

AMENDED IN SENATE MAY 28, 2013  
AMENDED IN SENATE APRIL 15, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 254**

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**Introduced by Senators Hancock and Correa**  
*(Principal coauthor: Senator Calderon)*  
*(Coauthor: Senator Corbett)*

February 13, 2013

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An act to add Chapter 21 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

**legislative counsel's digest**

SB 254, as amended, Hancock. Solid waste: used mattresses: recycling and recovery.

Existing law requires a retailer of various specified products, such as rechargeable batteries and cellular telephones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.

This bill would establish the Used Mattress Recovery and Recycling Act. The bill would authorize *manufacturers a qualified industry association*, as defined, to establish a mattress recycling organization, as defined, and be certified by the Department of Resources Recycling and Recovery to develop, implement, and administer a mattress recycling program on or before July 1, 2014. The bill would require manufacturers and retailers of mattresses to register with the mattress recycling organization on or before January 1, 2015.

This bill would prohibit, on and after January 1, 2015, the manufacturer or retailer from, among other things, manufacturing or

selling a mattress in this state under circumstances of noncompliance with the bill's requirements. The act would require the retailer, by July 1, 2014, to give a consumer the option to have a used mattress picked up, at no additional cost, at the time a new mattress is delivered or be provided with an opportunity for free drop off of the used mattress.

This bill would require the mattress recycling organization, by April 1, 2015, to develop a state plan for recycling used mattresses in the state that includes specified goals and elements and to submit the plan to the department, as specified. The plan would be required to include, among other things, providing a mechanism to local governments, *participating recyclers* and *participating* solid waste facilities, to recover illegally disposed mattresses that is funded, as specified, and reimbursing *participating* solid waste facilities, *participating recyclers and local governments* for certain costs. The bill would require the organization, by July 1, 2015, to annually prepare and approve a proposed program plan budget for the next calendar year and to submit the approved budget to the department, as specified. The bill would require the department to notify the organization of the department's direct costs in implementing the act and the organization would be required to reimburse the department for those direct costs. The bill would require the department to deposit these amounts submitted by the organization into the Used Mattress Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would require the department to expend the moneys in the account, upon appropriation by the Legislature, to administer and enforce the act.

This bill would require the organization to *incorporate costs of product collection; recycling, including transportation from participating municipal solid waste transfer facilities; provide suitable storage containers at participating permitted municipal transfer stations for segregated, discarded mattresses, at no cost to such municipality; inspections of renovators refurbishing mattresses to ensure renovators meet certain state standards; education and outreach including addressing illegal dumping; disposal; and program administration and implementation into the total product cost.* ~~annually set the amount of a state mattress recycling charge that would be added to the purchase price of a mattress, and would require a manufacturer, retailer, wholesaler, distributor, or other party that sells a mattress to add the charge to the purchase price for the mattress and remit the charge collected to the organization. The bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

This bill would authorize the department to impose an administrative civil penalty on a manufacturer or retailer who sells a mattress in violation of the act. The bill would require the department to deposit these penalties into the Mattress Recovery and Recycling Penalty Account, which the bill would create in the Integrated Waste Management Fund. The department would be authorized to expend the

moneys in that account, upon appropriation by the Legislature, to implement the act.

The bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 21 (commencing with Section 42985)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 Chapter 21. Used Mattress Recovery and Recycling Act

6  
7 42985. The Legislature finds and declares both of the following:  
8 (a) In order to reduce illegal dumping, increase recycling, and  
9 substantially reduce public agency costs for the end-of-life  
10 management of used mattresses, the Used Mattress Recovery and  
11 Recycling Act is hereby established by this chapter to require  
12 manufacturers and retailers of mattresses sold in this state to  
13 develop, finance, and implement a convenient and cost-effective  
14 program to recover and recycle used mattresses generated in this  
15 state.

16 (b) Consistent with existing state policy, the The program  
17 developed and implemented by manufacturers and retailers of  
18 mattresses sold in this state shall strive for the maximum feasible  
19 level of recovery and recycling of used mattresses generated in  
20 support of the statewide goal that at least 75 percent of all solid  
21 waste be recycled by January 1, 2020.

22 42985.1. This chapter shall be known, and may be cited, as the  
23 Used Mattress Recovery and Recycling Act.

24  
25 Article 1. Definitions

26  
27 42986.

(i) "Bed bugs" means *Cimex lectularius* and is a parasitic insect identified by the following characteristics: the size of a poppy seed that matures to the size of an apple seed and has no wings, cannot fly, jump or hop, feeds on blood and may inhabit mattresses.

(j) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

(a) (1) "Consumer" means an owner of a mattress,  
28 including a person, business, corporation, limited partnership,

1 nonprofit organization, or governmental entity, and including the  
2 ultimate purchaser, owner, or lessee of a mattress.

3 (2) “Consumer” does not include a government organization or  
4 other party that obtains one or more used mattresses in the course  
5 of collecting used mattresses for recycling for purposes of this  
6 chapter, or through the ordinary collection and handling of  
7 municipal solid waste.

