



General Assembly

February Session, 2012

Amendment

LCO No. 4394

SB0008904394SD0

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.
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.

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 plan" or "plan" means the plan
47 submitted for the establishment of a state-wide mattress stewardship
48 program described in section 2 of this act;

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

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

55 (15) "Performance goal" means a metric proposed by the council and

56 approved by the commissioner, to measure, on an annual basis, the
57 performance of the mattress stewardship program, taking into
58 consideration technical and economic feasibilities, in achieving
59 continuous, meaningful improvement in improving the rate of
60 mattress recycling in the state and any other specified goal of the
61 program;

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

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

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

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

87 (20) "Retailer" means any person who sells mattresses in this state or

88 offers mattresses in this state to a consumer;

89 (21) "Reuse" means the return of a mattress into the economic
90 stream without a change in the form or identity of the mattress;

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

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

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

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

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

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

109 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) On or before July 1, 2013,
110 each producer in the state shall join the council and such council shall
111 submit a plan, for the commissioner's approval, to establish a state-
112 wide mattress stewardship program, as described in this subsection.
113 Any retailer may be a member of such organization. Such mattress
114 stewardship program shall, to the extent it is technologically feasible
115 and economically practical: (1) Minimize public sector involvement in
116 the management of discarded mattresses; (2) provide for the free,
117 convenient and accessible state-wide collection of discarded

118 mattresses; (3) provide for producer-financed end-of-life management
119 for discarded mattresses; (4) provide suitable storage containers at
120 permitted municipal transfer stations for segregated, discarded
121 mattresses, at no cost to such municipality provided the municipal
122 transfer station makes space available for such purpose and imposes
123 no fee for placement of such storage container on its premises; and (5)
124 include a fee that is sufficient to cover the costs of operating the
125 program.

126 (b) The plan submitted pursuant to subsection (a) of this section
127 shall: (1) Identify each producer participating in the program; (2)
128 describe the fee structure for the program; (3) establish performance
129 goals for the first two years of the program; (4) identify proposed
130 transporters, nonmunicipal collection and aggregation points,
131 processing facilities, and disposal facilities to be used in the program;
132 (5) detail how the program will promote the recycling of discarded
133 mattresses; and (6) include a description of the public education
134 program, including informational materials for wholesalers, retailers,
135 municipalities and covered entities, designed to create awareness of
136 the program and encourage participation in the program.

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

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

148 (e) The commissioner shall approve the plan for the establishment
149 of the mattress stewardship program, provided such plan reasonably

150 meets the requirements of this section. Not later than ninety days after
151 submission of the plan pursuant to this section, the commissioner shall
152 make a determination whether to approve the plan. Prior to making
153 such determination, the commissioner shall post the plan on the
154 department's Internet web site and solicit public comments on the
155 plan. Such solicitation shall not be conducted pursuant to chapter 54 of
156 the general statutes. In the event that the commissioner does not
157 approve the plan, the commissioner shall describe the reasons for the
158 disapproval in a notice of determination that the commissioner shall
159 provide to the council. The council shall revise and resubmit the plan
160 to the commissioner not later than forty-five days after receipt of notice
161 of the commissioner's disapproval notice. Not later than forty-five
162 days after receipt of the revised plan, the commissioner shall review
163 and approve or disapprove the revised plan. The council may resubmit
164 a revised plan to the commissioner for approval on not more than two
165 occasions. If the council fails to submit a plan that is acceptable to the
166 commissioner, the commissioner shall modify a submitted plan and
167 approve it. Not later than sixty days after the approval of a plan
168 pursuant to this section, the council shall implement the mattress
169 stewardship program.

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

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

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

183 membership of the council.

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

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

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

216 each of the commodities sold to secondary markets; (4) the weight of
217 mattresses, or parts thereof, sent for disposal at each of the following:
218 (A) Waste-to-energy facilities, (B) landfills, and (C) any other facilities;
219 (5) public education materials and methods used to support the
220 program; (6) an evaluation of the effectiveness of methods and
221 processes used to achieve performance goals of the program; (7)
222 recommendations for any changes to the program; and (8) any other
223 relevant public information requested by the commissioner, provided
224 such request does not require the disclosure of any proprietary trade
225 or business secret.

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

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

239 Sec. 3. (NEW) (*Effective July 1, 2013*) (a) Retailers may provide
240 information to consumers regarding recycling facilities and companies
241 that collect or recycle mattresses and may serve as voluntary collection
242 sites for mattresses pursuant to the program.

243 (b) No covered entity that participates in the program shall charge
244 for receipt of mattresses generated in the state. Covered entities may
245 charge a fee for providing the service of collecting mattresses and may
246 restrict the acceptance of mattresses by number, source or physical
247 condition.

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

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

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

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

278 (c) Any action brought by the Attorney General pursuant to this
279 section shall have precedence in the order of trial as provided in

280 section 52-191 of the general statutes.

281 Sec. 7. (NEW) (*Effective October 1, 2012*) In the event that another
 282 state implements a mattress recycling program, the council may
 283 collaborate with such state to conserve efforts and resources used in
 284 carrying out the mattress stewardship program, provided such
 285 collaboration is consistent with the requirements of sections 1 to 6,
 286 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