



General Assembly

February Session, 2012

Amendment

LCO No. 4577

SB0008904577SD0

Offered by:

SEN. MEYER, 12th Dist.
SEN. WILLIAMS, 29th Dist.
SEN. LOONEY, 11th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. FONFARA, 1st Dist.
SEN. BYE, 5th Dist.
SEN. GERRATANA, 6th Dist.
SEN. HARP, 10th Dist.
SEN. SLOSSBERG, 14th Dist.
SEN. MAYNARD, 18th Dist.
SEN. PRAGUE, 19th Dist.
SEN. STILLMAN, 20th Dist.
SEN. MUSTO, 22nd Dist.
SEN. GOMES, 23rd Dist.
SEN. CASSANO, 4th Dist.
SEN. LEONE, 27th Dist.
SEN. FASANO, 34th Dist.
SEN. RORABACK, 30th Dist.
REP. WIDLITZ, 98th Dist.
REP. KIRKLEY-BEY, 5th Dist.
REP. BERGER, 73rd Dist.
REP. RITTER M., 1st Dist.
REP. MUSHINSKY, 85th Dist.
REP. LESSER, 100th Dist.
REP. JOHNSON, 49th Dist.
REP. ROLDAN, 4th Dist.
REP. ROBLES, 6th Dist.

REP. ROSE, 118th Dist.
REP. MILLER L., 122nd Dist.
REP. RITTER E., 38th Dist.
REP. MILLER, 36th Dist.
REP. ROY, 119th Dist.
REP. REED, 102nd Dist.
REP. STEINBERG, 136th Dist.
REP. COOK, 65th Dist.
REP. NAFIS, 27th Dist.
REP. SAYERS, 60th Dist.
REP. MORRIS, 140th Dist.
REP. URBAN, 43rd Dist.
REP. TERCYAK, 26th Dist.
REP. WRIGHT E., 41st Dist.
REP. ROJAS, 9th Dist.
REP. WALKER, 93rd Dist.
REP. GODFREY, 110th Dist.
REP. LEMAR, 96th Dist.
REP. BOUKUS, 22nd Dist.
REP. TALLARITA, 58th Dist.
REP. ABERCROMBIE, 83rd Dist.
REP. MILLER P., 145th Dist.
REP. GENGA, 10th Dist.
REP. HWANG, 134th Dist.
REP. BARAM, 15th Dist.
REP. HENNESSY, 127th 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 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. Following the commissioner's approval of a plan pursuant
162 to this subsection, the commissioner shall submit such plan to the joint
163 standing committee of the General Assembly having cognizance of
164 matters relating to the environment for approval. Not later than one
165 hundred twenty days after the approval of a plan pursuant to this
166 section, the council shall implement the mattress stewardship
167 program.

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

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

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

182 (h) On or before July 1, 2013, and every two years thereafter, the
183 council shall propose a uniform fee for all mattresses sold in this state.
184 The council may propose a change to the uniform fee more frequently
185 than once every two years if the council determines such change is
186 needed to avoid funding shortfalls or excesses. Any proposed fee shall
187 be reviewed by an auditor to assure that such assessment does not
188 exceed the costs of the mattress stewardship program described in
189 subsection (a) of this section and to maintain financial reserves
190 sufficient to operate the program over a multi-year period in a fiscally
191 prudent and responsible manner. The auditor shall recommend an
192 amount for such fee to the department. The department shall be
193 responsible for the approval of such fee. Such auditor shall be selected
194 by the council. The cost of any work performed by such auditor
195 pursuant to the provisions of this subsection and subsection (k) of this
196 section shall be funded by the fee described in this subsection.

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

206 (j) Not later than October fifteenth of each year, the council shall
207 submit an annual report to the commissioner, on a form prescribed by
208 the commissioner. The commissioner shall post such annual report on
209 the department's Internet web site. Such report shall include: (1) The
210 tonnage of mattresses collected pursuant to the program from: (A)
211 Municipal transfer stations, (B) retailers, and (C) all other covered
212 entities; (2) the tonnage of mattresses diverted for recycling; (3) the
213 weight of discarded mattresses recycled, as indicated by the weight of
214 each of the commodities sold to secondary markets; (4) the weight of
215 mattresses, or parts thereof, sent for disposal at each of the following:

216 (A) Waste-to-energy facilities, (B) landfills, and (C) any other facilities;
217 (5) public education materials and methods used to support the
218 program; (6) an evaluation of the effectiveness of methods and
219 processes used to achieve performance goals of the program; (7)
220 recommendations for any changes to the program; and (8) any other
221 relevant public information requested by the commissioner, provided
222 such request does not require the disclosure of any proprietary
223 information or trade or business secret.

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

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

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

242 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than three years
243 after the approval of the plan pursuant to section 2 of this act, the
244 commissioner shall submit a report, in accordance with section 11-4a
245 of the general statutes, to the joint standing committee of the General
246 Assembly having cognizance of matters relating to the environment.
247 Such report shall provide an evaluation of the mattress stewardship

248 program, establish a goal for the amount of discarded mattresses
249 managed under the program and a separate goal for the recycling of
250 such mattresses, taking into consideration technical and economic
251 feasibilities.

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

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

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

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

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

280 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