*() “Department” means the Department of Resource Recycling and Recovery (CalRecycle).*

8 (b) “Distributor” means a company that has a contractual  
9 relationship with one or more manufacturers to market and sell  
10 mattresses to retailers.

11 (c) “Foundation” means a ticking-covered structure used to  
12 support a mattress or sleep surface. The structure may include  
13 constructed frames, foam, box springs, or other materials, used  
14 alone or in combination.

*() “Illegal dumping” means the unauthorized depositing, dropping, dumping, placing, or throwing  
of any waste matter onto public or private property.*

15 (d) “Importer” means a party qualifying as an “importer of  
16 record” for purposes of Section 1484(a)(2)(B) of Title 19 of the  
17 United States Code, with regard to the import of a finished mattress  
18 sold in the state that was manufactured or assembled by a company  
19 outside the United States.

20 (e) (1) “Manufacturer” means any of the following:

21 ~~(1)~~

22 (A) The person who manufactures the covered product and who  
23 sells, offers for sale, or distributes that product in the state.

24 ~~(2)~~

25 (B) If there is no person who is a manufacturer of the product  
26 for purposes of ~~paragraph (1)~~ subparagraph (A), the manufacturer  
27 of the covered product is the person who imports the product into  
28 the state for sale or distribution.

29 ~~(3)~~

30 (2) A manufacturer ~~includes~~ may include a renovator.

31 (3) A retailer that brings a mattress into its store locations from  
32 an out-of-state warehouse or distribution center is not a  
33 manufacturer.

34 (f) (1) “Mattress” means a resilient material or combination of  
35 materials that is enclosed by a ticking, is used alone or in  
36 combination with other products, and is intended for or promoted  
37 for sleeping upon.

38 (2) “Mattress” includes a foundation and a renovated mattress  
39 or renovated foundation.

40 (3) “Mattress” does not include the following:

1 (A) An unattached mattress pad or unattached mattress topper,  
2 including items with resilient filling, with or without ticking,  
3 intended to be used with or on top of a mattress.

4 (B) A sleeping bag or pillow.

5 (C) A car bed, crib, or bassinet mattress.

6 (D) Juvenile products, including a carriage, basket, dressing  
7 table, stroller, playpen, infant carrier, lounge pad, or crib bumper,  
8 and the pads for those juvenile products.

9 (E) A product containing liquid- and gaseous-filled ticking,  
10 including a water bed and air mattress that does not contain  
11 upholstery material between the ticking and the mattress core.

12 (F) Upholstered furniture that does not otherwise contain a  
13 detachable mattress or that is a fold out sofa bed or futon.

14 (g) “Mattress recycling organization” or “organization” means  
15 an organization exempt from taxation under Section 501(c)(3) or  
16 Section 501(c)(6) of the Internal Revenue Code of 1986, that is  
17 ~~established by a qualified industry association~~, composed of  
18 manufacturers and retailers *and has a governance committee which consists of a minimum of  
one member that shall represent each of the following groups: manufacturers, local governments,  
environmental groups, the solid waste or recycling industry, the retail industry, and consumers and*  
certified pursuant to Section

19 42987, to develop, implement, and administer the mattress  
20 recycling program established pursuant to this chapter.

21 (h) “Used mattress recovery and recycling plan” or “plan” means  
22 the plan for recycling used mattresses that is developed by the  
23 mattress recycling organization pursuant to this chapter.

24 (i) “Program” or “used mattress recycling program” means the  
25 program implemented by the mattress recycling organization  
26 pursuant to a plan approved by the department.

27 ~~(j) “Qualified industry organization” association” means the  
28 International Sleep Products Association, a successor of that  
29 organization, or a group of mattress manufacturers that collectively  
30 represent at least 35 percent of the volume of mattresses  
31 manufactured in the United States.~~

32 (k) “Recycle” or “recycling” has the same meaning as defined  
33 in Section 40180.

34 (l) “Recycler” means a person that engages in the manual or  
35 mechanical separation of mattresses to substantially recover  
36 components and commodities contained in mattresses for the  
37 purpose of reuse or recycling.

38 ~~(m) “Recycling charge” or “charge” means the charge imposed  
39 on the sale of a new or renovated mattress at the point of sale and~~

~~1 collected by the organization to fund the recycling of used  
2 mattresses pursuant to this chapter.~~

3 (n) (1) “Renovate” or “renovation” means altering a used  
4 mattress for the purpose of resale and includes one or more of the  
5 following:

6 (A) Replacing the mattress, ticking, or filling.

7 (B) Adding additional filling.

8 (C) Rebuilding a used mattress.

9 (D) Replacing components with new or postconsumer materials  
10 unless the material is a clean recycled material, consists of used  
11 electronic parts or controls, or is a used mattress base that is not  
12 covered by ticking.

13 (2) “Renovate” or “renovation” does not include any of the  
14 following:

15 (A) Stripping a mattress of its ticking or filling without adding  
16 new material.

17 (B) Sterilizing or sanitizing a mattress without otherwise altering  
18 the mattress.

19 (C) Altering a mattress by a renovator when a person retains  
20 the altered mattress for lease, rental, or personal use.

