

Chapter 433

1977 REPLACEMENT PART

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GENERAL PROVISIONS

433.001 Definitions. As used in this chapter unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Health or his authorized representative.

(2) "Division" means the Health Division of the Department of Human Resources.
[1973 c.259 §2]

433.003 Reporting of certain diseases required. Any person who attends an individual who has a reportable disease shall report the case to the local health officer. The local health officer shall transmit such reports to the division. The division may by rule prescribe form for such reports.

[1973 c.259 §4 (enacted in lieu of 433.005)]

433.005 [Repealed by 1973 c.259 §3 (433.003 enacted in lieu of 433.005)]

433.010 Spreading disease prohibited; health certificates to be issued by physicians. (1) No person shall wilfully cause the spread of any communicable disease within this state.

(2) Whenever Oregon Revised Statutes require a person to secure a health certificate, such certificate shall be acquired from a physician licensed by the Board of Medical Examiners for the State of Oregon in accordance with the rules of the division.

[Amended by 1973 c.259 §5]

433.015 [Repealed by 1973 c.259 §20]

433.020 [Repealed by 1973 c.259 §20]

433.025 Power of assistant director in enforcing quarantine laws. The assistant director may enforce ORS 433.150, 433.156, 433.216 and 433.220. If necessary, he may appear before any magistrate empowered to issue warrants in criminal cases, and require such magistrate to issue a warrant, directing it to any sheriff or deputy or any constable or policeman, to remove any person or obstacle, or to defend any threatened violence to the assistant director, upon entering private property, or to assist the assistant director in any way to carry out the statutes enumerated.

[Amended by 1973 c.259 §6]

433.035 Examination or quarantine of person reasonably believed to be infected with communicable disease. (1) Whenever the assistant director or any local health officer receives a report that any person within his jurisdiction is or is reasonably believed to be infected with any communica-

ble disease, he may, if he has reasonable cause to believe the report, cause a medical examination to be made of such person to determine whether he is in fact infected with a communicable disease. The person who orders an examination pursuant to this section shall prepare and submit to the division written findings stating the communicable disease that he believes the person to be infected with, the reasons for his belief, that laboratory confirmation of the disease if feasible, possible and would enable control measures to be taken to minimize infection of others with the disease.

(2) When any person is directed to submit to an examination under subsection (1) of this section, if he agrees to do so, he shall submit to such examination as may be necessary to establish the presence or absence of the communicable disease for which the medical examination was directed. The examination shall be carried out by the local health officer or a physician licensed by the Board of Medical Examiners for the State of Oregon. A written report of the results of such examination shall be made to the local health officers and the assistant director. Laboratory examinations, if any, shall be carried out by the laboratory of the division whenever such examinations are within the scope of the tests conducted by the laboratory. If treatment is needed, the person, his parent or guardian shall be liable for the costs of treatment based on the examination carried out under this section, when able to pay such costs. Cost of any examination performed by a physician in private practice shall be paid from public funds available to the local health officer, if any, or from county funds available for general governmental expenses in the county for which the local health officer serves or in the county where the person examined resides if the local health officer serves more than one county or the examination was ordered by the assistant director.

(3) Any person directed to submit to a medical examination pursuant to subsection (1) of this section who refuses to do so may be quarantined by order of the assistant director or the local health officer for such a period and subject to such conditions as the assistant director specifies in the order.

(4) (a) Any person described in subsection (3) of this section or his agent may petition a circuit court for an order of release from quarantine. The court shall hold a hearing within 48 hours from the date of filing of the petition and, if satisfied that there is no

reasonable cause to believe that the person has a communicable disease, shall order that he be released from quarantine.

(b) The court may, in its discretion, order that the person be brought before the courts.

(5) As used in this section, "communicable disease" means a disease that may be transmitted from one person or an animal to another person, either by direct contact or through an intermediate host, vector or inanimate object, and that may result in illness, death or severe disability.

[1967 c.617 §1 (enacted in lieu of 434.060); 1973 c.259 §7]

ISOLATION OR QUARANTINE

433.105 [Repealed by 1973 c.259 §8 (433.106 enacted in lieu of 433.105)]

433.106 Power to isolate or quarantine; posting of notice; rules. The assistant director or any local, county or district health officer shall have the power to isolate or quarantine people, animals, inanimate objects, vessels and public conveyances, or institute other preventive medical measures, in order to prevent the spread of communicable diseases of threat to the community and shall post such notices of isolation or quarantine as the division may by rule require. Such isolation or quarantine shall be in accordance with rules adopted by the division.

[1973 c.259 §9 (enacted in lieu of 433.105)]

433.110 Duties of physicians in controlling communicable disease. Every physician attending a person affected with any communicable disease shall use such precautionary measures to prevent the spread of the disease as the division may prescribe by rule.

[Amended by 1973 c.259 §10]

433.115 [Repealed by 1973 c.259 §20]

433.120 [Repealed by 1973 c.259 §20]

433.125 [Repealed by 1973 c.259 §20]

433.130 Magistrate's authority to enforce quarantine and isolation measures. Any magistrate authorized to issue warrants in criminal cases shall issue a warrant upon affidavit of the assistant director or any local health officer, directing the warrant to the sheriff of the county or his deputy, or to any constable or police officer, requiring them under the direction of the division to remove any person who is infected with a communicable disease, or to impress or take up convenient houses, lodging, nurses, attendants and

other necessities, or to enforce all quarantine or isolation measures required by rules of the division.

[Amended by 1973 c.259 §11]

433.135 Providing for quarantined persons. When a person is quarantined on account of a communicable disease, the local board of health having jurisdiction may provide for such persons confined, the necessities of life, including medical care when necessary.

[Amended by 1973 c.259 §12]

433.140 Payment of quarantine expenses; assistance. (1) The expenses incurred under ORS 433.135, when properly certified by the executive officer of such board, shall be paid by the person quarantined, when able to pay them.

(2) The Adult and Family Services Division may provide general assistance, including medical care for such person, on the basis of need, provided that no payment shall be made for the care of any such person in or under the care of any public institution or public agency or municipality.

[Amended by 1971 c.779 §64]

433.145 [Repealed by 1973 c.259 §20]

433.150 Quarantine hospital; seizure, control of and compensation for emergency hospital. (1) Any city or municipality may establish a quarantine hospital within or without its own limits, but if within its own limits, consent of the municipality within which it is proposed to establish such hospital shall be first obtained. Such consent shall not be necessary if the hospital is more than 800 feet from any occupied house or public highway.

(2) When a great emergency exists the board of health may seize and occupy temporarily for such quarantine hospital any suitable vacant house or building within its jurisdiction and the board of health of any city or municipality having a quarantine hospital shall have control over the same. However, in case of use of such house or premises, due compensation shall be tendered for their use.

433.155 [Repealed by 1973 c.259 §13 (433.156 enacted in lieu of 433.155)]

433.156 Enforcement of isolation or quarantine by police. All state and local police officers shall cooperate with any officer authorized to impose isolation or quarantine in the enforcement thereof.

[1973 c.259 §14 (enacted in lieu of 433.155)]

433.160 [Repealed by 1973 c.259 §20]

433.205 [Repealed by 1973 c.259 §20]

433.210 [Repealed by 1973 c.259 §20]

433.215 [Repealed by 1973 c.259 §15 (433.216 enacted in lieu of 433.215)]

433.216 Detaining conveyance for inspection or investigation. If the assistant director finds that there is an imminent risk of the introduction of any dangerous communicable disease into the state by means of any public or private conveyance, he may detain such conveyance for inspection or investigation.

[1973 c.259 §16 (enacted in lieu of 433.215)]

433.220 Measures taken on discovery of disease; jurisdiction over emergency.

(1) If upon inspection pursuant to ORS 433.216, there is discovered among the passengers or goods therein the existence of any case of dangerous communicable disease, the assistant director, under rules of the division may:

(a) Isolate or quarantine such persons or goods in accordance with ORS 433.106.

(b) Cause the passengers and material in the involved conveyance to be subjected to requirements by the division for the control of the specific communicable disease.

(c) Offer free immunization in those diseases to which such prophylactic treatment is applicable to all persons exposed in any conveyance.

(2) Should any question arise as to the existence of any emergency the assistant director shall have final jurisdiction.

[Amended by 1973 c.259 §17]

433.225 [Repealed by 1973 c.259 §20]

433.230 [Repealed by 1973 c.259 §20]

DISEASE CONTROL IN SCHOOLS

433.255 Persons with or exposed to communicable disease excluded from school. No pupil, teacher or school employe shall be permitted to attend any private, parochial or public school when afflicted with any communicable disease, nor shall they be permitted to attend such school from any house in which exists any communicable disease, except in strict conformity with the rules of the division.

