

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 220. BUNK BED RULES [REVOKED]**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 220. Bunk Bed Rules [REVOKED]

SUMMARY:

Chapter 220 is being revoked. HB2788 amended 63 O.S. § 1-1002.2 to remove the requirement that the Commissioner promulgate rules establishing requirements for retailers of bunk beds. Retailers of bunk beds remain subject to the safety requirements imposed by 63 O.S. §§ 1002.2 et seq.

AUTHORITY:

Commissioner of Health, Title 63 O.S. § 1-104; 63 O.S. § 1-1002.2; HB2788.

COMMENT PERIOD:

October 16, 2023 through the close of the Department's normal business hours, 5 PM, on November 17, 2023. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on November 17, 2023 submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on November 17, 2023 at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is November 20, 2023 in the Auditorium, from 9:30 AM to 12:30 PM. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 17, 2023, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 220. BUNK BED RULES

1. **DESCRIPTION:**

Chapter 220 is being revoked. HB2788 amended 63 O.S. § 1-1002.2 to remove the requirement that the Commissioner promulgate rules establishing requirements for retailers of bunk beds.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

Retailers of bunk beds remain subject to the safety requirements imposed by 63 O.S. §§ 1002.2 et seq. The Department does not anticipate any cost impact on retailers of bunk beds.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**

Revocation of these rules will not affect the benefits to the public of safety requirements for bunk beds since the statutory safety requirements remain in effect.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**

There are no fee changes. The Department does not anticipate any economic impact or increased cost of compliance since the statutory safety requirements have not been changed.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.**

There are no costs associated with implementation.

6. **IMPACT ON POLITICAL SUBDIVISIONS:**

There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:**

There are no less costly means currently identified.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**

There will not be any impact since the statutory safety requirements for bunk beds remain in effect.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**

If the bunk bed rules are not revoked the Department will not have the authority to enforce the rules since HB2788 removed the rulemaking authority.

11. **PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on September 11, 2023.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 220. BUNK BED RULES [REVOKED]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:220-1-1. Purpose [REVOKED]

The rules in this Chapter implement the Whitney Starks Act, 63 O.S. Supp. 1998, Section 1-1002.1 et seq.

310:220-1-2. Definitions [REVOKED]

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Bed end structure" means the upright unit at the head and foot of the bed to which side rails attach.

"Bunk bed" means any bed in which the underside of the foundation is over thirty five (35) inches from the floor.

"Department" means the Oklahoma State Department of Health.

"Foundation" means the base or support for a mattress.

"Guardrail" means a rail attached to each long side or ends of the bed.

"Retailer" means a person who sells articles directly to the final consumer.

310:220-1-3. Construction [REVOKED]

(a) No retailer shall sell or resell a bunk bed in which the distance between the lower edge of the guard rail and the upper edge of the bed frame or the lower edge of the bed end structure and the upper edge of the bed frame exceeds three and one half (3½) inches. A guardrail system that terminates before reaching the bed end structure is acceptable providing there are no more than 15 inches (380 mm) between either end of the guardrail and the bed end structures.

(b) The foundation support system, in the event cross members are used, shall have at least two (2) cross members. If more than two (2) cross members are used, they shall be spaced so that the distance between adjacent cross members or between cross members and the bed end structures is less than three and one half (3½) inches or more than nine (9) inches.

SUBCHAPTER 3. LABELING [REVOKED]

310:220-3-1. Labeling requirements [REVOKED]

(a) Each bunk bed offered for sale by a retailer shall be posted with an indelible warning which includes the name, city, and state of the manufacturer or distributor.

(b) The letters of the word "WARNING" shall be in uppercase boldface type not less than three-sixteenth (3/16) inch or five (5) millimeters high and shall be the first line of the label. The letters in "DO NOT REMOVE THIS LABEL" shall be in uppercase boldface type not less than one eighth (1/8) inch or three (3) millimeters high and shall be the last line in the label.

(c) The remainder of the text of the label shall be no less than one eighth (1/8) inch or three (3) millimeters high with the words "to help prevent" in boldface type. The language contained in the warnings shall read: To help prevent serious or fatal injuries from entrapment or falls:

- (1) Never allow a child under six (6) years on the upper bunk;
- (2) Use only a mattress which is not more than 3½ inches shorter than the bed length and not more than 3½ inches narrower than the bed width on the upper bunk;
- (3) Ensure the thickness of the mattress does not exceed (list thickness here) and the mattress is at least five (5) inches below the upper edge of the guardrails;
- (4) Use guardrails on both sides of the upper bunk;
- (5) Prohibit horseplay on or under the bed(s);

- ~~(6) Prohibit more than one (1) person on the upper bunk; and~~
- ~~(7) Use a ladder for entering and leaving the upper bunk.~~
- ~~(d) For mattress and foundations the label shall specify a mattress and foundation size for the bunk bed that is no less than three and one half (3½) inches smaller than the length or width of the interior bed structure. The thickness of the mattress and foundation specified shall be at least five (5) inches below the upper edge of the guardrails and the upper edge of the bed end structures. The language contained in the warnings shall read: To help prevent serious or fatal injuries from entrapment or falls:
 - ~~(1) Never allow a child under six (6) years on the upper bunk;~~
 - ~~(2) Use only a mattress which is not more than 3½ inches shorter than the bed length and not more than 3½ inches narrower than the bed width;~~
 - ~~(3) Ensure thickness of the mattress and foundation combined is at least five (5) inches below the upper edge of the guardrails;~~
 - ~~(4) Use guardrails on both sides of the upper bunk;~~
 - ~~(5) Prohibit horseplay on or under the bed(s);~~
 - ~~(6) Prohibit more than one (1) person on the upper bunk; and~~
 - ~~(7) Use a ladder for entering and leaving the upper bunk.~~~~
- ~~(e) The label shall be attached permanently to a bed end structure of the upper bunk in a location that cannot be covered by the bedding but that may be covered by the placement of a pillow.~~