21 (D) Refurbishing that disqualifies a mattress for a yellow  
22 wholesale renovator tag to be affixed to the mattress, in accordance  
23 with the regulations adopted by the Department of Consumer  
24 Affairs.

25 (o) “Renovator” means a person who renovates used mattresses.

26 (p) “Retailer” means a person who sells mattresses in the state  
27 or offers to a consumer a mattress in the state through any means,  
28 including, but not limited to, by remote offering, including sales  
29 outlets or catalogs, electronically through the Internet, by  
30 telephone, or through the mail.

31 (q) “Sale” or “sell” means the transfer of title of a mattress for  
32 consideration, including by a manufacturer, a distributor, or a  
33 retailer for eventual consumption to a consumer in the state,  
34 including remote sales conducted through sales outlets, catalogs,  
35 or the Internet or any other similar electronic means. For purposes  
36 of this chapter, a long-term lease of not less than 12 months is the  
37 same as a sale.

38 (r) (1) “Ticking” means the outermost layer of fabric or related  
39 material of a mattress.

1 (2) “Ticking” does not include another layer of fabric or related  
2 material that is quilted together with, or otherwise attached to, the  
3 outermost layer of fabric or related material.

4 (s) “Used mattress” means a mattress that has been discarded  
5 by a consumer.

6  
7  
8

Article 2. Mattress Recycling Plan

9 42987. (a) (1) On or before July 1, 2014, ~~manufacturers a qualified industry~~ *mattress*  
10 ~~association or a successor organization may shall~~ establish a mattress  
11 recycling organization for purposes of this chapter, which shall be  
12 composed of manufacturers and retailers *and has a governance committee, voting or non-*  
*voting rights, which consists of a minimum of one member that shall represent each of the*  
*following groups: manufacturers, local governments, environmental groups, the solid waste or*  
*recycling industry, the retail industry, and consumers* and be certified pursuant  
13 to this section to develop, implement, and administer the mattress  
14 recycling program established pursuant to this chapter. *The organization shall maintain all*  
*records relating to the program for a period of not less than three years and provide annually an*  
*accounting of the program administrative costs, including a copy of Internal Revenue Service*  
*Form 990 for a nonprofit organization’s program.*

15 (2) Within 60 days of receipt of a request for certification, the  
16 department shall notify the ~~organization requesting qualified industry association~~  
17 of the department’s decision whether or not to certify that  
18 ~~association~~ mattress recycling organization.

19 (b) On or before January 1, 2015, each manufacturer and retailer  
20 shall register with the mattress recycling organization.

21 (c) On and after January 1, 2015, a retailer shall not sell,  
22 distribute, or offer for sale a mattress in the state unless the retailer  
23 is in compliance with this chapter and the manufacturer of the  
24 mattress sold by the retailer is listed in compliance with this  
25 chapter.

26 (d) On and after January 1, 2015, a manufacturer shall not  
27 manufacture, assemble, or import a new mattress in this state, or  
28 sell or distribute a mattress to a distributor or retailer, unless the  
29 manufacturer is in compliance with this chapter.

30 42987.1. On or before April 1, 2015, the mattress recycling  
31 organization shall develop and submit to the department a plan for  
32 recycling used mattresses in the state in an economically efficient  
33 and practical manner that includes all of the following goals and  
34 elements:

35 (a) Program objectives consistent with the state’s solid waste  
36 management hierarchy.

37 (b) The names of manufacturers and brands covered under the  
38 plan.

39 (c) A consultation process with affected stakeholders.

- 1 (d) Methods to increase the number of used mattresses diverted  
2 from landfills, reduce the number of illegally dumped used  
3 mattresses, and increase the quantity of used materials recovered  
4 through this process and recycled for other uses.
- 5 (e) (1) The establishment and administration of a means for  
6 funding the plan in a manner that distributes the mattress recycling  
7 organization’s costs uniformly over all mattresses sold in the state.
- 8 (2) The funding mechanism shall provide sufficient funding for  
9 the mattress recycling organization to carry out the plan, including  
10 the administrative, operational, and capital costs of the plan.
- 11 (f) The publishing of an annual report for each calendar year of  
12 operation.
- 13 (g) Conducting research, as needed, related to improving used  
14 mattress collection, dismantling, and recycling operations,  
15 including pilot programs to test new processes, methods, or  
16 equipment on a local, regional, or otherwise limited basis.
- 17 (h) Establishing a methodology for the purpose of determining  
18 the state mattress recycling goal.
- 19 (i) A program performance measurement that shall collect  
20 program data for the purpose of the annual report. The information  
21 shall include:
  - 22 (1) A methodology for estimating the amount of mattresses sold  
23 in the state, used mattresses available for collection in the state,  
24 and for quantifying the number of used mattresses collected and  
25 recycled in the state.
  - 26 (2) A methodology for determining mattresses sold in the state  
27 by the manufacturers of the mattress recycling organization.
- 28 (j) Coordinating activities with existing used product collecting  
29 and recycling plans for discarded mattresses or other products, and  
30 other relevant parties as appropriate, to provide efficient delivery  
31 of services and avoid unnecessary duplication of effort and  
32 expense.
- 33 (k) Entering into contracts or agreements that are necessary and  
34 proper for the mattress recycling organization to carry out these  
35 duties consistent with the terms of this chapter.
- 36 (l) Establishment of a financial incentive to encourage parties  
37 to collect for recycling used mattresses discarded or illegally  
38 dumped in the state.
- 39 ~~(m) Ensuring local governments and solid waste facilities are~~  
40 ~~provided with a mechanism for the recovery of illegally dumped~~

1 used mattresses at no additional cost to the local government or  
2 solid waste facility.

