



General Assembly

February Session, 2012

**Amendment**

LCO No. 4444

**\*SB0008904444SD0\***

Offered by:

SEN. MEYER, 12<sup>th</sup> Dist.  
SEN. WILLIAMS, 29<sup>th</sup> Dist.  
SEN. LOONEY, 11<sup>th</sup> Dist.  
SEN. COLEMAN, 2<sup>nd</sup> Dist.  
SEN. FONFARA, 1<sup>st</sup> Dist.  
SEN. BYE, 5<sup>th</sup> Dist.  
SEN. GERRATANA, 6<sup>th</sup> Dist.  
SEN. HARP, 10<sup>th</sup> Dist.  
SEN. SLOSSBERG, 14<sup>th</sup> Dist.  
SEN. MAYNARD, 18<sup>th</sup> Dist.  
SEN. PRAGUE, 19<sup>th</sup> Dist.  
SEN. STILLMAN, 20<sup>th</sup> Dist.  
SEN. MUSTO, 22<sup>nd</sup> Dist.  
SEN. GOMES, 23<sup>rd</sup> Dist.  
SEN. CASSANO, 4<sup>th</sup> Dist.  
SEN. LEONE, 27<sup>th</sup> Dist.  
REP. WIDLITZ, 98<sup>th</sup> Dist.  
REP. KIRKLEY-BEY, 5<sup>th</sup> Dist.  
REP. BERGER, 73<sup>rd</sup> Dist.  
REP. RITTER M., 1<sup>st</sup> Dist.  
REP. MUSHINSKY, 85<sup>th</sup> Dist.  
REP. LESSER, 100<sup>th</sup> Dist.  
REP. JOHNSON, 49<sup>th</sup> Dist.  
REP. ROLDAN, 4<sup>th</sup> Dist.  
REP. ROBLES, 6<sup>th</sup> Dist.  
REP. ROSE, 118<sup>th</sup> Dist.

REP. MILLER L., 122<sup>nd</sup> Dist.  
REP. RITTER E., 38<sup>th</sup> Dist.  
REP. MILLER, 36<sup>th</sup> Dist.  
REP. ROY, 119<sup>th</sup> Dist.  
REP. REED, 102<sup>nd</sup> Dist.  
REP. STEINBERG, 136<sup>th</sup> Dist.  
REP. COOK, 65<sup>th</sup> Dist.  
REP. NAFIS, 27<sup>th</sup> Dist.  
REP. SAYERS, 60<sup>th</sup> Dist.  
REP. MORRIS, 140<sup>th</sup> Dist.  
REP. URBAN, 43<sup>rd</sup> Dist.  
REP. TERCYAK, 26<sup>th</sup> Dist.  
REP. WRIGHT E., 41<sup>st</sup> Dist.  
REP. ROJAS, 9<sup>th</sup> Dist.  
REP. WALKER, 93<sup>rd</sup> Dist.  
REP. GODFREY, 110<sup>th</sup> Dist.  
REP. LEMAR, 96<sup>th</sup> Dist.  
REP. BOUKUS, 22<sup>nd</sup> Dist.  
REP. TALLARITA, 58<sup>th</sup> Dist.  
REP. ABERCROMBIE, 83<sup>rd</sup> Dist.  
REP. MILLER P., 145<sup>th</sup> Dist.  
REP. GENGA, 10<sup>th</sup> Dist.  
REP. HWANG, 134<sup>th</sup> Dist.  
REP. BARAM, 15<sup>th</sup> Dist.  
REP. HENNESSY, 127<sup>th</sup> Dist.

