



General Assembly

**Amendment**

February Session, 2012

LCO No. 3302

**\*SB0008903302SD0\***

Offered by:

SEN. MEYER, 12<sup>th</sup> Dist.

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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 that is generated in the state;

11 (4) "Department" means the Department of Energy and

12 Environmental Protection;

13 (5) "Discarded mattress" means any mattress that is no longer used  
14 for its manufactured purpose or that is no longer wanted by a person;

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 stewardship assessment" means the amount added to  
40 the purchase price of a mattress sold in this state that is necessary to  
41 cover the cost of collecting, transporting and processing postconsumer  
42 mattresses by the representative organization pursuant to the mattress

43 stewardship program;

44 (11) "Mattress stewardship plan" or "plan" means the plan  
45 submitted for the establishment of a state-wide mattress stewardship  
46 program described in section 2 of this act;

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

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

53 (14) "Performance goal" means a metric proposed by either the  
54 representative organization or the department, and approved by the  
55 commissioner, to measure, on an annual basis, the performance of the  
56 mattress stewardship program, taking into consideration technical and  
57 economic feasibilities, in achieving continuous, meaningful  
58 improvement in improving the rate of mattress recycling in the state  
59 and any other specified goal of the program;

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

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

73 (17) "Renovate" or "renovation" means altering a mattress for the  
74 purpose of resale and includes any one, or a combination of, the  
75 following: Replacing the ticking or filling, adding additional filling,  
76 rebuilding a mattress, or replacing components with new or recycled  
77 materials. "Renovate" or "renovation" does not include the (A)  
78 stripping of a mattress of its ticking or filling without adding new  
79 material, (B) sterilizing or sanitizing of a mattress without otherwise  
80 altering the mattress, (C) altering of a mattress by a renovator when a  
81 person retains the altered mattress for lease, rental or personal use, or  
82 (D) refurbishing that disqualifies a mattress for a yellow wholesale  
83 renovator tag to be affixed to the mattress, in accordance with  
84 regulations of the Department of Consumer Protection;

85 (18) "Renovator" means a person who renovates post-consumer  
86 mattresses for the purpose of reselling such mattresses in a retail store;

87 (19) "Representative organization" or "organization" means the  
88 organization created by producers to design, submit and implement  
89 the mattress stewardship program described in section 2 of this act;

90 (20) "Retailer" means any person who sells mattresses in this state or  
91 offers mattresses in this state to a consumer;

92 (21) "Reuse" means the return of a mattress into the economic  
93 stream for use in the same kind of application as the mattress was  
94 originally intended to be used, without a change in the form or  
95 identity of the mattress;

96 (22) "Sanitization" means the direct application of chemicals to a  
97 mattress to kill human disease-causing pathogens;

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

101 (24) "Sterilization" means the mitigation of any deleterious  
102 substances or organisms including human disease-causing pathogens,

103 fungi and insects from a mattress or filling material using a process  
104 approved by the Commissioner of Consumer Protection;

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

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

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

114 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) On or before July 1, 2013,  
115 each producer shall join the representative organization and such  
116 representative organization shall submit a plan, for the commissioner's  
117 approval, to establish a state-wide mattress stewardship program, as  
118 described in this subsection. Such mattress stewardship program shall:  
119 (1) Minimize public sector involvement in the management of post-  
120 consumer mattresses by negotiating and executing agreements to  
121 collect, transport, reuse, renovate, recycle, burn for energy recovery  
122 and dispose of post-consumer mattresses, regardless of brand and  
123 while using environmentally sound management practices; (2) provide  
124 for the free, convenient and accessible state-wide collection, from  
125 points of aggregation, as described in this subsection, of post-  
126 consumer mattresses that, at a minimum, achieves collection rates and  
127 convenience equal to, or greater than, the collection programs available  
128 to consumers prior to the inception of the program; (3) provide for  
129 producer-financed end-of-life management for discarded mattresses,  
130 including transportation from: (A) Any covered entity that is not a  
131 permitted municipal solid waste transfer station and that has  
132 aggregated fifty or more segregated, post-consumer discarded  
133 mattresses, (B) any municipal transfer station permitted to accept  
134 mattresses with twenty-five or more segregated, post-consumer

135 discarded mattresses, and (C) any municipal transfer station permitted  
136 to accept mattresses with one or more segregated, post-consumer  
137 discarded mattresses once per calendar year; (4) provide suitable  
138 storage containers at permitted municipal transfer stations for  
139 segregated, discarded mattresses, at no cost to such municipality; (5)  
140 propose a mattress stewardship assessment; and (6) include a funding  
141 mechanism that requires each producer who participates in the  
142 representative organization to remit payment to such organization for  
143 the mattress stewardship assessment for each mattress such producer  
144 sells in the state.

