



## Ohio Revised Code

### Section 3713.09 Inspectors - investigations.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

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(A) The superintendent of industrial compliance may appoint inspectors and periodically inspect and investigate any establishment where bedding or stuffed toys are manufactured, made, remade, renovated, repaired, sanitized, sold, or offered for sale, or where previously used material is processed for use in the manufacture of bedding or stuffed toys.

(1) Each inspector shall make a written report to the superintendent of each examination and inspection complete with the inspector's findings and recommendations. Inspectors may place "off sale" any article of bedding or stuffed toy offered for sale, or found in the possession of any person with the intent to sell, in violation of section 3713.02 of the Revised Code. Inspectors shall perform other duties related to inspection and examination as prescribed by the superintendent.

(2) When articles are placed "off sale" under division (A)(1) of this section, they shall be tagged, and the tag shall not be removed except by an authorized representative of the division of industrial compliance after the violator demonstrates to the satisfaction of the superintendent proof of compliance with the requirements of section 3713.08 of the Revised Code.

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the



superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter.

(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter.

(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person.

(F) Whenever the superintendent has reason to believe, from the superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or when the superintendent has reason to believe that it is necessary for public health and safety, the superintendent may do any of the following:



(1) Investigate violations of this chapter, and for that purpose, may subpoena witnesses in connection with the investigation. The superintendent may make application to the appropriate court of common pleas for an order enjoining the violation of this chapter, and upon a showing by the superintendent that any registrant or person acting in a manner that requires registration has violated or is about to violate this chapter, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Compel by subpoena the attendance of witnesses to testify in relation to any matter over which the superintendent has jurisdiction and that is the subject of inquiry and investigation by the superintendent, and require the production of any book, paper, or document pertaining to the matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by a subpoena, the court of common pleas of any county in the state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt.

(3) Suspend or revoke the registration of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house;

(4) Submit evidence of the violation or violations to any city prosecutor, city director of law, or prosecuting attorney with authority to prosecute. If the city prosecutor, city director of law, or prosecuting attorney with authority to prosecute fails to prosecute, the superintendent shall submit the evidence to the attorney general who may proceed with the prosecution.