To: Subst. Senate Bill No. 89

File No. 191

Cal. No. 180

**"AN ACT ESTABLISHING A MATTRESS STEWARDSHIP PROGRAM."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2012*) For the purposes of  
4 sections 1 to 7, inclusive, of this act:

5 (1) "Brand" means a name, symbol, word or mark that attributes a  
6 mattress to the producer of such mattress;

7 (2) "Commissioner" means the Commissioner of Energy and  
8 Environmental Protection;

9 (3) "Covered entity" means any person in the state with a discarded  
10 mattress;

11 (4) "Department" means the Department of Energy and  
12 Environmental Protection;

13 (5) "Discarded mattress" means any mattress that a consumer  
14 intends to discard, has discarded or that is abandoned;

15 (6) "Energy recovery" means the process by which all or a portion of  
16 solid waste materials are processed or combusted in order to utilize the  
17 heat content or other forms of energy derived from such solid waste  
18 materials;

19 (7) "Foundation" means any ticking-covered structure that is used to  
20 support a mattress and that is composed of one or more of the  
21 following: A constructed frame, foam or a box spring. "Foundation"  
22 does not include any bed frame or base made of wood, metal or other  
23 material that rests upon the floor and that serves as a brace for a  
24 mattress;

25 (8) "Mattress" means any resilient material or combination of  
26 materials that is enclosed by a ticking, used alone or in combination  
27 with other products, and that is intended for or promoted for sleeping  
28 upon. "Mattress" includes any foundation and any renovation.  
29 "Mattress" does not include any mattress pad, mattress topper,  
30 sleeping bag, pillow, car bed, carriage, basket, dressing table, stroller,  
31 playpen, infant carrier, lounge pad, crib bumper, liquid and gaseous  
32 filled ticking including any water bed and air mattress that does not  
33 contain upholstery material between the ticking and the mattress core,  
34 and upholstered furniture that does not otherwise contain a detachable  
35 mattress;

36 (9) "Mattress core" means the main support system that is present in  
37 a mattress, including, but not limited to, springs, foam, air bladder,  
38 water bladder or resilient filling;

39 (10) "Mattress recycling council" or "council" means the organization  
40 created by producers to design, submit and implement the mattress  
41 stewardship program described in section 2 of this act;

42 (11) "Mattress stewardship fee" means the amount added to the  
43 purchase price of a mattress sold in this state that is necessary to cover  
44 the cost of collecting, transporting and processing discarded mattresses  
45 by the council pursuant to the mattress stewardship program;

46 (12) "Mattress stewardship program" or "program" means the state-  
47 wide program described in section 2 of this act and implemented  
48 pursuant to the mattress stewardship plan;

49 (13) "Mattress topper" means any item that contains resilient filling,  
50 with or without ticking, that is intended to be used with or on top of a  
51 mattress;

52 (14) "Performance goal" means a metric proposed by the council and  
53 approved by the commissioner, to measure, on an annual basis, the  
54 performance of the mattress stewardship program, taking into  
55 consideration technical and economic feasibilities, in achieving

56 continuous, meaningful improvement in improving the rate of  
57 mattress recycling in the state and any other specified goal of the  
58 program;

59 (15) "Producer" means any person who manufactures or renovates a  
60 mattress that is sold, offered for sale or distributed in the state under  
61 the manufacturer's own name or brand. "Producer" includes (A) the  
62 owner of a trademark or brand under which a mattress is sold, offered  
63 for sale or distributed in this state, whether or not such trademark or  
64 brand is registered in this state, and (B) any person who imports a  
65 mattress into the United States that is sold or offered for sale in this  
66 state and that is manufactured or renovated by a person who does not  
67 have a presence in the United States;

68 (16) "Recycling" means any process in which discarded mattresses,  
69 components and by-products may lose their original identity or form  
70 as they are transformed into new, usable or marketable materials.  
71 "Recycling" does not include energy recovery;

72 (17) "Renovate" or "renovation" means altering a mattress for the  
73 purpose of resale and includes any one, or a combination of, the  
74 following: Replacing the ticking or filling, adding additional filling,  
75 rebuilding a mattress, or replacing components with new or recycled  
76 materials. "Renovate" or "renovation" does not include the (A)  
77 stripping of a mattress of its ticking or filling without adding new  
78 material, (B) sanitization or sterilization of a mattress without  
79 otherwise altering the mattress, or (C) altering of a mattress by a  
80 renovator when a person retains the altered mattress for personal use,  
81 in accordance with regulations of the Department of Consumer  
82 Protection;

