



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Paul T. Holt  
County Attorney  
Travis County  
Austin, Texas

Dear Sir:

Opinion No. O-1355

Re: Does the repair, reupholstering, refinishing and rehabilitation of furniture, exclusive of mattresses, pillows, bolsters, feather beds and other filled bedding, come within the provisions of Senate Bill 200?

Your request for our opinion on the above-stated question has been received by this Department.

Your letter reads, in part, as follows:

"This is a request for an opinion construing Senate Bill 200 passed by the 46th Legislature in Regular Session, 1939, and especially with reference to the conduct of the business of repairing, reupholstering and refinishing furniture.

"The type of work mentioned is carried on exclusively between the operator of the business and the owner of the furniture as is done in the case of having repairs made upon an automobile or watch. There is no sale of furniture and no mattresses, pillows, bolsters, feather beds or other filled bedding is handled either for sale or repair. The only use of stuffing or filling is in upholstering the arms and backs of chairs, sofas and settees, but in no case is any object used, made or repaired which may be used as or for bedding as that term is commonly and generally used."

Senate Bill No. 200, Acts of the 46th Legislature, is listed in the statutes as Article 4476a and reads, in part, as follows:

"Section 1. (a). The term 'bedding' as used in this Act shall mean mattresses, pillows, bolsters, feather beds and other filled bedding of any description.

"(b). The term 'Department' when used in this Act shall mean the State Board of Health.

"(c). The term 'person' as used in this Act shall include persons, partnerships, companies, corporations and associations.

"(d). The term 'renovate' as used in this Act shall mean to restore to former condition or to place in a good state of repair.

"(e). The term 'materials' as used in this Act shall mean all articles, or portions thereof, used as filling or covering in the manufacture, repair or renovation of bedding.

"(f). The term 'new' as used in this Act shall mean any article or material which has not been previously used for any purpose.

"(g). The term 'second hand' as used in this Act shall mean any article or material, or portion thereof, of which former use has been made in any manner whatsoever.

"(h). Wherever in this Act the singular is used, the plural shall be included; and where the masculine gender is used, the feminine and neuter shall be included.

"Sec. 2. (a). All bedding shall bear securely attached thereto and plainly visible, a substantial white cloth tag upon which shall be indelibly stamped or printed with black ink, in the English language, a statement showing whether new materials or second-hand materials have been used in filling such bedding, and type or grade of cotton and all other materials used in filling mattresses to which attached when new materials are used, with approximate percentages when mixed; what germicidal treatment, if any, has been applied to the materials or to the bedding;

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the date of such germicidal treatment ; the number of the permit of the person manufacturing the bedding ; and the number of the permit of the person applying such germicidal treatment, if any.

"(b). The terms used on the tag to describe materials shall be restricted to those defined in the regulations of the Department, and no trade or substitute terms shall be used.

"(c). It shall be unlawful to make any false or misleading statements on the tag required by this Section. It shall be unlawful for any person to remove, deface, alter, or cause to be removed, defaced or altered, any tag or statement contained thereon for the purpose of defeating any of the provisions of this Act. The placing of registration stamps required in Section 7 of this Act over any lettering on the tag, shall be construed to be defacement of the tag.

"(d). The size of the tag to be affixed to the new bedding required by this Section shall be not less than six (6) square inches, and the lettering thereon, covering the statement of filling materials, shall be in plain type not less than one-eighth (1/8) inch in height.

"(e). Every article of bedding manufactured for resale containing second-hand material, shall bear, securely sewn thereto on all four sides of the tag, attached to both sides of the article of bedding, a substantial white cloth tag four (4) by eight (8) inches in size, upon which shall be indelibly stamped or printed in red ink, in the English language, in plain type not less than one-half (1/2) inch in height, stating: 'second-hand material'.

"Sec. 6. (a). No person shall engage in the business of manufacturing, repairing or renovating any bedding unless he shall have obtained a permit from the Department.

"(b). No person shall be considered to have

qualified to apply an acceptable germicidal process until such process has been registered with and approved by the Department, after which a numbered permit shall then be issued by the Department. \* \* \*

"Sec. 7. (a). No person shall manufacture, renovate, sell or lease or have in his possession with intent to sell or lease in the State of Texas, any bedding covered by the provisions of this Act, unless there be affixed to the tag required by this Act by the person manufacturing, renovating, selling, or leasing the same, an adhesive stamp prepared and issued by this Department. \* \* \*

"Sec. 9. (a). Any person, who shall be convicted of violation of any of the provisions of this Act, or of the rules and regulations established thereunder, shall be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars for each offense.

"(b) Each day of violation shall constitute a separate offense.

"Sec. 10. Every bedding manufacturer or renovator shall keep his place of business in a sanitary condition satisfactory to the Health Department, and failure to do so shall be sufficient cause to revoke his permit.

"Sec. 11. The provisions of this Act shall apply to all bedding manufactured, repaired, renovated and/or sold after the effective date hereof; but the same shall not apply to bedding which has been manufactured, repaired or renovated prior to the effective date hereof."

We believe the provisions of this Act indicate clearly that no purpose was intended other than the regulating of the business of manufacturing, repairing or renovating bedding, as the terms are commonly known, and does not include the repair, reupholstering, refinishing

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and other work in connection with furniture, exclusive of mattresses, pillows, bolsters, feather beds and other filled bedding.

The term bedding as used in the above-quoted Act is specifically defined therein, and Webster's definition of the term bedding is "a bed and its bedclothes."

In view of the foregoing statute you are respectfully advised that it is the opinion of this Department that the repairing, reupholstering, refinishing and other work in connection with furniture, exclusive of mattresses, pillows, bolsters, feather beds and other filled bedding of any description does not come within the provisions of Senate Bill 200 (Article 4476a).

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams  
Assistant

AK:LM  
APPROVED SEP 16, 1939

*Frederic Mann*  
ATTORNEY GENERAL OF TEXAS