[Amended by 1973 c.259 §18]

433.260 Exclusion of diseased or exposed person; return to school. Whenever any school principal or teacher in any private,

parochial or public school has reason to suspect that any pupil or school employe is afflicted with or has been exposed to any communicable disease required by the rules of the division to be excluded from school, such principal or teacher shall send such person home and report the occurrence to the local health officer by the most direct means available. Any person so excluded shall not be permitted to again attend school until he presents a certificate from a physician licensed by the Board of Medical Examiners for the State of Oregon stating that he is not afflicted with nor a carrier of any communicable disease.

[Amended by 1973 c.259 §19]

433.263 Definitions for ORS 433.263 to 433.275. As used in ORS 433.263 to 433.275:

(1) "Local health department" means the district, county or city board of health, health officer or health department having jurisdiction within the area.

(2) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(3) "School administrator" means the principal or other such person having general control and supervision of the school.

[1973 c.566 §1]

433.265 [Repealed by 1973 c.259 §20]

433.267 Immunization of school children; exceptions. Prior to and as a condition of his initial enrollment in any public, private or parochial school of this state, every child between five and 14 years of age shall submit to the school administrator one of the following statements:

(1) A statement signed by a physician or a representative of the local health department that he has received an initial immunization and prescribed reinforcing immunization against the communicable diseases pursuant to rules of the Health Division as provided in ORS 433.273; or

(2) A statement signed by a physician that the physical condition of the child is such that the immunization would seriously endanger his health; or

(3) A statement signed by his parents or guardian that he has not been immunized as described in subsection (1) of this section because he is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

(4) A statement signed by the parent or guardian of a child entering the school from outside the state that he will arrange to have necessary immunization initiated by a physician or local health department within 30 days.

[1973 c.566 §2; 1977 c.457 §1]

433.269 Free immunization by local health departments. Local health departments shall make available immunizations to be administered under the direction of the local health officer in areas convenient to the student free of charge to those children who are unable to acquire them from other physicians.

[1973 c.566 §3]

433.270 [Repealed by 1973 c.259 §20]

433.273 Rules of division. The Health Division shall adopt rules pertaining to the communicable diseases, including rubella, for which immunization is required and the approved means of immunization and indicated reinforcing immunization under ORS 433.267, including recommended optimum ages for administration of such immunizations.

[1973 c.566 §4; 1977 c.457 §2]

433.275 Refusal to enroll pupil not complying with ORS 433.267. The school administrator of any school at which a pupil applies for enrollment without meeting the requirements of ORS 433.267 shall refuse to enroll the pupil until the requirements are met.

[1973 c.566 §5]

CONTROL OF METABOLIC DISEASES

433.285 Policy to control metabolic diseases. It hereby is declared to be a matter of public policy of the State of Oregon that in the interest of public health and the prevention of mental retardation, every infant, before becoming two weeks of age, should be given tests approved by the Health Division for the detection of the disease of phenylketonuria and other metabolic diseases.

[1963 c.190 §1; 1965 c.88 §1; 1977 c.582 §34]

433.290 Division to conduct educational program concerning metabolic diseases. The Health Division shall institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning the disease of phenylketonuria and other metabolic diseases. This educational program shall

include information concerning the nature of these diseases and examinations for the detection of these diseases in infancy in order that measures may be taken to prevent the mental retardation resulting from these diseases.

[1963 c.190 §2; 1977 c.582 §35]

433.295 Report of cases required; forms to be furnished. (1) All physicians, public health nurses and the administrators of hospitals shall report the discovery of cases of phenylketonuria to the Health Division.

(2) The Health Division shall furnish all physicians, public health nurses and hospitals forms on which the result of tests for phenylketonuria shall be reported to the Health Division.

[1963 c.190 §3]

433.305 [Repealed by 1969 c.685 §23]

CONTROL OF TOXOPLASMOSIS

433.307 Policy to control toxoplasmosis. It is declared to be the policy of the State of Oregon that in the interest of public health, every pregnant woman should be given tests approved by the Health Division for the detection of the disease of toxoplasmosis. Where some question or indication of a possibility that such toxoplasmosis may be present, an infant shall be given tests approved by the Health Division for the detection of the disease before becoming two weeks of age.

[1973 c.470 §1]

433.309 Duties of division. The Health Division shall:

(1) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning the disease of toxoplasmosis. This educational program shall include information concerning the nature of the disease and examinations for the detection of the disease.

(2) Provide examinations for the detection of the disease of toxoplasmosis, on request and free of charge to any pregnant woman or newborn infant.

[1973 c.470 §2]

433.310 [Amended by 1969 c.314 §41; 1969 c.685 §17; renumbered 438.410]

433.311 Report of cases required; forms to be furnished. (1) All physicians, public health nurses and administrators of hospitals shall report the discovery of cases of toxoplasmosis to the Health Division.

(2) The Health Division shall furnish all physicians, public health nurses and administrators of hospitals forms on which the result of tests for toxoplasmosis shall be reported to the division.

[1973 c.470 §3]

433.313 Exception to testing on religious grounds. None of the provisions of ORS 433.307 to 433.313 shall apply to any woman who objects, or to any infant whose parents object, to such examinations on the grounds that such examination conflicts with her religious tenets and practices.

[1973 c.470 §4]

433.315 [Repealed by 1969 c.685 §23]

433.320 [Repealed by 1969 c.685 §23]

433.325 [Amended by 1969 c.685 §19; renumbered 438.420]

433.330 [Repealed by 1969 c.685 §23]

433.335 [Amended by 1969 c.685 §15; renumbered 438.450]

RABIES CONTROL

433.340 Definitions for ORS 433.340 to 433.390. As used in ORS 433.340 to 433.390 unless the context requires otherwise:

(1) "Animal" means a dog or other animal of a species susceptible to rabies.

(2) "Owner" means any person having a right of property in an animal or who harbors an animal or who has it in his care, or acts as its custodian, or who knowingly permits an animal to remain on or about any premises occupied by him. "Owner" does not include veterinarians or kennel operators temporarily maintaining on their premises animals owned by other persons for a period of not more than 30 days.

[1971 c.413 §1]

433.345 Report of animal bites; handling and disposition of animals. (1) Whenever an animal bites any person or is suspected of rabies or has been in close contact with an animal suspected of rabies, the facts shall be immediately reported to the local health officer by any person having direct knowledge.

(2) The Health Division, in consultation with the State Department of Agriculture, shall promulgate rules relating to the handling and disposition of animals that have bitten any person or are suspected of rabies or that have been in close contact with an animal suspected of rabies. Such rules may include

requirements for confinement, isolation and inoculation. Owners or persons in possession of animals subject to such rules, shall handle or dispose or allow the handling or disposal of such animals strictly in accordance with such rules.

[1971 c.413 §2; 1977 c.189 §4]

433.350 Authority to take possession and order destruction of animal. When confinement and observation of an animal for purposes of determining infection with rabies will not avoid the necessity of the application of painful or possibly dangerous preventative treatment to a person who has been bitten or scratched by such animal, the Assistant Director for Health may order possession of the animal to be immediately relinquished to him or to his authorized representative and may order the animal destroyed for examination of its bodily tissues.

[1971 c.413 §3]

433.355 Procedure to force compliance with ORS 433.350. (1) In the event of the refusal of the owner or person in possession of an animal to comply with an order of the Assistant Director for Health under ORS 433.350, the Assistant Director for Health or his authorized representative may petition the circuit court of the county in which such animal is located for an order requiring such owner or person to comply with such order.

(2) The petition shall be verified and shall set forth the facts relative to the refusal to comply with the order. A copy of the petition shall be served upon the owner or person in possession of the animal in the manner provided for service of summons in civil actions. Such owner or person in possession shall appear and answer the petition at a time and place set by the court in an order, a copy of which shall be served with the petition, directing the defendant to appear at such time and place, and to then and there show cause, if any he has, why an order directing compliance with the order of the Assistant Director for Health should not be granted. The time set by the court for the hearing to show cause shall be made with due regard for the circumstances of the person or persons who have been subjected to the bite or scratch of the animal and whose health or life may be in jeopardy.

(3) If the owner or person in possession fails to appear or the court either with or without such appearance finds the allegations of the petition are true and the order of the Assistant Director for Health is necessary under ORS 433.350, the court shall enter its

order requiring the owner or person in possession of such animal to comply with the order of the Assistant Director for Health.