3 ~~(n) Policies to ensure there are adequate and convenient~~  
4 ~~opportunities for the collection, acceptance, and recovery for~~  
5 ~~recycling used mattresses in low income communities, in~~  
6 ~~accordance with the poverty line annually established by the~~  
7 ~~Secretary of California Health and Human Services pursuant to~~  
8 ~~the federal Omnibus Budget Reconciliation Act of 1981 (Public~~  
9 ~~Law 97-35), as amended.~~

10 ~~(o) Ensuring used mattresses recovered by a retailer are~~  
11 ~~delivered to a recycling facility or solid waste facility for recycling.~~

12 ~~(p) Providing outreach efforts and education to consumers,~~  
13 ~~manufacturers, and retailers, for the purpose of promoting the~~  
14 ~~recycling of used mattresses.~~

15 ~~(q) Procedures to ensure implementation of the plan if a~~  
16 ~~manufacturer or the mattress recycling organization no longer~~  
17 ~~exists due to bankruptcy, dissolution, or similar processes.~~

18 ~~(r) (1) Ensuring solid waste facilities offer individuals free~~  
19 ~~drop-off of used mattresses.~~

20 ~~(2) Reimbursement of solid waste facilities for the reasonable~~  
21 ~~costs incurred of collecting, storing, and processing used mattresses~~  
22 ~~in paragraph (1).~~

23 ~~(s) Any information deemed necessary by the department related~~  
24 ~~to compliance with the plan.~~

25 (m) Ensuring, to the maximum extent possible, that local  
26 governments, **and participating** solid waste facilities **and participating recycling**  
27 **facilities**, are provided with a

28 mechanism for the recovery of illegally disposed used mattress  
29 that is funded at no additional cost to the local government or **participating**  
30 solid waste facility **or participating recyclers**.

31 (n) Developing processes to collect used mattresses from  
32 low-income communities for recycling in accordance with the  
33 poverty line annually established by the Secretary of California  
34 Health and Human Services pursuant to the federal Omnibus  
35 Budget Reconciliation Act of 1981 (Public Law 97-35), as  
36 amended **and that is funded at no additional cost to local governments, solid waste facilities**  
37 **or recyclers**.

38 (o) Requiring used mattresses collected by a retailer to be  
39 delivered **directly to or by way of an intermediate consolidation facility a recycling facility or**  
40 **solid waste facility for recycling**.

41 (p) Providing outreach efforts and education to consumers,  
42 manufacturers, and retailers, for the purpose of promoting the  
43 recycling of used mattresses.

1 (q) (1) Ensuring, to the maximum extent possible, that

2 *participating* solid

3 waste facilities *and participating recyclers* offer individuals  
4 the free drop off of used

5 mattresses.

6 (2) Reimbursing *participating* solid waste facilities *and*

7 *participating recyclers* for the reasonable costs, *including but not*  
8 *limited to, costs*

9 incurred in collecting, storing, *and processing, disposing if*  
10 *necessary, and reporting information to the department,* used  
11 mattresses in

12 accordance with paragraph (1).

13 (r) Other information requested by the department that is  
14 reasonably related to compliance with the recycling plan and that  
15 the organization can readily compile.

16 42987.2. In preparing the plan pursuant to Section 42987.1,  
17 the mattress recycling organization shall consult with interested  
18 stakeholders.

19 42987.3. (a) The department shall review the plan for  
20 consistency with this chapter and shall approve, disapprove, or  
21 conditionally approve the plan within 90 days of receipt of the  
22 plan. If the department fails to act within 90 days of the receipt of  
23 the plan, the plan shall be deemed approved.

24 (b) If the department disapproves the plan pursuant to  
25 subdivision (a), the department shall explain, in writing, how the  
26 plan is inconsistent with this chapter, and the mattress recycling  
27 organization shall resubmit a plan to the department. ~~If the mattress  
28 recycling organization does not resubmit a plan, or submits a plan  
29 that is not approved or conditionally approved by the department,  
30 the mattress recycling organization shall be deemed not in  
31 compliance with this chapter.~~ department finds that the plan  
32 resubmitted by the organization is inconsistent with the  
33 requirements of this chapter, the mattress recycling organization  
34 shall not be deemed in compliance with this chapter until the  
35 organization submits a plan that the department finds is consistent  
36 with the requirements of this chapter.