83 (18) "Renovator" means a person who renovates discarded  
84 mattresses for the purpose of reselling such mattresses in a retail store;

85 (19) "Retailer" means any person who sells mattresses in this state or  
86 offers mattresses in this state to a consumer;

87 (20) "Sanitization" means the direct application of chemicals to a  
88 mattress to kill human disease-causing pathogens;

89 (21) "Sale" means the transfer of title of a mattress for consideration,  
90 including through the use of a sales outlet, catalog, Internet web site or  
91 similar electronic means;

92 (22) "Sterilization" means the mitigation of any deleterious  
93 substances or organisms including human disease-causing pathogens,  
94 fungi and insects from a mattress or filling material using a process  
95 approved by the Commissioner of Consumer Protection;

96 (23) "Ticking" means the outermost layer of fabric or material of a  
97 mattress. "Ticking" does not include any layer of fabric or material  
98 quilted together with, or otherwise attached to, the outermost layer of  
99 fabric or material of a mattress;

100 (24) "Upholstery material" means all material, loose or attached,  
101 between the ticking and the core of a mattress; and

102 (25) "Wholesaler" means any person who sells or distributes  
103 mattresses in the state, in a nonretail setting, for the purpose of the  
104 resale of such mattresses.

105 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) On or before July 1, 2013,  
106 each producer shall join the council and such council shall submit a  
107 plan, for the commissioner's approval, to establish a state-wide  
108 mattress stewardship program, as described in this subsection. Any  
109 retailer may be a member of such council. Such mattress stewardship  
110 program shall, to the extent it is technologically feasible and  
111 economically practical: (1) Minimize public sector involvement in the  
112 management of discarded mattresses; (2) provide for the free,  
113 convenient and accessible state-wide collection of discarded  
114 mattresses; (3) provide for producer-financed end-of-life management  
115 for discarded mattresses; (4) provide suitable storage containers at  
116 permitted municipal transfer stations for segregated, discarded  
117 mattresses, at no cost to such municipality provided the municipal

118 transfer station makes space available for such purpose and imposes  
119 no fee for placement of such storage container on its premises; and (5)  
120 include a fee that is sufficient to cover the costs of operating the  
121 program.

122 (b) The plan submitted pursuant to subsection (a) of this section  
123 shall: (1) Identify each producer participating in the program; (2)  
124 describe the fee structure for the program; (3) establish performance  
125 goals for the first two years of the program; (4) identify proposed  
126 facilities to be used by the program; (5) detail how the program will  
127 promote the recycling of discarded mattresses; and (6) include a  
128 description of the public education program.

129 (c) The council shall be a nonprofit organization with a fee structure  
130 that covers, but does not exceed, the costs of developing the plan  
131 described in subsection (b) of this section, operating the program  
132 described in subsection (a) of this section, and maintaining a financial  
133 reserve sufficient to operate the program over a multi-year period of  
134 time in a fiscally prudent and responsible manner. The council shall  
135 maintain all records relating to the program for a period of not less  
136 than three years.

137 (d) Pursuant to the program, recycling shall be preferred over any  
138 other disposal method to the extent that recycling is technologically  
139 feasible and economically practical.