(4) The sheriff of the county in which the animal is located shall execute such order by serving upon the owner or person in possession a copy thereof duly certified to by the clerk of the circuit court and by enforcing the provisions thereof.

[1971 c.413 §4]

433.360 Report of rabies cases; quarantine. (1) Whenever a case of animal rabies occurs, the fact shall be reported to the Assistant Director for Health and to the State Department of Agriculture immediately.

(2) The State Department of Agriculture in consultation with the Assistant Director for Health shall establish such quarantine under ORS chapter 596 as the department and the Assistant Director for Health may deem necessary.

(3) The State Department of Agriculture and the Assistant Director for Health may contract with counties for the purpose of carrying out the provisions of ORS 433.350, 433.355 and subsection (2) of this section.

[1971 c.413 §5; 1975 c.750 §1; 1977 c.189 §5]

433.365 Inoculation against rabies; exception; costs. (1) All dogs must be inoculated against rabies, unless specifically exempted by rule of the Health Division or the State Department of Agriculture.

(2) Unless pursuant to conditions specified in ORS 430.360, any regulations of the State Department of Agriculture or the Assistant Director for Health with respect to inoculation shall:

(a) Not apply to animals brought temporarily into the state for periods of less than 30 days but they may require that such animals be kept under strict supervision by their owners.

(b) Not apply to dogs or to any other animal specifically exempted from the inoculation requirement by rule of the Health Division or the State Department of Agriculture.

(3) The costs of all such required inoculations shall be borne by the owners of the animal.

[1971 c.413 §7; 1975 c.750 §2]

433.367 Division to establish vaccination clinics; payment of costs by dog owners. The Health Division shall be responsible for development and coordination of vaccina-

tion clinics at sufficient and reasonable times at various locations throughout the state for the inoculation of dogs against rabies. Costs of vaccination shall be borne by the dog owner.

[1977 c.189 §2]

433.370 Inoculation certificate; city and county reporting requirements. (1) Every veterinarian inoculating an animal against rabies shall supply to the owner evidence of inoculation which shall consist of a certificate issued and signed by the veterinarian. The form of the certificate shall be prescribed and furnished by the Health Division.

(2) A county, or if the dog owner resides in a city having a dog licensing program, the city, may require the veterinarian to send a copy of each certificate issued during the previous month to a person designated by the county or city.

[1971 c.413 §8; 1975 c.750 §3; 1977 c.189 §6]

433.375 Filing of inoculation certificate; certificate required for license; issuance of tag. (1) The owner of the animal shall file by mail or otherwise the inoculation certificate, together with the fee fixed pursuant to ORS 433.380, if any, with the clerk of the county in which he resides.

(2) The county shall upon receipt of the fee and certificate issue to the owner a serial-numbered tag, legibly identifying its expiration date as such date is determined in accordance with rules of the Health Division relating to intervals of inoculation. The tag shall be designed for and shall be attached to a collar or harness which shall be worn by the dog for which the tag and certificate is issued at all times when off or outside the premises of the owner. Whenever an original tag is lost, mutilated or destroyed, upon application and payment of the fee prescribed under ORS 433.380, if any, a replacement tag, to be dated, designed and worn as the original, shall be issued.

(3) No official of any county shall issue a license for a dog until he has been shown a proper certification, or its equivalent, of a rabies inoculation.

(4) The county shall file the certificate upon which a tag is issued cross-referenced to the tag number.

(5) Unexpired tags shall be honored in all counties when the animal is in transit or where the owner has established a new residence.

(6) The provisions of this section apply to

a city, rather than a county, in a city which has a dog licensing program.

[1971 c.413 §9; 1975 c.750 §4; 1977 c.189 §6a]

433.377 Issuance of license as verification of inoculation; issuance of tag not required. Notwithstanding ORS 433.375 or any other provision of law, a county or city may consider issuance of a license for a dog as verification of there being a certificate of inoculation on file and need not issue a tag pursuant to subsection (2) of ORS 433.375.

[1977 c.189 §3]

433.379 Disposal of inoculation certificates. Notwithstanding ORS 192.001 to 192.170, the county or city may dispose of certificates of inoculation upon their expiration date.

[1977 c.189 §12]

433.380 Tag fee; status of fee. A fee for the tag and replacement tag may be fixed in each county by the governing body of the county in such amount as it finds necessary to enable the county to carry out the provisions of ORS 433.365, 433.370 and 433.380 to 433.390 and the regulations promulgated hereunder and shall not be considered a license or tax within the meaning of ORS 609.100.

[1971 c.413 §10]

433.385 Impoundment of animals; notice to owner; redeeming animal; disposition of animals. (1) Any animal in violation of ORS 433.365 shall be apprehended and impounded.

(2) All animals apprehended and impounded under this section shall be held in adequate and sanitary pounds to be established or contracted for in each county by the governing body of the county. All animals so impounded shall be given proper care and maintenance.

(3) When an animal is apprehended and impounded, the owner, if known, shall be given notice of not less than five days from the date of such impounding before the animal is destroyed or otherwise disposed of. An owner appearing to redeem the animal may do so if the provisions of ORS 433.365 are complied with and if he pays the expense of keeping the animal during the time it was impounded and in addition thereto, the sum established by the county governing body. If the animal is subject to any other impounding law the requirements for release under that law shall also be met except that the expense of keeping the animal shall be payable only

once for the period of impoundment. If the owner does not appear to redeem the animal after the notice provided for herein, or otherwise, after five days, or if the owner is not known, after three days, the governing body of the county may provide for animals impounded to be released to any other person upon the conditions outlined in this subsection or otherwise disposed of in a humane manner.

(4) Where the owner desires to redeem an animal impounded pursuant to this section or the animal is to be released to any other person as provided in subsection (3) of this section, the person shall post a \$20 deposit with the county and obtain possession of the animal for the purpose of complying with ORS 433.365. Upon demonstrating proof of rabies inoculation and purchase of a license as required under ORS 609.100, within eight days of obtaining possession of the animal, the \$20 deposit shall be refunded to the person posting the deposit. Failure to demonstrate proof of rabies inoculation and licensing within the prescribed time shall forfeit the deposit to the county.

(5) The governing body of the county shall designate persons responsible for the enforcement of this section.

[1971 c.413 §11; 1977 c.189 §7]

433.390 County dog control fund; sources and uses. (1) All moneys received by a county under ORS 431.130 (1975 Replacement Part), 433.340 to 433.390 and subsection (6) of 433.990 shall be paid to the county dog control fund.

(2) The governing body of the county may, in the event of a rabies outbreak within the county, use such portion of the dog control fund as it deems necessary to purchase rabies vaccine for administration to animals under the direction of the state and local health officers.

[1971 c.413 §12; 1977 c.189 §8]

SANITATION OF UPHOLSTERED FURNITURE AND BEDDING

433.405 General definitions for ORS 433.405 to 433.680. As used in ORS 433.405 to 433.680, unless the context requires otherwise:

(1) "Assistant Director" means the Assistant Director for Health.

(2) "Annually" or any of its variants means that period beginning July 1 of each

year and ending June 30 of the succeeding year or any unexpired portion of that period.

(3) "Division" means the Health Division of the Department of Human Resources.

(4) "Certificate" means any registration certificate, permit or license issued by the division pursuant to ORS 433.405 to 433.680.

(5) "Chief" means the chief of the Furniture and Bedding Inspection Section.

(6) "Inspector" means an inspector of the Furniture and Bedding Inspection Section.

(7) "Person" includes individual, copartnership, association, firm, trust and corporation, and the agents, employees and servants of any of them.

(8) "Section" means the Furniture and Bedding Inspection Section of the division.

(9) "Sell" or any of its variants means one or any combination of the following: Sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess with an intent to sell or dispose of in any other commercial manner. Merchandise found on sales floors or in places from which sales or deliveries are made, is assumed to be for sale.

(10) "Unfit" means unacceptable and includes filling materials and articles and the parts thereof which are hazardous, unsafe or dangerous or contaminated, unclean, filthy, soiled or offensive.

[Amended by 1973 c.779 §4]

433.410 Definitions of affected materials. As used in ORS 433.405 to 433.680, unless the context requires otherwise:

(1) "Bedding" means any quilted pad, packing pad, mattress pad, hammock pad, mattress, comforter, bunk quilt, sleeping bag, box spring, upholstered headboard, upholstered baby carriage, "bumper," studio couch, pillow, cushion, hassock and includes such bedding in a mobile home, travel trailer, camper or similar structure or any bag or container made of leather, cloth or any other material or any other device that is stuffed or filled in whole or in part with concealed material in addition to the structural units, all of which may be used by any human being for sleeping, resting or reclining purposes. "Pillow" includes a bag or a case of cloth filled or stuffed with feathers, downs, kapok, cotton, hair, wool or other sanitary filling not prohibited by the rules of ORS 433.405 to 433.680 to be used, or that may be used, as a rest or a support for the head in reclining, resting or sleeping.

