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."

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

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

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

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

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

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

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

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

7) "Foundation" means any ticking-covered structure that is used to support a mattress and that is composed of one or more of the following: A constructed frame, foam or a box spring. "Foundation" does not include any bed frame or base made of wood, metal or other material that rests upon the floor and that serves as a brace for a mattress;
(8) "Mattress" means any resilient material or combination of materials that is enclosed by a ticking, used alone or in combination with other products, and that is intended for or promoted for sleeping upon. "Mattress" includes any foundation and any renovation. "Mattress" does not include any mattress pad, mattress topper, sleeping bag, pillow, car bed, carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, liquid and gaseous filled ticking including any water bed and air mattress that does not contain upholstery material between the ticking and the mattress core, and upholstered furniture that does not otherwise contain a detachable mattress;

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

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

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

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

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

(14) "Performance goal" means a metric proposed by the council and approved by the commissioner, to measure, on an annual basis, the performance of the mattress stewardship program, taking into consideration technical and economic feasibilities, in achieving
continuous, meaningful improvement in improving the rate of mattress recycling in the state and any other specified goal of the program;

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

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

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

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

(19) "Retailer" means any person who sells mattresses in this state or offers mattresses in this state to a consumer;
(20) "Sanitization" means the direct application of chemicals to a mattress to kill human disease-causing pathogens;

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

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

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

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

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

Sec. 2. (NEW) (Effective October 1, 2012) (a) On or before July 1, 2013, each producer shall join the council and such council shall submit a plan, for the commissioner's approval, to establish a state-wide mattress stewardship program, as described in this subsection. Any retailer may be a member of such council. Such mattress stewardship program shall, to the extent it is technologically feasible and economically practical: (1) Minimize public sector involvement in the management of discarded mattresses; (2) provide for the free, convenient and accessible state-wide collection of discarded mattresses; (3) provide for council-financed management for discarded mattresses; (4) provide suitable storage containers at permitted municipal transfer stations for segregated, discarded mattresses, at no cost to such municipality provided the municipal transfer station
makes space available for such purpose and imposes no fee for placement of such storage container on its premises; and (5) include a fee that is sufficient to cover the costs of operating the program.

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

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

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

(e) The commissioner shall approve the plan for the establishment of the mattress stewardship program, provided such plan meets the requirements of subsections (a) and (b) of this section. Not later than ninety days after submission of the plan pursuant to this section, the commissioner shall make a determination whether to approve the plan. Prior to making such determination, the commissioner shall post the plan on the department's Internet web site and solicit public comments on the plan. Such solicitation shall not be conducted pursuant to chapter 54 of the general statutes. In the event that the commissioner does not approve the plan, because it does not meet the requirements of subsections (a) and (b) of this section, the
commissioner shall describe the reasons for the disapproval in a notice of determination that the commissioner shall provide to the council. The council shall revise and resubmit the plan to the commissioner not later than forty-five days after receipt of notice of the commissioner's disapproval notice. Not later than forty-five days after receipt of the revised plan, the commissioner shall review and approve or disapprove the revised plan. The council may resubmit a revised plan to the commissioner for approval on not more than two occasions. If the council fails to submit a plan that is acceptable to the commissioner because it does not meet the requirements of subsections (a) and (b) of this section, the commissioner shall modify a submitted plan and approve it. Following the commissioner's approval of a plan pursuant to this subsection, the commissioner shall submit such plan to the joint standing committee of the General Assembly having cognizance of matters relating to the environment for approval. Not later than one hundred twenty days after the approval of a plan pursuant to this section, the council shall implement the mattress stewardship program.

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

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

(g) The council shall notify the commissioner of any other changes to the program on an ongoing basis, whenever they occur, without resubmission of the plan to the commissioner for approval. Such changes shall include, but not be limited to, a change in the membership of the council.
(h) On or before July 1, 2013, and every two years thereafter, the council shall propose a uniform fee for all mattresses sold in this state. The council may propose a change to the uniform fee more frequently than once every two years if the council determines such change is needed to avoid funding shortfalls or excesses. Any proposed fee shall be reviewed by an auditor to assure that such assessment does not exceed the costs of the mattress stewardship program described in subsection (a) of this section and to maintain financial reserves sufficient to operate the program over a multi-year period in a fiscally prudent and responsible manner. The auditor shall recommend an amount for such fee to the department. The department shall be responsible for the approval of such fee. Such auditor shall be selected by the council. The cost of any work performed by such auditor pursuant to the provisions of this subsection and subsection (k) of this section shall be funded by the fee described in this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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<tr>
<th>Section</th>
<th>Effect Date</th>
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<tbody>
<tr>
<td>Sec. 1</td>
<td>October 1, 2012</td>
<td>New section</td>
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<td>Sec. 2</td>
<td>October 1, 2012</td>
<td>New section</td>
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<td>Sec. 3</td>
<td>July 1, 2013</td>
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<td>Sec. 4</td>
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