



General Assembly

February Session, 2012

**Amendment**

LCO No. 4518

**\*SB0008904518SD0\***

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

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

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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 council-financed management for discarded  
115 mattresses; (4) provide suitable storage containers at permitted  
116 municipal transfer stations for segregated, discarded mattresses, at no  
117 cost to such municipality provided the municipal transfer station

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

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

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

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

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

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

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

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

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

178 (h) On or before July 1, 2013, and every two years thereafter, the  
179 council shall propose a uniform fee for all mattresses sold in this state.  
180 The council may propose a change to the uniform fee more frequently  
181 than once every two years if the council determines such change is

182 needed to avoid funding shortfalls or excesses. Any proposed fee shall  
183 be reviewed by an auditor to assure that such assessment does not  
184 exceed the costs of the mattress stewardship program described in  
185 subsection (a) of this section and to maintain financial reserves  
186 sufficient to operate the program over a multi-year period in a fiscally  
187 prudent and responsible manner. The auditor shall recommend an  
188 amount for such fee to the department. The department shall be  
189 responsible for the approval of such fee. Such auditor shall be selected  
190 by the council. The cost of any work performed by such auditor  
191 pursuant to the provisions of this subsection and subsection (k) of this  
192 section shall be funded by the fee described in this subsection.

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

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



216 recommendations for any changes to the program; and (8) any other  
217 relevant public information requested by the commissioner, provided  
218 such request does not require the disclosure of any proprietary  
219 information or trade or business secret.

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

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

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

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

248 Sec. 5. (NEW) (*Effective October 1, 2012*) Each producer and the  
249 council shall be immune from liability for any claim of a violation of  
250 antitrust law or unfair trade practice, if such conduct is a violation of  
251 antitrust law, to the extent such producer or council is exercising  
252 authority pursuant to the provisions of sections 1 to 7, inclusive, of this  
253 act.

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

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

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

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

This act shall take effect as follows and shall amend the following sections:
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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