140 (e) The commissioner shall approve the plan for the establishment  
141 of the mattress stewardship program, provided such plan reasonably  
142 meets the requirements of this section. Not later than ninety days after  
143 submission of the plan pursuant to this section, the commissioner shall  
144 make a determination whether to approve the plan. Prior to making  
145 such determination, the commissioner shall post the plan on the  
146 department's Internet web site and solicit public comments on the  
147 plan. Such solicitation shall not be conducted pursuant to chapter 54 of  
148 the general statutes. In the event that the commissioner does not  
149 approve the plan, the commissioner shall describe the reasons for the

150 disapproval in a notice of determination that the commissioner shall  
151 provide to the council. The council shall revise and resubmit the plan  
152 to the commissioner not later than forty-five days after receipt of notice  
153 of the commissioner's disapproval notice. Not later than forty-five  
154 days after receipt of the revised plan, the commissioner shall review  
155 and approve or disapprove the revised plan. The council may resubmit  
156 a revised plan to the commissioner for approval on not more than two  
157 occasions. If the council fails to submit a plan that is acceptable to the  
158 commissioner, the commissioner shall modify a submitted plan and  
159 approve it. Not later than sixty days after the approval of a plan  
160 pursuant to this section, the council shall implement the mattress  
161 stewardship program.

162 (f) (1) The council shall notify the commissioner whenever there is a  
163 proposed substantial change to the program. For the purposes of this  
164 subdivision, "substantial change" shall include, but not be limited to, a  
165 change in: (A) The program's fee structure, (B) processing facilities to  
166 be used for discarded mattresses collected pursuant to the program,  
167 and (C) the system for collecting mattresses.

168 (2) Not later than October 1, 2015, the council shall submit updated  
169 performance goals to the commissioner that are based on the  
170 experience of the program during the first two years of the program.

171 (g) The council shall notify the commissioner of any other changes  
172 to the program on an ongoing basis, whenever they occur, without  
173 resubmission of the plan to the commissioner for approval. Such  
174 changes shall include, but not be limited to, a change in the  
175 membership of the council.

176 (h) On or before July 1, 2013, and every two years thereafter, the  
177 council shall propose a uniform fee for all mattresses sold in this state.  
178 The council may propose a change to the uniform fee more frequently  
179 than once every two years if the council determines such change is  
180 needed to avoid funding shortfalls or excesses. Any proposed fee shall  
181 be reviewed by an auditor to assure that such assessment does not

182 exceed the costs of the mattress stewardship program described in  
183 subsection (a) of this section and to maintain financial reserves  
184 sufficient to operate the program over a multi-year period in a fiscally  
185 prudent and responsible manner. The auditor shall recommend an  
186 amount for such fee to the department. The department shall be  
187 responsible for the approval of such fee. Such auditor shall be selected  
188 by the council. The cost of any work performed by such auditor  
189 pursuant to the provisions of this subsection and subsection (k) of this  
190 section shall be funded by the fee described in this subsection.

191 (i) On and after the implementation of the mattress stewardship  
192 program, the fee, established pursuant to subsection (a) of this section  
193 and described in subsection (h) of this section, shall be added to the  
194 cost of all mattresses sold to retailers and distributors in this state by  
195 each producer. On and after such implementation date, each retailer or  
196 distributor, as applicable, shall add the amount of such fee to the  
197 purchase price of all mattresses sold in this state. The council may,  
198 subject to the commissioner's approval, establish an alternative,  
199 practicable means of collecting or remitting such fee.

200 (j) Not later than October fifteenth of each year, the council shall  
201 submit an annual report to the commissioner, on a form prescribed by  
202 the commissioner. The commissioner shall post such annual report on  
203 the department's Internet web site. Such report shall include: (1) The  
204 tonnage of mattresses collected pursuant to the program from: (A)  
205 Municipal transfer stations, (B) retailers, and (C) all other covered  
206 entities; (2) the tonnage of mattresses diverted for recycling; (3) the  
207 weight of discarded mattresses recycled, as indicated by the weight of  
208 each of the commodities sold to secondary markets; (4) the weight of  
209 mattresses, or parts thereof, sent for disposal at each of the following:  
210 (A) Waste-to-energy facilities, (B) landfills, and (C) any other facilities;  
211 (5) public education materials and methods used to support the  
212 program; (6) an evaluation of the effectiveness of methods and  
213 processes used to achieve performance goals of the program; (7)  
214 recommendations for any changes to the program; and (8) any other  
215 relevant public information requested by the commissioner, provided



216 such request does not require the disclosure of any proprietary trade  
217 or business secret.