145 (b) The plan submitted pursuant to subsection (a) of this section  
146 shall: (1) Identify each producer participating in the program and  
147 include contact information for each such producer on a form  
148 provided by the commissioner; (2) identify by producer, the brands of  
149 mattresses sold in the state that will be covered by the program; (3)  
150 describe the funding mechanism for the program; (4) establish  
151 performance goals for the program; (5) identify transporters,  
152 nonmunicipal collection and aggregation points, processing facilities,  
153 and disposal facilities to be used in the program; (6) describe how the  
154 program will be consistent with the state solid waste management  
155 plan; (7) detail how the program will promote the recycling of post-  
156 consumer mattresses; and (8) include a description of the public  
157 education program, including informational materials for wholesalers,  
158 retailers, municipalities and covered entities, designed to create  
159 awareness of the program and encourage participation in the program.

160 (c) The representative organization shall be a nonprofit organization  
161 with a fee structure that covers, but does not exceed, the costs of  
162 developing the plan described in subsection (b) of this section and  
163 operating the program described in subsection (a) of this section. The  
164 representative organization shall maintain all records relating to the  
165 program for a period of not less than three years.

166 (d) Pursuant to the program, recycling shall be preferred over any  
167 other disposal method to the extent that recycling is technologically

168 feasible and economically practical.

169 (e) The commissioner may approve the plan for the establishment of  
170 the mattress stewardship program, provided such plan meets the  
171 requirements of subsection (b) of this section and such program meets  
172 the requirements of subsection (a) of this section. Not later than ninety  
173 days after submission of the plan pursuant to this section, the  
174 commissioner shall make a determination whether to approve the  
175 plan. Prior to making such determination, the commissioner shall post  
176 the plan on the department's Internet web site and solicit public  
177 comments on the plan. Such solicitation shall not be conducted  
178 pursuant to chapter 54 of the general statutes. In the event that the  
179 commissioner does not approve the plan, the commissioner shall  
180 describe the reasons for the disapproval in a notice of determination  
181 that the commissioner shall provide to the representative organization.  
182 The representative organization shall revise and resubmit the plan to  
183 the commissioner not later than forty-five days after receipt of notice of  
184 the commissioner's disapproval notice. Not later than forty-five days  
185 after receipt of the revised plan, the commissioner shall review and  
186 approve or disapprove the revised plan. The representative  
187 organization may resubmit a revised plan to the commissioner for  
188 approval on not more than two occasions. If the representative  
189 organization fails to submit a plan that is acceptable to the  
190 commissioner, the commissioner shall modify a submitted plan and  
191 approve it. Not later than sixty days after the approval of a plan  
192 pursuant to this section, the representative organization shall  
193 implement the mattress stewardship program.

194 (f) The representative organization shall submit an amended plan to  
195 the commissioner, for approval, whenever there is a proposed  
196 substantial change to the program. Prior to making a determination to  
197 approve or disapprove an amended plan, the commissioner shall post  
198 the amended plan on the department's Internet web site and solicit  
199 public comments. For the purposes of this subsection, "substantial  
200 change" shall include, but not be limited to, a change in: (1) The  
201 program's funding mechanism, (2) processing facilities to be used for

202 discarded mattresses collected pursuant to the program, and (3) the  
203 system for collecting mattresses.

204 (g) The representative organization shall notify the commissioner of  
205 any other changes to the program on an ongoing basis, whenever they  
206 occur, without resubmission of the plan to the commissioner for  
207 approval. Such changes shall include, but not be limited to, a change  
208 in: (1) The transporters used by the program, (2) the producers and the  
209 respective brands entering or leaving the representative organization,  
210 and (3) contact information for producers, the representative  
211 organization and significant program participants.

212 (h) On or before July 1, 2013, and every two years thereafter, the  
213 representative organization shall propose a uniform mattress  
214 stewardship assessment for all mattresses sold in this state. Such  
215 proposed mattress stewardship assessment shall be reviewed by an  
216 independent auditor to assure that such assessment does not exceed  
217 the costs of the mattress stewardship program described in subsection  
218 (a) of this section. The independent auditor shall recommend an  
219 amount for such mattress stewardship assessment to the department.  
220 The department shall be responsible for the approval of such mattress  
221 stewardship assessment. Such independent auditor shall be selected by  
222 the representative organization and approved by the commissioner.  
223 The department shall be responsible for the review of the work  
224 product of such independent auditor, including, but not limited to, the  
225 review of such auditor's assessment of the bid and purchase  
226 procedures utilized by the representative organization to implement  
227 such program. The department may terminate the services of any such  
228 independent auditor. Not less than once every five years, the  
229 department shall select a different independent auditor to perform the  
230 duties described in this subsection. The cost of any work performed by  
231 such independent auditor pursuant to the provisions of this subsection  
232 and subsection (k) of this section shall be funded by the mattress  
233 stewardship assessment.