37 (c) The approved plan shall be a public record, except that  
38 financial, production, or sales data reported to the department by  
39 the mattress recycling organization is not public record for purposes  
of the California Public Records Act (Chapter 3.5 (commencing  
with Section 6250) of Division 7 of Title 1 of the Government  
Code) and shall not be open to public inspection. The department  
may release financial, production, or sales data in summary form  
only so the information cannot be attributable to a specific  
manufacturer or retailer or to any other entity.

1 42987.4. Within ~~30~~ 60 days after approval or conditional  
2 approval by the department, the mattress recycling organization  
3 shall implement the approved plan.

4 42987.5. (a) On or before January 1, 2017, based on  
5 methodology contained in the plan and information contained in  
6 the first annual report, the department, in consultation with the  
7 organization, and after taking into consideration relevant economic  
8 and practical considerations and other information, shall establish  
9 and make public the following:

10 (1) The state mattress recycling baseline amount.

11 (2) The state mattress recycling goals.

12 (b) On or before July 1, 2020, and every four years thereafter,  
13 the department shall review, including reviewing for consistency  
14 with Section 41780.01, and update as necessary, the baseline  
15 amount and goals to ensure that the program advances the statewide  
16 recycling goal.

17  
18 Article 3. Budget

19  
20 42988. On or before July 1, 2015, and on or before July 1  
21 annually thereafter, the mattress recycling organization shall  
22 prepare and submit to the department a proposed used mattress  
23 recycling program budget for the following calendar year that  
24 includes all of the following:

25 (a) Anticipated revenues and costs of implementing the program,  
26 including related programs, projects, contracts, and administrative  
27 expenses.

28 (b) A recommended funding level sufficient to cover the plan's  
29 costs and to operate the mattress recycling program over a  
30 multiyear period in a prudent and responsible manner.

31 ~~(c) The amount of the mattress recycling charge and itemization~~  
32 ~~of costs that each charge covers.~~

33 42988.1. (a) On or before September 1, 2015, and annually  
34 thereafter, the department shall approve, disapprove, or  
35 conditionally approve a final program budget. If the department  
36 fails to act or does not disapprove or conditionally approve a final  
37 program budget, the budget shall be deemed approved.

38 (b) (1) If the department disapproves the budget, the mattress  
39 recycling organization shall resubmit a revised budget addressing

1 the department’s written reasons for its decision within 30 days  
2 of the disapproval.

3 (2) The department, within 30 days from the date the mattress  
4 recycling organization resubmits a revised budget, shall approve,  
5 disapprove, or conditionally approve a final program budget. If  
6 the department fails to act or does not disapprove or conditionally  
7 approve a final program budget within those 30 days, the budget  
8 shall be deemed approved.

9 42988.2. (a) The department shall notify the mattress recycling  
10 organization of the department’s costs~~in~~ that are directly related  
11 to implementing this chapter relating to the mattress recycling  
12 organization’s activities pursuant to this chapter, including any  
13 costs incurred in certifying the mattress recycling organization  
14 and reviewing the organization’s plan submitted pursuant to  
15 Section 42987.1.

16 (b) On or before July 1, 2015, and once every three months  
17 thereafter, and within the fiscal year, the mattress recycling  
18 organization shall reimburse the department for costs the  
19 department incurs that are directly related to the mattress recycling  
20 organization’s activities pursuant to this chapter.

21 (c) The department shall deposit all moneys submitted for  
22 reimbursement costs by the mattress recycling organization  
23 pursuant to this section into the Used Mattress Recycling Account,  
24 which is hereby established in the Integrated Waste Management  
25 Fund. Upon appropriation by the Legislature, moneys in the  
26 account shall be expended by the department to administer and  
27 enforce this chapter. The funds collected pursuant to this section  
28 shall not be expended for any other purpose.

29  
30 Article 4. *Mattress Recycling Costs into Total Products Cost Charge*

31  
32 42989. (a) The mattress recycling organization shall *incorporate costs of product  
collection; recycling, including transportation from participating municipal solid waste transfer  
facilities; provide suitable storage containers at participating permitted municipal transfer stations  
for segregated, discarded mattresses, at no cost to such municipality; inspections of renovators  
refurbishing mattresses to ensure renovators meet certain California Consumer Affairs standards;  
education and outreach including addressing illegal dumping; disposal; and program  
administration and implementation into the total product cost.*~~set the  
33 amount of the mattress recycling charge that shall be added to the  
34 purchase price of a mattress at the point of sale and include the  
35 charge amount in the annual budget.~~

36 (b) (1) The amount ~~of the state mattress recycling charge~~ shall  
37 be sufficient to fund the revenue requirements set forth in the  
38 approved budget.

