models be germicidally treated and labeled before being sold to unsuspecting consumers as new bedding. During typical use as a floor model, bedding could be subjected to direct bodily contact with individuals who could be carrying pathogenic organisms. In certain conditions, this could cause public health risks for people who purchased contaminated bedding and took it into their homes. Only floor models maintained in manufacturer-sealed packaging while on display with no direct bodily contact with the general public should retain their status as new.

NOTES:

The committee substitute struck sofa beds, studio couches, chairbeds, convertible beds, convertible lounges, lounge-type cushions, and stuffed or filled articles used for reclining from the definition of bedding.