218 (k) Two years after the implementation of the program and upon  
219 the request of the commissioner but not more frequently than once a  
220 year, the council shall cause an audit of the program to be conducted  
221 by the auditor described in subsection (h) of this section. Such audit  
222 shall review the accuracy of the council's data concerning the program  
223 and provide any other information requested by the commissioner.  
224 Such audit shall be paid for by the council. The council shall maintain  
225 all records relating to the program for not less than three years.

226 (l) The council may conduct research related to improving the  
227 efficiency of used mattress collection, dismantling and recycling  
228 operations, including pilot programs to test new processes, methods or  
229 equipment. The costs of such research may be included in calculating  
230 the amount of the fee authorized by this section.

231 Sec. 3. (NEW) (*Effective July 1, 2013*) No covered entity that  
232 participates in the program shall charge for receipt of mattresses  
233 generated in the state. Covered entities may charge a fee for providing  
234 the service of collecting mattresses and may restrict the acceptance of  
235 mattresses by number, source or physical condition.

236 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than three years  
237 after the approval of the plan pursuant to section 2 of this act, the  
238 commissioner shall submit a report, in accordance with section 11-4a  
239 of the general statutes, to the joint standing committee of the General  
240 Assembly having cognizance of matters relating to the environment.  
241 Such report shall provide an evaluation of the mattress stewardship  
242 program, establish a goal for the amount of discarded mattresses  
243 managed under the program and a separate goal for the recycling of  
244 such mattresses, taking into consideration technical and economic  
245 feasibilities.

246 Sec. 5. (NEW) (*Effective October 1, 2012*) Each producer and the  
247 council shall be immune from liability for any claim of a violation of

248 antitrust law or unfair trade practice, if such conduct is a violation of  
 249 antitrust law, to the extent such producer or council is exercising  
 250 authority pursuant to the provisions of sections 1 to 7, inclusive, of this  
 251 act.

252 Sec. 6. (NEW) (*Effective October 1, 2012*) (a) The commissioner may  
 253 seek civil enforcement of the provisions of sections 2 and 3 of this act  
 254 pursuant to chapter 439 of the general statutes.

255 (b) Whenever, in the judgment of the commissioner, any person has  
 256 engaged in or is about to engage in any act, practice or omission that  
 257 constitutes, or will constitute, a violation of any provision of section 2  
 258 or 3 of this act, the Attorney General may, at the request of the  
 259 commissioner, bring an action in the superior court for the judicial  
 260 district of New Britain for an order enjoining such act, practice or  
 261 omission. Such order may require remedial measures and direct  
 262 compliance. Upon a showing by the commissioner that such person  
 263 has engaged in or is about to engage in any such act, practice or  
 264 omission, the court may issue a permanent or temporary injunction,  
 265 restraining order or other order, as appropriate.

266 (c) Any action brought by the Attorney General pursuant to this  
 267 section shall have precedence in the order of trial as provided in  
 268 section 52-191 of the general statutes.

269 Sec. 7. (NEW) (*Effective October 1, 2012*) In the event that another  
 270 state implements a mattress recycling program, the council may  
 271 collaborate with such state to conserve efforts and resources used in  
 272 carrying out the mattress stewardship program, provided such  
 273 collaboration is consistent with the requirements of sections 1 to 6,  
 274 inclusive, of this act."

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>October 1, 2012</i> | New section |
| Sec. 2  | <i>October 1, 2012</i> | New section |

|        |                        |             |
|--------|------------------------|-------------|
| Sec. 3 | <i>July 1, 2013</i>    | New section |
| Sec. 4 | <i>October 1, 2012</i> | New section |
| Sec. 5 | <i>October 1, 2012</i> | New section |
| Sec. 6 | <i>October 1, 2012</i> | New section |
| Sec. 7 | <i>October 1, 2012</i> | New section |