39 (2) The mattress recycling organization shall *incorporate costs into the total product  
cost.*~~set the charge as  
40 a flat rate and not as a percentage of the purchase price. The~~

1 *organization shall not set more than two different charges to*  
2 *accommodate mattress size differentials.*

3 ~~(e) Changes in the charges shall be made public by the mattress~~  
4 ~~recycling organization 60 days before taking effect.~~

5 ~~(e) (1) In the first 12 months during which the mattress~~  
6 ~~recycling charge collected, the mattress recycling organization~~  
7 ~~may change the amount of the mattress recycling charge, in~~  
8 ~~accordance with subdivision (b), and shall provide no less than~~  
9 ~~90 days' notice to the public before the change in the amount of~~  
10 ~~the charge takes place.~~

11 ~~(2) After one year from the date when the collection of the~~  
12 ~~mattress recycling charge commences, the mattress recycling~~  
13 ~~organization may change the amount of the charge in accordance~~  
14 ~~with subdivision (b), but the mattress recycling organization shall~~  
15 ~~not change the amount of the charge more frequently than~~  
16 ~~annually, and shall provide no less than 180 days' notice to the~~  
17 ~~public before the change in the amount of the charge takes effect.~~

18 ~~(d) The charge shall be included in the annual program budget~~  
19 ~~for approval by the department.~~

20 ~~42989.1. (a) Each manufacturer, retailer, or distributor that~~  
21 ~~sells a mattress to a consumer or to the ultimate end user of the~~  
22 ~~mattress in the state shall add the charge to the purchase price of~~  
23 ~~the mattress and shall remit the charge collected to the mattress~~  
24 ~~recycling organization.~~

25 ~~(b) In each transaction described in subdivision (a), the charge~~  
26 ~~shall be clearly visible on the invoice, receipt, or functionally~~  
27 ~~equivalent billing document provided by the seller to the consumer~~  
28 ~~as a separate line item.~~

29 ~~(c) The mattress recycling organization shall develop~~  
30 ~~reimbursement criteria to enable retailers to recover administrative~~  
31 ~~costs associated with collecting the charge.~~

32 ~~(d) The mattress recycling organization shall determine the rules~~  
33 ~~and procedures that are necessary and proper to implement the~~  
34 ~~collection of the charge in a fair, efficient, and lawful manner.~~

35 ~~42989.2. (a) The mattress recycling organization may conduct~~  
36 ~~an audit of those parties that are required to remit the charge to~~  
37 ~~the mattress recycling organization to verify that the charges paid~~  
38 ~~are proper and accurate and to ensure all parties required by this~~  
39 ~~chapter to pay or collect the charge are paying or collecting the~~  
40 ~~proper amount.~~

1 ~~(b) An audit conducted pursuant to this section shall be carried~~  
 2 ~~out in accordance with generally accepted auditing practices and~~  
 3 ~~shall be limited in scope to confirming whether the charge has~~  
 4 ~~been properly collected on all sales of mattresses to consumers in~~  
 5 ~~the state.~~

6 ~~(c) For purposes of conducting audits pursuant to this section,~~  
 7 ~~the mattress recycling organization shall hire independent~~  
 8 ~~third party auditors that are approved by the department.~~

9 ~~(d) If the mattress recycling organization conducts an audit~~  
 10 ~~pursuant to this section, the organization shall provide a copy of~~  
 11 ~~the audit to the department upon request by the department.~~

12 42989.3. ~~(a) The mattress recycling organization shall deposit~~  
 13 ~~the charges and other moneys collected by the mattress recycling~~  
 14 ~~organization pursuant to this chapter in accounts that are~~  
 15 ~~maintained and disbursed by the organization.~~

16 (b) The mattress recycling organization may enter into a joint  
 17 venture, agreements, or contracts with third parties, including, but  
 18 not limited to, corporations, partnerships, nonprofit entities, and  
 19 governmental agencies, to undertake activities on the mattress  
 20 recycling organization's behalf that are consistent with this chapter.

21

#### 22 Article 5. Records, Audits, and Annual Report

23

24 42990. (a) The mattress recycling organization shall keep  
 25 minutes, books, and records that clearly reflect the activities and  
 26 transactions of the mattress recycling organization.

27 (b) The books of the mattress recycling organization shall be  
 28 audited at the organization's expense by a certified public  
 29 accountant retained by the organization ~~and approved by the~~  
 30 ~~department~~ at least once each calendar year.

31 (c) The mattress recycling organization shall arrange for the  
 32 audit to be delivered to the department. The department shall  
 33 review the audit for compliance with this chapter and consistency  
 34 with the plan created pursuant to this chapter. The department shall  
 35 notify the mattress recycling organization of any compliance issues  
 36 or inconsistencies. The mattress recycling organization may obtain  
 37 copies of the audit upon request. The department shall not disclose  
 38 any confidential proprietary information in the audit.

39 42990.1. On or before April 1, 2016, and each year thereafter,  
 40 the mattress recycling organization shall submit to the department

1 and make publicly available on its Internet Web site a report that  
2 includes, for the preceding calendar year, all of the following:

- 3 (a) The mattress recycling organization's costs and revenues.
- 4 (b) The quantity of mattresses disposed of in solid waste  
5 landfills, which shall be provided by the department to interested  
6 parties.
- 7 (c) The quantity of discarded used mattresses collected for  
8 recycling in the program.
- 9 (d) The quantity of used mattresses collected for recycling from  
10 different categories of sources.
- 11 (e) The quantity of each category of materials recycled.
- 12 (f) The uses for the recycled materials.
- 13 (g) The quantity of otherwise disposed of materials.
- 14 (h) A description of methods used to collect, transport, and  
15 process waste mattresses in this state.
- 16 (i) Examples of educational materials that were provided to  
17 consumers the first year and any changes to those materials in  
18 subsequent years.
- 19 (j) The total volume, number, and weight of used mattresses  
20 collected recycled, renovated, and reused in this state during the  
21 preceding calendar year, including any conversion factor used to  
22 determine the number of mattresses recovered.
- 23 (k) Other information relevant to compliance with the plan.