(2) "Filling material" means cotton, wool, kapok, feathers, downs or any other natural or man-made material or combination thereof, loose or in batting, pads or any other prefabricated form, concealed or not concealed, to be used or that may be used in articles of bedding or upholstered furniture.

(3) "Owner's own" means any article or material belonging to any person for his own or his tenant's use that is sent to any manufacturer or upholsterer to be repaired or renovated or used in repairing or renovating.

(4) "Secondhand" means any article or material, including all filling materials, which has been used. Any article of upholstered furniture or bedding on sales floors in a private residence or room which is not separated from living quarters is secondhand. Any article of upholstered furniture or bedding shall be classed as secondhand if it contains any secondhand material in whole or in part.

(5) "Slip cover" means any casing or cover without any filling material and which meets any of the following requirements:

(a) Is for use or is to be placed on or over any manufactured article of upholstered furniture or bedding.

(b) Covers or conceals the upholstered furniture or bedding in whole or in part.

(c) Is closed or held in place by snaps or hooks and eyes or lacing so that it may be removed without the use of tools or instruments.

(d) Is not permanently attached by tacking, sewing or in any other manner.

(6) "Upholstered furniture" means any furniture, movable or stationary, including children's furniture, ottomans, barber chairs, beauty shop chairs, office furniture, massage and surgical tables and related equipment, including such upholstered furniture in a mobile home, travel trailer, camper or similar structure, which is stuffed or filled in whole or in part with any material hidden or concealed by fabric or any other covering, including pillows, loose or attached, belonging to or forming a part thereof and the structural units, that can be used as a support for the body of a human being or his limbs and feet when in a sitting, resting or reclining position.

[Amended by 1973 c.779 §5]

433.415 Definitions relating to trade or business. As used in ORS 433.405 to 433.680, unless the context requires otherwise:

(1) "Branch factory" means one separated from the parent factory manufacturing in whole or in part any article of upholstered furniture or bedding.

(2) "Branch upholstery shop" means one separated from the parent shop upholstering any article of bedding.

(3) "Fumigator" means any person who fumigates any article of upholstered furniture or bedding or filling material relating thereto.

(4) "Manufacturer" means a person who either by himself or through employes or agents makes any article of upholstered furniture or bedding in whole or in part or who does the upholstery or covering of any structural unit or part thereof, using either new or secondhand material.

(5) "Upholsterer" means a person who either by himself or through employes or agents repairs, makes over, re-covers, restores, renovates or renews upholstered furniture or bedding which is "owner's own".

(6) "Residence dealer" means any person who sells any new or used article of upholstered furniture or bedding from his own or another person's place of abode or from any sales room not having a recognized and ordinary store entrance.

(7) "Retailer" means a person who sells any article or thing to a consumer or user of the article or thing purchased.

(8) "Retail branch store" means any subordinate establishment, place or private residence maintaining a sales service other than one situated immediately next door to the main store, office or headquarters.

(9) "Supply dealer" means any person who manufactures, processes or sells at wholesale any felt, padding, pads or loose material in bags or containers, concealed or not concealed, to be used or that could be used in articles of bedding or upholstered furniture.

(10) "Supply depot" means any warehouse or storeroom used as a merchandising center or supply outlet, to supply or for the purpose of supplying merchandise subject to ORS 433.405 to 433.680, either directly or indirectly at wholesale or retail, which merchandise is sold or held for the purpose of sale to any person regardless of whether the purchaser is in business or in the employ of any person.

(11) "Transient upholsterer" means an upholsterer who has no permanent shop or address.

(12) "Wholesale branch house" means a branch situated in another locality and conducting a wholesale business independent of the parent house in so far as showroom and service to the trade are concerned, excepting, however, sales or showrooms in established furniture marts or exchanges.

(13) "Wholesaler" means a person who sells any article or thing to another for the purpose of resale.

[Amended by 1973 c.779 §6]

433.420 Administration by division.

The division shall administer ORS 433.405 to 433.680 and may adopt such rules as may be necessary for their administration. All rules shall have the full force and effect of law.

[Amended by 1973 c.779 §7]

433.425 Regulations on standards, grades and labels. The division shall, by rule:

(1) Establish grades, cleanliness standards and tolerances on the kinds and qualities of materials which are used or intended to be used or that may be used in the manufacture of upholstered furniture or bedding.

(2) Designate standards of cleanliness on used articles intended for sale.

(3) Adopt standard designations and rules for the proper labeling of articles filled with these materials, provided such rules are not in conflict with ORS 433.405 to 433.680.

[Amended by 1973 c.779 §8]

433.430 Assignment of registration numbers. The division shall prescribe the procedure relative to assignment or reassignment of registration numbers.

[Amended by 1973 c.779 §9]

433.435 Reciprocity with other states. The division may reciprocate with other states regarding the mutual recognition and acceptance of labels in interstate commerce, the recognition of manufacturer-shipper identification numerals and in such other manner as may be consistent with the best interests of this state.

[Amended by 1973 c.779 §10]

433.440 Special certificates required. Except as otherwise provided in ORS 433.405 to 433.680, a person who advertises, solicits or contracts to manufacture, repair or renovate upholstered furniture or bedding and either does the work himself or employs others to do it for him, shall secure the particular certificate required by ORS 433.405 to 433.680 for the particular type of work that he solicits or

advertises that he will do, regardless of whether he has a shop or factory.

433.445 Manufacturer's certificate.

Every person manufacturing either upholstered furniture or bedding, or both, shall obtain annually a furniture and bedding manufacturer's certificate from the division bearing a registration number assigned by the division.

[Amended by 1973 c.779 §11]

433.450 Wholesale dealer's certificate.

A wholesaler of either upholstered furniture or bedding, or both, unless he holds a furniture and bedding manufacturer's certificate, shall obtain annually a wholesale furniture and bedding dealer's certificate from the division.

[Amended by 1973 c.779 §12]

433.455 Repairer's and renovator's certificate. (1) Every person repairing upholstered furniture, or renovating bedding, unless he holds a furniture and bedding manufacturer's certificate, shall obtain annually an upholsterer's certificate from the division bearing a registration number assigned by the division.

(2) A certificate shall not be issued until an investigation of the shop or plant has been completed and the assistant director is assured that the work, storage and other business areas are clean, effectively, physically and structurally separated from living quarters, and that animals shall not be kept, cared for, fed, treated or allowed in said area.

[Amended by 1973 c.779 §13]

433.460 Retail dealer's certificate.

Every person selling any upholstered furniture or bedding at retail, including upholstered antique furniture, regardless of its condition, unless he holds a furniture and bedding manufacturer's certificate, a wholesale furniture and bedding dealer's certificate, or an upholsterer's certificate, shall obtain annually a furniture and bedding dealer's certificate from the division. This does not apply to upholstered furniture or bedding sold by a peace officer when so ordered by a court.

[Amended by 1973 c.779 §14]

433.465 Supply dealer's certificate; supply depot certificate. (1) Every person manufacturing, processing or selling at wholesale, any felt or batting or any pads or loose materials in bags or containers for use in bedding or upholstered furniture, unless he holds a furniture and bedding manufacturer's certificate, shall procure annually a supply

dealer's certificate from the division bearing a registration number assigned by the division.

(2) Every supply depot owner or operator shall procure annually a supply depot certificate from the division.

[Amended by 1973 c.779 §15]

433.470 Businesses to be certified. (1)

No person shall engage in a business regulated under ORS 433.405 to 433.680 unless he has first applied to the division and obtained the proper certificate required by ORS 433.405 to 433.680.

(2) A certificate may be denied, revoked or suspended in accordance with ORS chapter 183 when, in the opinion of the assistant director, the applicant does not comply with ORS 433.405 to 433.680 and the rules pertaining thereto.

(3) Notwithstanding subsection (1) of this section, on and after July 22, 1973, ORS 433.450 and 433.460 do not apply to persons selling new and not previously sold at retail upholstered furniture or bedding contained in a new and not previously sold at retail mobile home, travel trailer, camper or similar structure if the new and not previously sold at retail upholstered furniture or bedding has been manufactured by a person certified under ORS 433.445 and the new and not previously sold at retail upholstered furniture and bedding conform to the Federal Flammability Standards.

