



City of San Antonio

Agenda Memorandum

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Agenda Item Number: 17.

Agenda Date: 12/3/2015

In Control: City Council A Session

DEPARTMENTS: Development Services and Health

DEPARTMENT HEADS: Roderick Sanchez and Dr. Vincent Nathan

COUNCIL DISTRICTS IMPACTED: City Wide

SUBJECT:

San Antonio Used Mattress Consumer Protection Ordinance

SUMMARY:

Council Member Alan Warrick, II, submitted a Council Consideration Request (CCR) on April 1, 2015 asking City staff to research and recommend measures to mitigate and prevent San Antonio consumers from purchasing unlabeled and/or untreated secondhand/refurbished mattresses. The CCR requests the City of San Antonio adopt an ordinance implementing certain consumer protection regulations that would require businesses engaged in the sale of secondhand/refurbished or re-used mattresses or bedding to register with the City and adhere to certain notification requirements.

BACKGROUND INFORMATION:

Prior to September 1, 2015, secondhand bedding sales were governed under Texas Administrative Code Chapter 205, Subchapter A, Bedding Rules. Under those regulations, if you sell, manufacture, distribute/wholesale, or import bedding products into the state of Texas, and/or you renovate, or germicidally treat used bedding you were required to register through Texas Department of State Health Services, Regulatory Licensing Unit. Failure to register, properly treat and/or display untreated/unlabeled products resulted in Administrative penalties. Complaints and inspections regarding this industry were currently regulated under the Texas Department of State Health Services.

However, in this last legislative session, TX Department of State Health Services has abandoned their licensing and registration requirements. In short, the bedding laws of the state of Texas were abolished effective September 1, 2015. The actual repeal of Chapter 345 of the Texas Health and Safety Code (Bedding Statute) was found in SB202, Section 3.030.

Development Services presented recommendations to the Neighborhoods and Livability Council Committee on

October 19, 2015. The committee recommended that the proposed ordinance be forwarded to the full City Council for consideration for adoption.

ISSUE:

Secondhand and untreated mattresses may contain perspiration, urine, feces, blood, dust mites, bedbugs and skin cells. Due to the abandonment of the states regulations, San Antonio residents may not know if they are purchasing one of these regulated items and therefore be unaware of the potential health concerns associated with an untreated mattress.

Therefore, as proposed in Council Member Warrick's April 1, 2015 CCR, City staff recommends the creation of a local consumer protection ordinance as follows:

1. Ordinance will require anyone who sells or rents secondhand or refurbished mattresses and any germicidal treatment providers in San Antonio to register with the City and pay an annual fee that models the state's previous fee structure. This fee depends on the number of used mattresses sold per year and generally ranges from \$220 to \$1320 per two (2) year term. Germicidal treatment provider permits would be \$110 for a for two (2) year term.
2. Require adequate signage (minimum 20 inches by 20 inches) at the entrance(s) to the retail locations to identify that the store sells secondhand and/or refurbished mattresses.
3. Require germicidal cleaning of all secondhand upholstered furniture or mattresses by approved/registered treatment provider including the maintenance of cleaning records by both the retailer and the treatment provider.
4. Require secondhand/used mattresses to have an approved tag that identifies that it 1) is a used mattress, and 2) has been properly treated/cleaned.
5. Require written acknowledgements that the consumer is made aware at point of sale that they are purchasing a used mattress. Retailers shall keep records of these acknowledgements.

While initial research shows that during this summer, in San Antonio, there were 163 state licensed germicidal treatment providers and 14 licensed distributors/wholesalers upholsterers), it is still unclear as to how many of these facilities are out there. The enforcement model throughout FY 2016 would include responding to consumer complaints.

ALTERNATIVES:

As an alternative, City Council could choose to not create an ordinance to regulate the sale of used bedding in San Antonio. Further, the Council could choose to add an additional Code Officer or Health Inspector to create a monthly proactive inspection model for each used mattress retailer facility and germicidal treatment provider.

FISCAL IMPACT:

The fiscal impact associated with this CCR request is not yet fully known, however, initial assessments indicate it would generate approximately \$11,000 per year of revenue if all the retailers and treatment providers registered. For the complaint enforcement model, City staff would utilize existing staff and resources. If the Committee were to choose a monthly proactive inspection program, the program would initially cost approximately \$83,000 in the first fiscal year and then approximately \$72,000 per year after than to support the additional code officer or health inspector.

RECOMMENDATION:

Staff recommends adoption of the proposed used-mattress consumer protection ordinance to mitigate and prevent San Antonio consumers from purchasing unlabeled and/or untreated secondhand/refurbished mattresses.