24  
25 Article 6. Mattress Recycling and Renovating

26  
27 42991. (a) On or before April 1, 2016, and annually thereafter,  
28 a person that is engaged in business as a recycler or renovator shall  
29 submit a report to the department that includes the following:

30 (1) Quantitative information on the number of mattresses  
31 received and recycled or renovated in the state during the preceding  
32 calendar year.

33 (2) ~~Any~~ Other information deemed necessary by the department  
34 that is reasonably related to compliance with this chapter and that  
35 can be readily compiled.

36 (b) For purposes of determining the used mattress recycling  
37 rate ~~for a used mattress~~, on or before April 1, 2016, and annually  
38 thereafter, a *participating* solid waste facility operator shall report to the  
39 department, in a form and manner determined by the department,  
40 regarding the *disposition* number of *all* used mattresses received ~~and designated~~

1 ~~for recycling or renovation~~ by that facility that were recycled or  
2 renovated within the state in the preceding calendar year.

3

4 Article 7. Retailer Used Mattress Take-back

5

6 42992. ~~On~~(a) Except as provided in subdivision (d), on and  
7 after July 1, 2014, a retailer shall offer a consumer the option to  
8 have a used mattress picked up for recovery at the time of delivery,  
9 at no additional cost to the consumer, if a new mattress is delivered  
10 to the consumer.

11 (b) A retailer may contract out to a third party for the delivery  
12 of a new mattress or pick up of a used mattress.

13 (c) A retailer is not prohibited from charging the consumer for  
14 the cost of the delivery of a new mattress.

*Participating recyclers and retailers shall not decline to collect a used mattress for recycling from a consumer, and, if contaminated, must instead separate and bag mattresses that have bloodborne pathogens and bed bugs and keep them in a separate bin or area within their facility and or truck, including retailer truck, when receiving or collecting mattresses. Participating haulers, solid waste facilities and recyclers must use proper personal protective equipment and standard operating procedures that are developed by the mattress stewardship organization, for properly dealing with bloodborne pathogen and or bed bug infested mattresses so as to not spread those pathogens or bugs on uninfected mattresses.*

15 (d) (1) ~~A retailer or third party contractor delivering a new~~  
16 ~~mattress may refuse to pick up a used mattress from a consumer~~  
17 ~~if the retailer or contractor determines the used mattress is~~  
18 ~~contaminated and poses a risk to personnel, new products, or~~  
19 ~~equipment.~~

20 (2) ~~If the retailer or third party takes the action specified in~~  
21 ~~paragraph (1), the retailer or third party contractor shall provide~~  
22 ~~the consumer with an opportunity for the free drop off of the used~~  
23 ~~mattress in the manner specified in paragraph (q) of Section~~  
24 ~~42987.1.~~

25 (e) A common carrier delivering a new mattress to a consumer  
26 as a result of an online purchase is not required to pick up a used  
27 mattress for recovery.

28

29 Article 8. Enforcement

30

31 42993. (a) On or before July 1, 2016, and annually thereafter,  
32 the department shall post on its Internet Web site a list of  
33 manufacturers and retailers that are in compliance with this chapter.

34 (b) A manufacturer or retailer that is not listed on the  
35 department’s Internet Web site pursuant to this section, but  
36 demonstrates compliance with this chapter before the next notice  
37 is required to be posted pursuant to this section, may request a  
38 certification letter from the department stating the manufacturer  
39 or retailer is in compliance. The manufacturer or retailer that

1 receives the letter shall be deemed to be in compliance with this  
2 chapter.

3 (c) A retailer that distributes or sells a mattress shall monitor  
4 the department's Internet Web site to determine if a manufacturer  
5 is in compliance with this chapter. A retailer otherwise in  
6 compliance with this chapter shall be deemed in compliance with  
7 the chapter if, on the date the retailer ordered or purchased a  
8 mattress, or within ~~seven~~ 30 calendar days before or after that date,  
9 the manufacturer was listed as covered or compliant on the  
10 department's Internet Web site.

11 (d) A retailer may sell or distribute the existing stock of its  
12 inventory through sales to the public if the existing stock was  
13 purchased when the manufacturer was in compliance with the  
14 requirements of this chapter at the time when the retailer initially  
15 purchased that stock.

16 (e) The sale, distribution, or offering for sale, of any existing  
17 inventory in stock prior to the commencement of the collection of  
18 the mattress recycling charge pursuant to this chapter shall be  
19 deemed to be in compliance with this chapter.

20 ~~(d)~~

21 (f) If the department determines a manufacturer or retailer is  
22 not in compliance with this chapter, the department shall remove  
23 the manufacturer or retailer from the department's Internet Web  
24 site pursuant to this section and the manufacturer or retailer shall  
25 not sell a mattress in the state until the department determines the  
26 manufacturer or retailer is in compliance with this chapter.

27 42993.1. (a) The department may impose an administrative  
28 civil penalty on any manufacturer, mattress recycling organization,  
29 recycler, renovator, or retailer that is in violation of this chapter.  
30 The amount of the administrative civil penalty shall not exceed  
31 five hundred dollars (\$500) per day, but, if the violation is  
32 intentional, knowing, or reckless, the department may impose an  
33 administrative civil penalty of not more than five thousand dollars  
34 (\$5,000) per day.

35 (b) The department shall not impose a penalty on the mattress  
36 recycling organization pursuant to this section for a failure to  
37 comply with this chapter if the organization demonstrates it  
38 received false or misleading information from a member of the  
39 organization or other party that was the direct cause of its failure  
40 to comply.

1 (c) The department shall deposit all penalties collected pursuant  
2 to this section into the Mattress Recovery and Recycling Penalty  
3 Account, which is hereby created in the Integrated Waste  
4 Management Fund. Upon appropriation by the Legislature, moneys  
5 deposited into the Mattress Recovery and Recycling Penalty  
6 Account may be expended by the department to administer and  
7 enforce this chapter.

8 42993.2. Upon a written finding that a manufacturer, mattress  
9 recycling organization, or retailer has not met a material  
10 requirement of this chapter, in addition to any other penalties  
11 authorized under this chapter, the department may take any of the  
12 following actions, after affording the manufacturer, organization,  
13 or retailer a reasonable opportunity to respond to, or rebut, the  
14 finding, to ensure compliance with the requirements of this chapter:

15 (a) Revoke the mattress recycling organization's plan approval;  
16 ~~amend an approval or conditional approval to include new~~  
17 ~~conditions~~, or require the mattress recycling organization to  
18 resubmit the plan.

19 (b) Remove the manufacturer or retailer from the department's  
20 Internet Web site and list of compliant manufacturers and retailers,  
21 as specified in Section 42993.

22 (c) Require additional reporting requirements relating to  
23 compliance with the material requirement identified by the  
24 department.

25 42993.3. (a) A manufacturer and mattress recycling  
26 organization shall do both of the following:

27 (1) Upon request, provide the department with reasonable and  
28 timely access, as determined by the department and as authorized  
29 pursuant to Title 13 (commencing with Section 1822.50) of Part  
30 3 of the Code of Civil Procedure, to its facilities and operations,  
31 as necessary to determine compliance with this chapter.

32 (2) Upon request, provide the department with relevant records  
33 necessary to determine compliance with this chapter.

34 (b) The records required by this chapter shall be maintained and  
35 accessible for three years. All reports and records provided to the  
36 department pursuant to this chapter shall be provided under penalty  
37 of perjury.

38 (c) The department may take disciplinary action against a  
39 manufacturer or mattress recycling organization if the manufacturer  
40 or mattress recycling organization fails to provide the department

1 with the access required pursuant to this section, including, but  
2 not limited to, imposing penalties pursuant to Section 42993.1 and  
3 posting an immediate notice on the department’s Internet Web site  
4 pursuant to Section 42993 that the manufacturer is no longer in  
5 compliance with this chapter.

6  
7 Article 9. Antitrust Immunity  
8

9 42994. (a) Except as provided in subdivision (c), an action  
10 specified in subdivision (b) that is taken by a ~~stewardship~~ mattress  
11 recycling organization or its members that relates to any of the  
12 following is not a violation of the Cartwright Act (Chapter 2  
13 (commencing with Section 16700) of Part 2 of Division 7 of the  
14 Business and Professions Code), the Unfair Practices Act (Chapter  
15 4 (commencing with Section 17000) of Part 2 of Division 7 of the  
16 Business and Professions Code), or the Unfair Competition Law  
17 (Chapter 5 (commencing with Section 17200) of Part 2 of Division  
18 7 of the Business and Professions Code).

19 (b) Subdivision (a) shall apply to all of the following actions  
20 taken by the mattress recycling organization or a manufacturer:

21 (1) The creation, implementation, or management of a plan  
22 approved by the department pursuant to Article 2 (commencing  
23 with Section 42987) and the types or quantities of used mattresses  
24 recycled or otherwise managed pursuant to a plan, as described in  
25 Article 2 (commencing with Section 42987).

26 (2) The cost and structure of an approved plan.

27 (3) The establishment, administration, or disbursement of the  
28 ~~costs~~ charges associated with funding the implementation of this  
29 chapter.

30 (c) Subdivision (a) shall not apply to an agreement that does  
31 any of the following:

32 (1) Fixes a price of or for mattresses, except for an agreement  
33 related to costs or charges associated with participation in a plan  
34 approved or conditionally approved by the department and  
35 otherwise in accordance with this chapter.

36 (2) Fixes the output of production of mattresses.

37 (3) Restricts the geographic area in which, or customers to  
38 whom, mattresses will be sold.

O