(4) Notwithstanding subsection (1) of this section, ORS 433.555 does not apply to persons selling used upholstered furniture or bedding contained in a mobile home, travel trailer, camper or similar structure as an incident of the sale of such mobile home, travel trailer, camper or similar structure.

[Amended by 1973 c.779 §16]

433.475 Slip cover makers need no certificate. Any person engaged exclusively in the manufacture of slip covers shall not be required to have a certificate under ORS 433.405 to 433.680.

433.480 Upholstered caskets excluded. Upholstered caskets used in the burial of the dead shall not be considered as upholstered furniture within the meaning of ORS 433.405 to 433.680.

433.485 Each branch and firm name treated as separate unit; exception. (1) Every person in any class shall secure a separate certificate for each branch.

(2) Every branch is subject to the provisions of ORS 433.405 to 433.680.

(3) Every person doing business at the same address under more than one firm name is subject to the registration provisions for each firm name.

(4) However, a person whose manufacturing plant is located in another state or foreign country and who is certified to manufacture upholstered furniture and bedding for sale in this state may have one wholesale outlet covered by the certificate issued to the factory.

433.490 Articles to be labeled. (1) No person shall, at wholesale or retail or otherwise, directly or indirectly, make, repair, renovate or sell any upholstered furniture or bedding for use in any household or place of abode or which can be used by human beings, if it is made of new or secondhand material which is concealed by fabric or any other covering, unless such article is plainly and indelibly stamped or labeled with a tag or other marking as provided in ORS 433.405 to 433.680 and approved by the division.

(2) Before being sold, offered or exposed for sale, cotton, wool, kapok, feathers, downs or any other filling material or any combination thereof, loose, in batting, pad or any other prefabricated form, concealed or not concealed, to be used or that could be used in articles of bedding or upholstered furniture, shall be labeled with a tag or other device setting forth its true content in accordance with ORS 433.405 to 433.680.

[Amended by 1973 c.779 §17]

433.495 Size, contents and attachment of labels. (1) Labels to be attached to articles of upholstered furniture and bedding regulated by ORS 433.405 to 433.680 shall:

(a) Not be less than six square inches in size.

(b) Be made of a fabric of good quality approved by the division.

(c) Show or state that the filling material is "new," "secondhand" or "fumigated," as the case may be.

(d) Show or state, in addition to the prescribed language, the registration number of the manufacturer as assigned by the division.

(2) Filling materials, singly or when blended, shall be described by true name as defined by the rules of ORS 433.405 to 433.680. The manner of describing the various filling materials, including the language required by law, together with such other

descriptive information as may be required, and the type size, placement, and the color of ink thereof, shall be prescribed by the division. If percentage disclosure of filling material is prescribed it shall be based on avoirdupois weight.

(3) If desired, the label also may describe the frame, cover and style of the article to which it is attached. When such descriptive statements are made they must, in fact, be true statements.

(4) Before display, sale or delivery of any article of upholstered furniture or bedding, all labels required by ORS 433.405 to 433.680 shall be attached securely to the article at the factory or shop. Such labels shall be fixed in such position that they may be conveniently examined.

[Amended by 1967 c.187 §1; 1973 c.779 §18]

433.500 Labels and stamps on particular items. (1) The size of bed pillows, comforters, quilts and sleeping bags shall be stated on the label in such manner as shall be prescribed by the division.

(2) Labels appearing upon decorative pillows, boudoir and fancy cushions need not show size.

(3) Slip seat chairs and benches or upholstered stools and similar articles of upholstered furniture, having a wood or metal bottom, may be clearly and indelibly stamped at the factory in lieu of the label. The stamp to be used shall not be smaller than the minimum size approved by the division. When a stamp is approved in lieu of a label, such stamp shall show or state such information as would be required on the label which it replaces.

(4) All feathers and downs, excepting raw stocks sold in bulk or package, shall be labeled with a tag or other marking upon each and every parcel setting forth the true contents according to the requirements of ORS 433.405 to 433.680.

(5) Any person who renovates or repairs upholstered furniture or bedding for any owner or customer for his own use or for use by his tenants shall attach when completed the "Owner's Own" label approved by the division. The "Owner's Own" label shall be attached securely to the article at the factory or shop, and it shall be fixed in such position that it may be conveniently examined.

[Amended by 1967 c.187 §2; 1973 c.779 §19]

433.505 Abuse of labels prohibited.

No person shall:

(1) Place on labels required by ORS 433.405 to 433.680 any mark, tag or sticker or any other device, in such a way as to cover the statements required by law.

(2) Use on any label any misleading term or designation or term or designation likely to mislead.

(3) Attempt to or in fact remove, deface, alter, or cause to be removed, defaced or altered, the label or any mark or statement placed upon any upholstered furniture, bedding or material under ORS 433.405 to 433.680. A purchaser for his own use is exempted from the prohibition in this subsection.

(4) Use the required furniture and bedding label to advertise falsely or misrepresent any merchandise to which the bedding or furniture label is required to be attached.

433.510 Registration of fumigating plants. (1) No person shall engage in the business of fumigating articles or materials subject to the rules of ORS 433.405 to 433.680 without first obtaining a fumigator's certificate.

(2) The application submitted to the division shall describe the place where the fumigation chamber and equipment will be located, the type and kind of equipment to be used, the names and addresses of the true owners of the fumigating business and such other data as the division may from time to time require.

[Amended by 1973 c.779 §20]

433.515 [Repealed by 1973 c.779 §21 (433.516 enacted in lieu of 433.515)]

433.516 Certification of fumigation facility; permit to fumigate. (1) Upon receipt of an application to fumigate, the assistant director shall cause an investigation to be made, and when satisfied that the applicant, his employes and the fumigation facility and required related equipment for fumigation will comply with ORS 433.405 to 433.680, the division shall issue a certificate. The certificate shall be valid only for the person named thereon and the chamber inspected and approved at the stated address. The certificate shall become void if the chamber is destroyed, moved or sold, or if the operator ceases business as a fumigator.

(2) Investigations shall be made from time to time by the assistant director to determine whether the fumigation facility and the

related and required equipment and the holder of the certificate and his employes are fully and safely complying with ORS 433.405 to 433.680 and the rules promulgated thereunder.

(3) If compliance with ORS 433.405 to 433.680 and the rules is not being obtained or if, in the opinion of the assistant director, based upon standards established in the rules, the equipment, the chamber, the holder of the certificate or his employes are not individually or separately able to comply, the assistant director shall initiate action to refuse to issue, refuse to renew, to revoke or to suspend a certificate in accordance with ORS chapter 183. Upon becoming aware of a violation by the holder of a certificate issued under ORS 433.405 to 433.680, the assistant director may immediately recall any and all unused labels sold to the holder of the certificate.

(4) Upon receipt of an application for a permit and upon determining that the applicant is currently certified as a fumigator, the assistant director may authorize issuance of a permit provided the applicant, his employes, fumigation equipment, procedure and method of fumigation satisfy the rules of the division in regard to such fumigation. The techniques and fumigant used may be accepted by the assistant director after consideration of the particular situation and the provisions of ORS 433.405 to 433.680.

(5) The assistant director may place a cease and desist order on a fumigator or fumigation facility and related equipment upon becoming convinced that the fumigator or the facility or the equipment singularly or in any combination thereof is operating or is being operated in an unsafe or hazardous manner or not otherwise in compliance with ORS 433.405 to 433.680. The order shall be valid 30 calendar days and may be renewed.

[1973 c.779 §22 (enacted in lieu of 433.515)]

433.520 Construction of fumigation equipment; safety rules. (1) Fumigation chambers shall be gas tight in construction, and only such methods and processes as will kill arthropods shall be approved for use. The division shall by rule designate acceptable methods, processes and fumigants.

(2) The division also shall prescribe such rules as may be necessary to the safety of fumigation operators and to such human and animal life as may normally exist in the affected area.

[Amended by 1973 c.779 §23]

433.525 Cleanliness of equipment.

The premises, delivery equipment, machinery, appliances and devices of all persons under ORS 433.405 to 433.680 shall at all times be kept free of refuse, dirt, contamination, insects or vermin.

433.530 Fumigation of materials; articles labeled after processing. (1) Every person who receives for fumigation any upholstered furniture, bedding or filling material to be used or that can be used in upholstered furniture or bedding for resale, shall fumigate all such articles or material in accordance with ORS 433.405 to 433.680 and the rules thereunder and shall affix a fumigation label approved by the division immediately after the fumigation has been completed. Such label shall not be affixed to any such article if the article has not been fumigated in accordance with ORS 433.405 to 433.680 and the rules pertaining thereto.