234 (i) On and after the implementation of the mattress stewardship



235 program, the mattress stewardship assessment, established pursuant  
236 to subsection (a) of this section, shall be added to the cost of all  
237 mattresses sold to retailers and distributors in this state by each  
238 producer. On and after such implementation date, each retailer or  
239 distributor, as applicable, shall add the amount of such mattress  
240 stewardship assessment to the purchase price of all mattresses sold in  
241 this state.

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

260 (k) Two years after the implementation of the program and upon  
261 the request of the commissioner but not more frequently than once a  
262 year, the representative organization shall cause an audit of the  
263 program to be conducted by the independent auditor described in  
264 subsection (h) of this section. Such audit shall review the accuracy of  
265 the representative organization's data concerning the program and  
266 provide any other information requested by the commissioner. Such  
267 audit shall be paid for by the representative organization. The  
268 representative organization shall maintain all records relating to the

269 program for not less than three years.

270 Sec. 3. (NEW) (*Effective July 1, 2013*) (a) No retailer shall sell any  
271 mattress from a producer who is not in compliance with the provisions  
272 of sections 1 to 7, inclusive, of this act. A producer's compliance with  
273 the provisions of sections 1 to 7, inclusive, of this act may be  
274 determined by examining the list of participating producers posted on  
275 the department's Internet web site pursuant to section 4 of this act. No  
276 retailer shall be in violation of the provisions of this subsection if, on  
277 the date the mattress was ordered from the producer or its agent, the  
278 producer or the subject brand of mattress was listed on the  
279 department's Internet web site in accordance with the provisions of  
280 section 4 of this act.

281 (b) Retailers may provide information to consumers regarding  
282 recycling facilities and companies that collect or recycle mattresses and  
283 may serve as voluntary collection sites for mattresses pursuant to the  
284 program.

285 (c) No covered entity that participates in the program shall charge  
286 for receipt of mattresses generated in the state. Covered entities may  
287 charge a fee for providing the service of collecting mattresses and may  
288 restrict the acceptance of mattresses by number, source or physical  
289 condition.

290 Sec. 4. (NEW) (*Effective October 1, 2012*) Not later than thirty days  
291 after the establishment of the program, the commissioner shall post a  
292 list of producers and their brands that are in compliance with the  
293 requirements of sections 1 to 7, inclusive, of this act on the  
294 department's Internet web site.

295 Sec. 5. (NEW) (*Effective October 1, 2012*) Not later than three years  
296 after the approval of the plan pursuant to section 2 of this act, the  
297 commissioner shall submit a report, in accordance with section 11-4a  
298 of the general statutes, to the joint standing committee of the General  
299 Assembly having cognizance of matters relating to the environment.  
300 Such report shall provide an evaluation of the mattress stewardship

301 program, establish a goal for the diversion of mattresses from solid  
302 waste disposal facilities and a separate goal for the recycling of  
303 mattresses, taking into consideration technical and economic  
304 feasibilities.

305 Sec. 6. (NEW) (*Effective October 1, 2012*) Each producer and the  
306 representative organization shall be immune from liability for any  
307 claim of antitrust law or unfair trade practice, if such conduct is a  
308 violation of antitrust law, to the extent such producer or representative  
309 organization is exercising authority pursuant to the provisions of  
310 sections 1 to 7, inclusive, of this act.

311 Sec. 7. (NEW) (*Effective October 1, 2012*) (a) The commissioner may  
312 seek civil enforcement of the provisions of sections 2 and 3 of this act  
313 pursuant to chapter 439 of the general statutes.

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

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

328 (d) Any person who, with criminal negligence, violates any  
329 provision of section 2 or 3 of this act or who makes any false statement,  
330 representation or certification in any application, registration,  
331 notification or other document filed or required to be maintained  
332 pursuant to section 2 or 3 of this act, shall be fined not more than

333 twenty-five thousand dollars per day for each day of violation or be  
 334 imprisoned not more than one year, or both. A subsequent conviction  
 335 for any such violation shall carry a fine of not more than fifty thousand  
 336 dollars per day for each day of violation or imprisonment for not more  
 337 than two years, or both.

338 (e) Any person who knowingly makes any false statement,  
 339 representation or certification in any application, registration,  
 340 notification or other document filed or required to be maintained  
 341 pursuant to section 2 or 3 of this act shall be fined not more than fifty  
 342 thousand dollars per day for each day of violation or be imprisoned  
 343 not more than three years, or both. A subsequent conviction for any  
 344 such violation shall carry a fine of not more than fifty thousand dollars  
 345 per day for each day of violation or imprisonment for not more than  
 346 ten years, or both."

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