(2) The label shall be attached securely to the article or material at the fumigating plant or site of the fumigation as evidence that the article or material has been fumigated by a process approved by the division. Such label shall be fixed in a position where it may be conveniently examined.

[Amended by 1973 c.779 §24]

433.535 Additional data on fumigation label; record of labels. (1) In addition to the language required by ORS 433.495 and 433.500, the fumigation label shall show or state:

(a) The lot number and label number of the attached fumigation label.

(b) The kind of article or filling material fumigated.

(c) The name of the person for whom fumigated.

(d) The date fumigated.

(e) The name, address and registration number of the fumigating plant.

(f) Any other data which may be necessary and proper to establish that effective results are being obtained.

(2) The fumigator shall keep a record of the data required by subsection (1) of this section showing the disposition of each and every label. The record shall be accessible at all times to the assistant director.

[Amended by 1973 c.779 §25]

433.540 Issue of labels restricted; illegal possession or transfer prohibited; return of void labels. (1) Fumigation labels

shall be issued only to persons who are authorized to fumigate under ORS 433.405 to 433.680.

(2) Illegal possession of any fumigation label is prohibited. No fumigation label may be sold, given away or transferred, unless such sale or transfer is first approved by the assistant director.

(3) Void or mutilated labels shall be returned to the section.

[Amended by 1973 c.779 §26]

433.545 Processing required prior to repair. The assistant director, if he deems it advisable in the interest of the health and safety of the public, may require that any article of upholstered furniture or bedding from any private or public source be fumigated or treated by some other process approved by the division before it is repaired or renovated or upholstered.

[Amended by 1973 c.779 §27]

433.550 Unauthorized sales prohibited. No person shall, directly or indirectly, sell any upholstered furniture, bedding or filling material made, upholstered, repaired, renovated, treated or fumigated contrary to ORS 433.405 to 433.680.

[Amended by 1973 c.779 §28]

433.555 Sale of used articles without processing prohibited. (1) No person, unless excluded by ORS 433.405 to 433.680 or the rules pertaining thereto, shall, directly or indirectly, sell in this state, at wholesale or retail or otherwise, any secondhand or previously used article of upholstered furniture or bedding or any secondhand or previously used filling material to be used or that could be used in the manufacture, repair, renovation or upholstery thereof, unless such article or material has, subsequent to its last use, been fumigated or treated by some process approved by the division and labeled according to ORS 433.405 to 433.680.

(2) Subsection (1) of this section applies to articles and materials sold by governmental units. The fumigation requirements of ORS 433.405 to 433.680 do not apply to private furniture or bedding sold from a single family residence unless upholstered furniture or bedding from other dwellings or places of use is sold.

[Amended by 1973 c.779 §29]

433.560 [Repealed by 1963 c.574 §1 (433.561 enacted in lieu of 433.560)]

433.561 Soiled articles not to be sold.

No person shall sell for human use an article of upholstered furniture or an article of bedding, even though it has been fumigated or otherwise treated, which is unclean, filthy, soiled, offensive, hazardous or which has been obtained from any garbage or refuse dump or any other type of refuse disposal site; and no person shall sell for human use any article of upholstered furniture or any article of bedding which has been manufactured of, repaired, renovated or upholstered with, in whole or in part, filling material which is unclean, filthy or soiled and contains foreign matter or dirt, or structural units, filling material, or parts obtained from any garbage or refuse dump or any type of refuse disposal site.

[1963 c.574 §2 (enacted in lieu of 433.560); 1973 c.779 §30]

433.565 [Repealed by 1963 c.574 §3 (433.566 enacted in lieu of 433.565)]

433.566 Cleanliness of filling materials. No person shall sell for human use filling material, even though it has been fumigated or otherwise treated, which contains foreign matter or dirt or which is unclean, filthy, offensive, hazardous or has been obtained from a garbage or refuse disposal dump or any type of refuse disposal site. No person shall use filling material which is unclean, filthy, offensive, hazardous or has been obtained from a garbage or refuse dump or any type of refuse disposal site in the manufacture, repair, renovation or upholstery of an article of upholstered furniture or an article of bedding.

[1963 c.574 §4 (enacted in lieu of 433.565); 1973 c.779 §31]

433.570 Special processing of certain fillers; proper labeling. Whenever the words "batt," "batting" or "felt" are used in any statement required by ORS 433.405 to 433.680, the material designated shall be in layers as processed by garnetting or carding machines and the statement on the label shall be a true statement.

[Amended by 1973 c.779 §32]

433.575 Separate storage of new and processed articles. (1) New, treated or fumigated articles of upholstered furniture or bedding or materials shall at all times be kept separate from secondhand articles or materials not treated or fumigated.

(2) Secondhand articles shall at all times be identified by tags or other like devices, or

by room or floor separation with identification as secondhand or used.

[Amended by 1973 c.779 §33]

433.580 Identification of articles for repair and secondhand materials. Every person upon receiving upholstered furniture or bedding for repair or renovation shall securely affix immediately a tag of identification showing the owner's or dealer's name and address and the date upon which it was received. The tag shall remain affixed until actual repair or renovation is begun. Secondhand springs, structural parts and filling materials shall be likewise identified.

433.585 Regulation of exported goods. ORS 433.405 to 433.680 do not apply to upholstered furniture or bedding or filling materials which is for sale outside the borders of this state, except that filling materials or upholstered furniture or bedding which contain, in whole or in part, any secondhand materials shall be fumigated or treated as required by ORS 433.405 to 433.680.

[Amended by 1973 c.779 §34]

433.590 Imported goods to meet requirements. (1) Every person importing or selling either at wholesale or retail, directly or indirectly, any foreign-made upholstered furniture or bedding, shall fully comply with all the requirements of ORS 433.405 to 433.680, including the registration and labeling provisions, before any such upholstered furniture or bedding can be offered or exposed for sale.

(2) Secondhand upholstered furniture or bedding or secondhand filling materials to be used or that may be used in upholstered furniture or bedding, received from outside this state, shall comply with all the fumigation, cleaning and other processing or treatment and labeling provisions of ORS 433.405 to 433.680 before being accepted, sold or delivered, either directly or indirectly by any person.

[Amended by 1973 c.779 §35]

433.595 Access to premises and records; scope of inspection and laboratory analysis. (1) The assistant director shall have access to any premises or to any records held by any person containing any information pertaining to any materials or articles affected by and subject to the provisions of ORS 433.405 to 433.680 even though an application has not been made for a certificate or a certificate has not been issued. He may inspect fumigation chambers, equipment, facilities and premises, and materials and

structural parts intended to be used in the manufacture of upholstered furniture or bedding, partly finished and finished articles of upholstered furniture and bedding, open to the extent necessary such articles or parts thereof and packages or other containers for the purpose of inspecting concealed filling material and articles and he may take either the entire articles or samples of filling material in such quantities as may be necessary for laboratory analysis.

(2) An analysis may be performed to determine the identity of a filling material, the cleanliness of a filling material, the safety and wholesomeness of a filling material and to determine if the filling material contains offensive, hazardous or foreign matter or dirt.

(3) An analysis may be used to determine true and acceptable labeling and to determine if an article may be sold as provided by ORS 433.405 to 433.680 and the rules pertaining thereto.

(4) A copy of the analysis made by the laboratory, certified by the assistant director, shall be received as evidence without the presence in court of the person making the analysis.

(5) An analysis may be performed at the request of any individual to determine if work and materials are as specified on a required label or on a statement as required by ORS 433.405 to 433.680.

(6) Articles and materials taken for laboratory analysis shall, unless kept for reference or evidence, be at the owner's decision, either returned to him in as salable condition as possible or given to a charity designated by or acceptable to him. He shall receive notice of the presentation to such group from the assistant director.

[Amended by 1973 c.779 §36]

433.600 Methods of controlling fitness of materials and finished products. (1) The assistant director may determine the fitness of any secondhand or damaged article of upholstered furniture or bedding for fumigation, treatment, cleaning or other such required process and sale and of any materials intended to be used in the manufacture of any article or articles of upholstered furniture or bedding.

(2) The assistant director may condemn, seize or issue an order to withhold from sale, or return to source any upholstered furniture or bedding and may tag or mark the same which is found to be in violation of ORS 433.405 to 433.680 and any filling material,

units or other structural parts, intended to be used or that could be used in the manufacture, repair or renovation of upholstered furniture or bedding in violation of ORS 433.405 to 433.680. The person in possession or the owner shall pay the cost of storing, warehousing, fumigation and other costs related to fulfilling the order including possible destruction costs.

[Amended by 1973 c.779 §37]

433.605 Condemnation tags or stencils; removal prohibited. (1) The tag or stencil to be affixed to any articles or filling material, condemned, withheld from sale or seized or any article or filling material ordered destroyed shall be affixed by the assistant director. The tag or stencil shall be colored and shall contain such information as may be required by the division.

(2) No person shall remove or cause to be removed any tag or device placed upon any upholstered furniture or bedding or any material by the assistant director.

[Amended by 1973 c.779 §38]

433.610 Condemned articles or articles ordered held to be produced on demand. Every person shall produce upon demand of an inspector any article or material that has been condemned or ordered held on an inspection notice.

433.615 Fees; exceptions. (1) The division may prescribe an annual registration fee not to exceed the maximum amount set out in the following table for the particular type of certificate granted under ORS 433.405 to 433.680, which fee shall be due and payable on or before July 1.

Certificate to engage in business as a:

Manufacturer of furniture and bedding, or of either	\$90
Wholesaler of furniture and bedding, or of either	\$90
Supply dealer	\$90
Supply depot.....	\$90
Upholsterer of furniture and bedding, or of either	\$65
Fumigator	\$65
Retailer of furniture and bedding, or of either	\$40

(2) A person holding an annual certificate of registration as a fumigator may apply for a "permit" to be allowed to fumigate at a site other than that specified in his application for the annual certificate. Upon receipt of an

application to fumigate at another site from such a person and of a fee set by the division, but not to exceed \$100, and after the assistant director has conducted an inspection of the site and the facilities, a permit may be issued provided the assistant director is convinced that the rules of the division on such issuance have been satisfied. The permit shall be valid for seven calendar days and shall be issued for one specific location. The fumigation shall be under the direct supervision of the assistant director. A fumigator, who qualifies, may secure more than one permit at any time during the year, either concurrently or separately.

(3) The division may establish a fee for laboratory services performed at the request of any person provided, however, that research and cooperative services with other states and with associations will be at no cost to them and that any licensed person may request and have at least three samples analyzed at no cost to him.

(4) The division may establish rules to reduce or waive the fee for persons who as a hobby, manufacture upholstered furniture and bedding or either, when such manufacturing is of a limited volume so as not to exceed \$90 of retail sales per annum. ORS 433.630 notwithstanding, persons who are accepted for the reduced or waived fee, shall purchase "materials" labels from the division at a price established in the rules. One such label shall be attached to each article manufactured by a person exempt from fees under this section.

[Amended by 1963 c.574 §5; 1969 c.449 §1; 1973 c.779 §39; 1975 c.526 §1; 1977 c.696 §1]

433.620 [Repealed by 1963 c.574 §6 (433.621 enacted in lieu of 433.620)]

433.621 Fees to be prorated. A person who applies for a certificate of registration after July 1 of any year for a particular classification of business, and who was not subject to registration during the preceding registration year, may obtain the certificate on a prorated basis by payment of an amount equal to one fourth of the annual registration fee, for the particular classification of business for each quarter or fraction thereof remaining in the annual registration period in which he applies. The quarterly periods shall begin July 1, October 1, January 1 and April 1.

[1963 c.574 §7 (enacted in lieu of 433.620)]

433.625 Additional fee for delinquency in obtaining certificate. (1) Any person failing to apply for the proper certificate within 30 days after engaging in a business

for which a certificate is required is delinquent and shall pay a delinquent fee amounting to 20 percent of the requisite registration fee in addition to the requisite registration fee.

(2) An applicant submitting a renewal registration fee:

(a) On or after October 1 and prior to January 1 shall pay a delinquency fee amounting to 20 percent of the requisite fee in addition to that requisite fee.

(b) On or after January 1 shall pay a delinquency fee amounting to 30 percent of the requisite registration fee in addition to that requisite fee.

[Amended by 1963 c.574 §8; 1973 c.779 §40]

433.630 Issuance and cost of labels.

(1) All labels necessary to the enforcement of ORS 433.405 to 433.680 shall be issued by the division, except that labels to be affixed to articles manufactured of "All New Materials" shall be provided and affixed by the manufacturer.

(2) Labels issued by the division shall be sold to qualified persons only and in minimum quantities of 100 at a price established by the division.

[Amended by 1973 c.779 §41]

433.635 [Repealed by 1973 c.427 §8 (433.636 enacted in lieu of 433.635)]

433.636 Disposition of certain receipts. (1) All fines resulting from prosecutions under ORS 433.405 to 433.680 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and shall be used only for the administration and enforcement of ORS 433.405 to 433.680.

(2) All moneys received by the division under ORS 433.405 to 433.680 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 433.405 to 433.680.

[1973 c.427 §9 (enacted in lieu of 433.635)]

433.640 Persons to comply with sterilization and fumigation laws. Responsibility for compliance with ORS 433.405 to 433.680 rests not only with the manufacturer but also with any person subject to the registration provisions of ORS 433.405 to 433.680.

433.645 [Repealed by 1971 c.743 §432]

433.650 Courts having jurisdiction over prosecutions. Justices of the peace, district courts, county courts and all other courts having jurisdiction as justice of the peace, shall have concurrent jurisdiction with the circuit court of all prosecutions under ORS 433.405 to 433.680.

433.655 Presumption of intent to sell. The presence of any article or material regulated by ORS 433.405 to 433.680 on sales floors or premises from which sales or deliveries are made shall be presumptive evidence of intent to sell or use.

433.660 Advisory council; membership; terms. There is created a Furniture and Bedding Advisory Council to the division which shall consist of the assistant director or his designee, and five other members to be appointed by the Governor for a term of four years. On July 1 of each year, upon the expiration of the term of any member of the council, the Governor shall appoint a successor.

[Amended by 1973 c.779 §42; 1977 c.582 §36]

433.665 Qualifications of appointed members. The five appointive members of the advisory council shall be persons who, because of their vocations, employment or affiliations, are qualified to represent the various branches of the affected industries. Appointments shall be apportioned so that:

(1) One member represents the upholstering industry.

(2) One member represents the bedding manufacturing industry.

(3) One member represents the retail furniture industry.

(4) One member represents the fumigation industry.

(5) One member, who having no commercial interest, affiliation or relationship in or to the industry, represents the public.

[Amended by 1973 c.779 §43]

433.670 Vacancies and removals. (1) The Governor shall fill such vacancies as may occur in the membership of the council, and a member so appointed shall serve during the unexpired term of his predecessor.

(2) The Governor may remove any member of the council when he ceases to represent the interest in whose behalf he was appointed.

433.675 Meetings; compensation and expenses. (1) The Furniture and Bedding Advisory Council shall choose one of its mem-

bers to act as chairman and shall meet at least once each year. However, the chairman may, at the written request of two members of the council or, at his own option, call a special meeting of the council to discuss such matters as may, in his opinion, require interim discussion and advice.

(2) The members of the advisory council are entitled to compensation and expenses as provided in ORS 292.495.

[Amended by 1969 c.314 §42; 1973 c.779 §44]

433.680 Functions of the council. The advisory council may:

(1) Consider all matters submitted to it by the assistant director.

(2) Propose such rules as may, in its opinion, be necessary in carrying out ORS 433.405 to 433.680.

(3) Advise regarding enforcement policy and other matters which may be pertinent to the purpose and intent of ORS 433.405 to 433.680.

[Amended by 1973 c.779 §45]

433.685 Work areas to be separate from living quarters; animals prohibited from areas. Work, storage, service and all other business areas and all articles and materials and like supplies or merchandise shall be effectively, physically and structurally separated from living quarters and shall not be used for living purposes. Animals shall not be kept, cared for, fed, treated or allowed in an area covered by ORS 433.405 to 433.680.

[1973 c.779 §2]

433.690 Flammability standards. Flammability standards shall be established by the division and shall equal or exceed flammability standards of the Federal Government.

[1973 c.779 §3]

MISCELLANEOUS SANITATION PROVISIONS

433.705 Report of inflamed eyes; notice by health department; copies of statute furnished to nurses and midwives. (1) Should one or both eyes of an infant become inflamed or swollen or reddened at any time within two weeks after birth, the person having the care of such infant shall report in writing within 24 hours after the discovery thereof, to the health department of the county or district in which the mother of the child resides, the fact that such inflammation or swelling or redness exists.

(2) The health department, immediately upon receipt of such a report, shall notify the parents or the person having charge of the infant of the danger to the eyes of the infant by reason of the condition from neglect of proper treatment and inclose with the notice directions for the proper treatment of the condition.

(3) The health department shall furnish a copy of this section to each person who is known to act as midwife or nurse within its jurisdiction. The Health Division shall cause a sufficient number of copies of this section to be printed and supply them to the health department on application.

[Amended by 1977 c.582 §38]

433.710 Unclean slaughterhouses prohibited. No owner or occupier of premises where animals are slaughtered shall permit the same to remain unclean, to the extent that it constitutes a health hazard.

[Amended by 1977 c.582 §39]

433.715 Exposed merchandise; intermingling or sale without disinfectant prohibited. No person having delivered merchandise, such as clothing, wearing apparel of every description, hair goods, brushes, rubber goods, books, mattresses, blankets, sheets, pillows or other kinds of bedding, to any person or institution at or thereafter taken to any place where any communicable disease exists or may exist, after the delivery of such merchandise, shall intermingle the same with the goods for sale or offer the same for sale or sell the same, or receive any merchandise from any place or premises where any communicable disease exists or has existed, and intermingle such goods with other goods for sale or offer the same for sale or sell the same, until such goods have been thoroughly disinfected in accordance with the rules and regulations of the Health Division.

433.720 [Amended by 1967 c.428 §10; 1969 c.593 §35; repealed by 1971 c.648 §33]

433.725 [Amended by 1967 c.428 §11; 1969 c.593 §36; repealed by 1971 c.648 §33]

433.730 [1957 c.422 §1; 1967 c.428 §12; 1969 c.593 §37; repealed by 1971 c.648 §33]

REGULATION OF OUTDOOR MASS GATHERINGS

433.735 Definitions for ORS 433.735 to 433.770. As used in ORS 433.735 to 433.770 and subsection (10) of ORS 433.990:

(1) "Outdoor mass gathering" means an actual or reasonably anticipated assembly of

more than 3,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours and which is held in open spaces and not in a permanent structure.

(2) "Organizer" includes any person who holds, stages or sponsors an outdoor mass gathering and the owner, lessee or possessor of the real property upon which the outdoor mass gathering is to take place.

(3) "Permanent structure" includes a stadium, an arena, an auditorium, a coliseum, a fairgrounds or other similar established places for assemblies.

[1971 c.597 §1a]

433.740 Policy. The Legislative Assembly finds that the uncontrolled outdoor gatherings of large groups of persons for extended periods of time have necessitated a need for the establishment of reasonable health and safety rules to regulate such outdoor mass gatherings.

[1971 c.597 §1]

433.745 Outdoor mass gathering without permit prohibited. No organizer shall hold, conduct, advertise or otherwise promote an outdoor mass gathering or allow an outdoor mass gathering to be held on real property he owns, leases or possesses unless a permit to hold such outdoor mass gathering has been issued by the county court or board of county commissioners of each county in which the outdoor mass gathering is to take place.

[1971 c.597 §2]

433.750 Procedure for issuance of permit. (1) The county court or board of county commissioners of the county in which an outdoor mass gathering is to take place shall issue a permit upon application when the organizers demonstrate that they have complied or will comply with the health and safety rules governing outdoor mass gatherings to be regulated according to anticipated crowd and adopted by the Health Division.

(2) The county court or board of county commissioners shall hold a public hearing on the issue of compliance with subsection (1) of this section. Notice of the time and place of such hearing including a general explanation of the matter to be considered shall be published at least 10 calendar days before the hearing in a newspaper of general circulation in the county or, if there is none, it shall be posted in at least three public places in the county.

(3) Any decision of a county court or board of county commissioners on an application for a permit to hold an outdoor mass gathering may be appealed to a circuit court for the county.

[1971 c.597 §3]

433.755 Additional information required before permit issued; liability of permit holder. (1) In reviewing an application for a permit to hold an outdoor mass gathering, the county court or board of county commissioners may require such plans, specifications and reports as it may deem necessary for proper review and it may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as it may deem necessary, and may require the organizers to post a surety bond in an amount up to \$25,000. The county court or board of county commissioners may waive any part or all of the bond.

(2) In the event of failure to remove all debris or residue and repair any damage to personal or real property arising out of the outdoor mass gathering within 72 hours after its termination, the county court or board of county commissioners may file suit against the organizer for financial settlement as is needed to remove such debris or residue and to repair such damage to real or personal property of persons not attending the outdoor mass gathering. The organizer shall be wholly responsible for payment of any fines imposed under subsection (10) of ORS 433.990.

[1971 c.597 §4]

433.760 Rulemaking authority. Notwithstanding any other provisions of law, the Health Division shall, in accordance with the provisions of ORS 183.310 to 183.500, make rules regulated according to anticipated crowds with respect to health and safety at outdoor mass gatherings which provide for:

- (1) Adequate water supply, drainage and sewerage facilities;
- (2) Adequate toilet facilities;
- (3) Adequate refuse storage and disposal facilities;
- (4) Adequate food and sanitary food service, if supplied;
- (5) Adequate emergency medical facilities;
- (6) Adequate fire protection;
- (7) Adequate security personnel; and
- (8) Adequate arrangements for the orderly

flow of traffic to, at and from the outdoor mass gathering.

[1971 c.597 §5]

433.765 Effect on county ordinances adopted under county charter. Ordinances or regulations of a county enacted under a county charter adopted pursuant to section 10, Article VI, Oregon Constitution, and not inconsistent with ORS 433.735 to 433.770 and subsection (10) of 433.990 or any rules adopted under ORS 433.735 to 433.770 and subsection (10) of 433.990, are not superseded by ORS 433.735 to 433.770 and subsection (10) of 433.990 or such rules. Nothing in ORS 433.735 to 433.770 and subsection (10) of ORS 433.990 or any rules adopted under ORS 433.735 to 433.770 and subsection (10) of 433.990 precludes the right of a county to enact ordinances or regulations under a county charter if such ordinances or regulations are not inconsistent with ORS 433.735 to 433.770 and subsection (10) of 433.990 or any rules adopted under ORS 433.735 to 433.770 and subsection (10) of 433.990.

[1971 c.597 §6]

433.770 Enforcement. (1) In addition to and not in lieu of the maintenance of other actions or suits for any violation of ORS 433.745, the district attorney for the county in which an outdoor mass gathering is to be held may maintain a suit in any court of general equitable jurisdiction to prevent, restrain or enjoin any violation of ORS 433.745.

(2) Cases filed under the provisions of this section or an appeal therefrom shall be given preference on the docket over all other civil cases except those given equal preference by statute.

[1971 c.597 §6a]

PENALTIES

433.990 Penalties. (1) Violation of ORS 433.003, 433.106 to 433.155, 433.205, 433.216, 433.220, 433.230, 433.255, 433.260, 433.705 or 433.715 is punishable, upon conviction, as provided in ORS 431.990.

(2) Violation of ORS 433.010 is punishable, upon conviction, by imprisonment in the penitentiary for not more than three years.

(3) Violation of ORS 433.015 is punishable, upon conviction, by a fine not to exceed \$1,000 or imprisonment in the county jail for a period not to exceed three months, or both.

(4) Violation of ORS 433.020 is punishable, upon conviction, by a fine of not less

than \$5 nor more than \$50 or imprisonment of not less than 5 nor more than 30 days.

(5) Violation of ORS 433.225 is punishable, upon conviction, by a fine not to exceed \$300 or imprisonment in the county jail for a period not to exceed three months, or both.

(6) Violation of ORS 433.405 to 433.680 is a Class B misdemeanor. The unit for a separate and distinct offense under those sections is every article of improperly labeled, or not labeled, upholstered furniture or bedding made, repaired, re-covered, renovated, treated, processed or fumigated, sold, exposed or offered for sale, delivered, consigned, rented or possessed with intent to sell contrary to ORS 433.405 to 433.680 or every package or like unit of filling material fumigated, cleaned or treated by other approved process, labeled or not labeled, treated, offered for sale, exposed for sale, delivered, consigned, rented or possessed with intent to sell contrary to ORS 433.405 to 433.680.

(7) Violation of ORS 433.710 is punishable, upon conviction, by a fine of not less

than \$5 nor more than \$50. If the nuisance is not removed within five days after the first offense, it is considered a second offense and every like neglect of each succeeding five days thereafter is considered an additional offense.

(8) Violation of ORS 433.035 is punishable upon conviction by a fine of not less than \$10 nor more than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both.

(9) Violation of ORS 433.345 or 433.365 or failure to obey any lawful order of the assistant director issued under ORS 433.350 is a misdemeanor.

(10) Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon conviction, by a fine of not more than \$10,000.

[Subsection (8) (1969 Replacement Part) enacted as 1957 c.422 §2; subsection (8) derived from 434.990; 1971 c.648 §23; subsection (9) enacted as 1971 c.413 §6; subsection (10) enacted as 1971 c.597 §7; 1973 c.779 §46]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel