

AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE APRIL 25, 2012

AMENDED IN SENATE APRIL 9, 2012

**SENATE BILL**

**No. 1118**

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**Introduced by Senator Hancock**

February 17, 2012

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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 1118, as amended, Hancock. Solid waste: used mattresses: recycling and recovery.

Existing law requires a retailer of various specified products, such as rechargeable batteries and cell phones, 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~~ and would *define terms for purposes of the act. The bill would require a manufacturer of mattresses sold in this state, individually, collectively, or through a ~~designated third party~~, stewardship organization, to submit an initial mattress recovery and recycling plan to the Department of Resources Recycling and Recovery by April 1, 2013, in an electronic format that ensures that the manufacturer will*

*be responsible for the collection and recycling of waste mattresses generated by consumers purchasing a new mattress. The bill would require a manufacturer to implement the initial plan by July 1, 2013.*

*The bill would require a manufacturer of mattresses sold in this state, individually, collectively, or through a stewardship organization, to submit a final mattress recovery and recycling plan to the Department of Resources Recycling and Recovery department by April 1, 2013 2014. The bill would specify the requirements to be included in the plan, including provisions for meeting specified recycling targets and demonstrating achievement with those targets. The bill would require the department to review the mattress recovery and recycling plan and within 90 days of receipt to adopt a finding of the plan's compliance or noncompliance with the act specify a procedure for the department's approval, disapproval, or conditional approval of a final plan.*

*The bill would require a retailer of mattresses, as defined, on and after July 1, 2013 2014, to offer the consumer the option of picking up a used waste mattress, at the time of delivery, at no additional cost to the consumer.*

*The bill would prohibit a manufacturer or retailer from selling or offering for sale a mattress to any person in this state unless the manufacturer is in compliance with this chapter. The bill would specify the conditions for determining compliance with the act. The bill would require the department, by July 1, 2013, and on or before January 1 and July 1 annually thereafter, to post a notice on its Internet Web site listing manufacturers that are in compliance with the requirements of the act and would require the department to post, by August 1, 2014, and every 6 months thereafter, a list of covered manufacturers. The bill would require wholesalers or retailers that distribute or sell mattresses to monitor the department's Internet Web site to determine if the sale of a mattress is in compliance with the requirements of the act.*

*The bill would require a manufacturer, individually, collectively, or through a stewardship organization, to submit an annual report to the department describing its mattress stewardship efforts. The bill would require the department to review the annual report within 90 days of receipt and adopt a finding of compliance or noncompliance with the requirements of the act. The bill would authorize the department to require a manufacturer or stewardship organization submitting that annual report that is not meeting the act's requirements to amend and resubmit the report and would require the department to remove the*

*manufacturer's name from the listing of manufacturers that are in compliance, until as specified.*

The bill would require a manufacturer *or stewardship organization* submitting a mattress recovery and recycling plan to pay the department ~~an annual~~ *a quarterly* administrative fee, as determined by the department.

The bill would require these fees to be deposited into the Mattress Recovery and Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the account would be available for expenditure by the department, upon appropriation by the Legislature.

The bill would allow the department to impose an administrative civil penalty in specified amounts on a person who is in violation of the act. The bill would require the department to deposit all penalties collected into the Mattress Recovery and Recycling Penalty Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the penalty account would be available for expenditure by the department, upon appropriation by the Legislature.

Vote: majority. 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. (a) The Legislature finds and declares all of the  
8 following:

9 (1) In order to reduce illegal dumping, increase recycling, and  
10 substantially reduce public agency costs for the end-of-life  
11 management of used mattresses, the ~~Used~~ Mattress Recovery and  
12 Recycling Act is hereby established by this chapter to require  
13 manufacturers of mattresses sold in this state to develop, finance,  
14 and implement a convenient and cost-effective program to collect  
15 and recycle ~~used~~ *waste* mattresses generated in this state.

1 (2) Consistent with existing state policy, the program developed  
2 and implemented by manufacturers of mattresses sold in this state  
3 shall be capable of the recovery and recycling of at least 75 percent  
4 of ~~used~~ waste mattresses generated in this state annually on and  
5 after January 1, 2020.

6 (b) This chapter shall be known, and may be cited, as the “~~Used~~  
7 ~~Mattress~~ “*Mattress Recovery and Recycling Act.*”

8 42986. For the purposes of this chapter, the following terms  
9 have the following meanings:

10 (a) “Account” means the Mattress Recovery and Recycling  
11 Account established pursuant to ~~Section 42991~~ 42992.

12 (b) (1) “Manufacturer” means a person who manufactures or  
13 renovates a mattress that is sold, offered for sale, or distributed in  
14 the state under that person’s own name or brand.

15 (2) Manufacturer includes either of the following:

16 (A) The owner of a trademark or brand under which a mattress  
17 is sold, offered for sale, or distributed in this state, whether or not  
18 the trademark or brand is registered in this state.

19 (B) A person who imports a mattress into the United States that  
20 is sold or offered for sale in the state and that is manufactured or  
21 renovated by a person who does not have a presence in the United  
22 States.

23 (c) “Mattress” means a large pad of twin size or larger that is  
24 four or more inches thick filled with resilient material, including  
25 a pad incorporating coiled springs, used as a bed or part of a bed,  
26 including, but not limited to, an inner spring mattress, a foam  
27 mattress, and a box spring and mattress used in conjunction with  
28 a futon frame.

29 (d) (1) “Mattress recovery and recycling plan” or “plan” means  
30 a plan submitted to the department pursuant to ~~Section 42987~~ *this*  
31 *chapter.*

32 (2) “*Initial plan*” means the mattress recovery and recycling  
33 plan submitted to the department pursuant to Section 42987.

34 (3) “*Final plan*” means the mattress recovery and recycling  
35 plan submitted to the department pursuant to Section 42988.

36 (e) “Penalty account” means the Mattress Recovery and  
37 Recycling Penalty Account established pursuant to ~~Section 42991~~  
38 42994.

39 (f) “Recycle” or “recycling” has the same meaning as defined  
40 in Section 40180.

1 (g) “Retailer” means a person who sells mattresses in the state  
2 or offers to consumers mattresses in the state through any means,  
3 including, but not limited to, by remote offering such as sales  
4 outlets or catalogs. “Retailer” does not include a person who sells  
5 mattresses through the Internet.

6 (h) “Stewardship organization” means a nonprofit organization  
7 created by one or more manufacturers to act as an agent on behalf  
8 of the manufacturer to design, submit, and administer a mattress  
9 recovery and recycling plan pursuant to this chapter.

10 ~~(h) “Used~~

11 (i) “Waste mattress” means a mattress that is no longer wanted  
12 by its owner and is discarded or is intended to be discarded.

13 (j) “Wholesaler” means a person who sells mattresses in the  
14 state to a retailer.

15 ~~42987. (a) On or before April 1, 2013, a manufacturer of~~  
16 ~~mattresses sold in this state shall, individually, collectively, or~~  
17 ~~through a designated third party, submit a mattress recovery and~~  
18 ~~recycling plan to the department that meets the requirements of~~  
19 ~~this section.~~

20 ~~(b) A mattress recovery and recycling plan shall include all of~~  
21 ~~the following:~~

22 ~~(1) Provisions to ensure that when new mattresses are delivered~~  
23 ~~to a consumer, the consumer is given the option of having an~~  
24 ~~equivalent used mattress picked up for recovery at the time of~~  
25 ~~delivery, at no additional cost to the consumer or retailer, in~~  
26 ~~accordance with Section 42988.~~

27 ~~(2) Arrangements when a mattress is sold to a consumer, for~~  
28 ~~the drop-off of an equivalent used mattress at a recycling facility~~  
29 ~~at no additional cost to the consumer or retailer.~~

30 ~~(3) Techniques designed to prevent and mitigate the illegal~~  
31 ~~discarding of mattresses.~~

32 ~~(4) Arrangements for the pickup of used mattresses that have~~  
33 ~~been accepted at solid waste facilities and for the delivery of those~~  
34 ~~used mattresses to a recycling facility.~~

35 ~~(5) Policies to ensure there are adequate and convenient~~  
36 ~~opportunities for the collection, acceptance, and recovery for~~  
37 ~~recycling of used mattresses in low-income, rural, and other~~  
38 ~~communities where illegal dumping of mattresses has been a~~  
39 ~~historical problem.~~

1 ~~(6) Provisions designed to meet the following recycling targets~~  
2 ~~and methods for demonstrating the achievement of the following~~  
3 ~~recycling goals:~~

4 ~~(A) On and after January 1, 2015, recycle not less than 25~~  
5 ~~percent of the used mattresses generated in this state.~~

6 ~~(B) On and after January 1, 2017, recycle not less than 50~~  
7 ~~percent of the used mattresses generated in this state.~~

8 ~~(C) On and after January 1, 2020, recycle not less than 75~~  
9 ~~percent of the used mattresses generated in this state.~~

10 ~~(7) Provisions for a financial mechanism for implementing the~~  
11 ~~plan.~~

12 ~~(e) A manufacturer, individually or through a designated third~~  
13 ~~party, may coordinate with local governments, solid waste~~  
14 ~~facilities, retailers, and mattress recyclers to achieve the purposes~~  
15 ~~of this chapter.~~

16 *42987. (a) On or before April 1, 2013, a manufacturer of*  
17 *mattresses sold in this state shall, individually, collectively, or*  
18 *through a stewardship organization, submit an initial mattress*  
19 *recovery and recycling plan to the department in an electronic*  
20 *format that ensures that the manufacturer will be responsible for*  
21 *the collection and recycling of waste mattresses generated by*  
22 *consumers purchasing a new mattress. The initial plan shall*  
23 *include a description of activities that the manufacturer or*  
24 *stewardship organization shall undertake as part of the plan and*  
25 *shall require a manufacturer to do all of the following:*

26 *(1) Ensure that when a new mattress is delivered to a consumer*  
27 *by a retailer, the consumer is given the option of having a waste*  
28 *mattress picked up for recycling at the time of delivery, at no*  
29 *additional cost to the consumer or retailer.*

30 *(2) Ensure that when a new mattress is purchased and picked*  
31 *up by a consumer, the consumer is given a voucher that provides*  
32 *for the manufacturer to arrange for the drop off and recycling of*  
33 *a waste mattress at a local solid waste or recycling facility at no*  
34 *additional cost to the consumer, retailer, or facility.*

35 *(3) Otherwise provide consumers with convenient opportunities*  
36 *to properly dispose of their waste mattress.*

37 *(b) The department shall post the initial plan on its Internet*  
38 *Web site.*

39 *(c) On and after July 1, 2013, a manufacturer shall implement*  
40 *the initial plan submitted pursuant to subdivision (a).*

1 (d) No later than 60 days before implementing the initial plan,  
2 a manufacturer shall provide a retailer with relevant materials.

3 42988. (a) On or before April 1, 2014, a manufacturer of  
4 mattresses sold in this state shall, individually, collectively, or  
5 through a stewardship organization, submit a final mattress  
6 recovery and recycling plan to the department that includes the  
7 requirements of this section.

8 (b) A mattress recovery and recycling plan shall include all of  
9 the following:

10 (1) Provisions to ensure that when new mattresses are delivered  
11 to a consumer, the consumer is given the option of having an  
12 equivalent number of waste mattresses picked up for recovery at  
13 the time of delivery, at no additional cost to the consumer or  
14 retailer, in accordance with Section 42989.

15 (2) Arrangements, when new mattresses are sold to a consumer,  
16 for the drop off of an equivalent number of waste mattresses at a  
17 recycling facility at no additional cost to the consumer or retailer.

18 (3) Techniques designed to prevent and mitigate the illegal  
19 discarding of waste mattresses.

20 (4) Arrangements for the pickup of waste mattresses that have  
21 been accepted at solid waste facilities and for the delivery of those  
22 waste mattresses to a recycling facility.

23 (5) Policies to ensure there are adequate and convenient  
24 opportunities for the collection, acceptance, and recovery for  
25 recycling of waste mattresses in low-income, rural, and other  
26 communities where illegal dumping of waste mattresses has been  
27 a historical problem.

28 (6) Provisions designed to meet the following recycling targets  
29 and methods for demonstrating the achievement of the following  
30 recycling goals:

31 (A) On and after January 1, 2015, recycle not less than 25  
32 percent of the waste mattresses generated in this state.

33 (B) On and after January 1, 2017, recycle not less than 50  
34 percent of the waste mattresses generated in this state.

35 (C) On and after January 1, 2020, recycle not less than 75  
36 percent of the waste mattresses generated in this state.

37 (7) Provisions for a financial mechanism for implementing the  
38 plan.

39 (c) A manufacturer, individually or through a designated third  
40 party, may coordinate with local governments, solid waste

1 *facilities, retailers, and mattress recyclers to achieve the purposes*  
2 *of this chapter.*

3 ~~42988.~~

4 ~~42989.~~ On and after July 1, ~~2013~~ 2014, a retailer shall offer  
5 the consumer the option to have a ~~used~~ waste mattress picked up  
6 for recovery at the time of delivery, at no additional cost to the  
7 consumer, if a new mattress is being delivered to the consumer.  
8 A retailer may contract out to a third-party entity for the pickup  
9 of ~~used~~ waste mattresses.

10 ~~42989.~~

11 42990. (a) A manufacturer or retailer shall not sell or offer for  
12 sale a mattress to any person in this state unless the manufacturer  
13 of that mattress is in compliance with this chapter.

14 (1) (A) *On and after August 1, 2014, if a manufacturer is not*  
15 *covered by an approved plan or a conditionally approved plan,*  
16 *as specified in Section 42991, the manufacturer shall not sell or*  
17 *offer for sale a mattress in the state.*

18 (B) *For purposes of this paragraph, “covered” means the*  
19 *manufacturer has submitted a final plan to the department pursuant*  
20 *to Section 42988 either individually, collectively, or through a*  
21 *stewardship organization.*

22 (C) *On August 1, 2014, or upon the date a final plan is approved*  
23 *or conditionally approved by the department, whichever date comes*  
24 *first, and every six months thereafter, the department shall post*  
25 *on its Internet Web site a list of manufacturers covered by a final*  
26 *plan that is approved or conditionally approved by the department*  
27 *pursuant to subdivision (a) of Section 42991.*

28 (D) *A manufacturer that is not listed on the department’s*  
29 *Internet Web site pursuant to this paragraph, but demonstrates to*  
30 *the satisfaction of the department that it is in compliance with this*  
31 *chapter before the next notice is required to be posted pursuant*  
32 *to this section, may request a certification letter from the*  
33 *department stating that the manufacturer is in compliance. A*  
34 *manufacturer that receives a letter pursuant to this subparagraph*  
35 *shall be deemed to be a covered manufacturer in compliance with*  
36 *this chapter and the department shall include the manufacturer*  
37 *on the list specified in subparagraph (C).*

38 (2) (A) *On or before July 1, 2013, and on or before January 1*  
39 *and July 1 annually thereafter, the department shall post a notice*

1 on its Internet Web site listing manufacturers that are in  
2 compliance with this chapter.

3 (B) A manufacturer that is not listed on the department's Internet  
4 Web site pursuant to this paragraph, but demonstrates to the  
5 satisfaction of the department that the manufacturer is in  
6 compliance with this chapter before the next notice is required to  
7 be posted, may request a certification letter from the department  
8 stating that the manufacturer is in compliance. A manufacturer  
9 that receives a letter pursuant to this paragraph shall be deemed  
10 to be in compliance with this chapter and the department shall  
11 include the manufacturer on the list specified in subparagraph  
12 (A).

13 (3) A wholesaler or retailer that distributes or sells mattresses  
14 shall monitor the department's Internet Web site to determine if  
15 the manufacturer is a covered manufacturer or in compliance with  
16 the requirements of this chapter. A wholesaler or retailer otherwise  
17 in compliance with this chapter shall be deemed in compliance  
18 with this section if, on the date the wholesaler or retailer ordered  
19 or purchased a mattress, the manufacturer was listed as a covered  
20 or compliant manufacturer on the department's Internet Web site  
21 pursuant to paragraph (1) or (2) or within five calendar days of  
22 the department posting its notice on January 1 or July 1.

23 (4) A retailer may exhaust existing stock in its inventory through  
24 sales to the public if the existing stock was purchased from a  
25 manufacturer who was in compliance with the requirements of  
26 this chapter at the time of the existing stock's initial purchase.

27 (b) A manufacturer is in compliance with this chapter if the  
28 manufacturer complies with the following requirements, as  
29 applicable:

30 (1) On or before April 1, 2013, submits an initial mattress  
31 recovery and recycling plan to the department pursuant to Section  
32 42987.

33 ~~(1)~~

34 (2) On or before April 1, ~~2013~~ 2014, submits a final mattress  
35 recovery and recycling plan to the department pursuant to Section  
36 42988.

37 ~~(2)~~

38 (3) On and after July 1, ~~2013~~ 2014, implements a final plan that  
39 the department has ~~determined is in compliance with this chapter~~  
40 approved or conditionally approved pursuant to Section 42991.

1     ~~42990. The department shall review a mattress recovery and~~  
2 ~~recycling plan submitted pursuant to Section 42987 and within 90~~  
3 ~~days of receipt shall adopt a finding of the plan's compliance or~~  
4 ~~noncompliance with this chapter.~~

5     42991. (a) *The department shall review a final plan submitted*  
6 *pursuant to Section 42988 and within 90 days of receipt shall*  
7 *approve, disapprove, or conditionally approve the plan. If a final*  
8 *plan is disapproved, the department shall remove the name of the*  
9 *manufacturer from the department's Internet Web site specified*  
10 *in subparagraph (A) of paragraph (2) of subdivision (a) of Section*  
11 *42990.*

12     (b) *The department shall review the annual report required*  
13 *pursuant to Section 42993 and within 90 days of receipt shall*  
14 *adopt a finding of compliance or noncompliance with this chapter.*

15     (1) *If the department determines that a manufacturer or*  
16 *stewardship organization is not meeting the requirements of this*  
17 *chapter, the department may require that the manufacturer or*  
18 *stewardship organization to amend and resubmit the plan within*  
19 *90 days of the department's determination.*

20     (2) *If the manufacturer or stewardship organization does not*  
21 *resubmit a final plan pursuant to paragraph (1), or if the*  
22 *department does not approve or conditionally approve the final*  
23 *plan submitted pursuant to paragraph (1), the department shall*  
24 *remove the name of the manufacturer from the department's*  
25 *Internet Web site specified in subparagraph (A) of paragraph (2)*  
26 *of subdivision (a) of Section 42990.*

27     (c) *A manufacturer or retailer shall not sell a mattress in the*  
28 *state for which the department has removed the name of the*  
29 *manufacturer, pursuant to paragraph (2) of subdivision (b), from*  
30 *the department's Internet Web site specified in subparagraph (A)*  
31 *of paragraph (2) of subdivision (a) of Section 42990, until the*  
32 *department approves a final plan for that manufacturer.*

33     ~~42991.~~

34     42992. (a) *A manufacturer or stewardship organization*  
35 *submitting a final mattress recovery and recycling plan shall pay*  
36 *the department ~~an annual~~ a quarterly administrative fee, as*  
37 *determined by the department.*

38     (b) *The amount of the administrative fee imposed pursuant to*  
39 *subdivision (a) shall be established by the department for the*  
40 *reasonable regulatory costs to the department incident to*

1 performing any audits and inspections necessary to enforce the  
2 provisions of this chapter and for the administrative enforcement  
3 costs and adjudication thereof.

4 (c) In determining the amounts of the administrative fee imposed  
5 pursuant to subdivision (a), the department may establish a variable  
6 fee based on relevant factors, including, but not limited to, the  
7 portion of mattresses sold in the state by individual manufacturers,  
8 as compared to the total amount of mattresses sold in the state by  
9 all manufacturers *or stewardship organizations* submitting a  
10 mattress recovery and recycling plan.

11 (d) The administrative fees collected pursuant to this section  
12 shall be deposited into the Mattress Recovery and Recycling  
13 Account, which is hereby established in the Integrated Waste  
14 Management Fund. Upon appropriation by the Legislature, moneys  
15 in the account shall be expended by the department to implement  
16 this chapter.

17 *42993. On or before April 1, 2015, and on or before April 1*  
18 *annually thereafter, a manufacturer shall, individually, collectively,*  
19 *or through a stewardship organization, submit a report to the*  
20 *department describing its mattress stewardship efforts as outlined*  
21 *in the approved or conditionally approved final plan. At a*  
22 *minimum, the report shall include all of the following:*

23 (a) *Quantitative information on progress in achieving the waste*  
24 *mattress program activities specified in paragraphs (1) and (2) of*  
25 *subdivision (b) of Section 42988.*

26 (b) *Calculations of progress in achieving the recycling goals*  
27 *specified in paragraph (6) of subdivision (b) of Section 42988,*  
28 *consistent with the methodology adopted pursuant to that*  
29 *paragraph.*

30 (c) *A description of achievement in the program techniques*  
31 *specified in paragraph (3) of subdivision (b) of Section 42988.*

32 (d) *The total volume, number, and weight of waste mattresses*  
33 *collected, recycled, renovated, reused, and used for energy*  
34 *recovery in this state during the preceding calendar year, including*  
35 *any conversion factor used to determine the number of mattresses*  
36 *recovered.*

37 (e) *A description of methods used to collect, transport, and*  
38 *process waste mattresses in this state.*

1 (f) *Examples of any educational materials provided to consumers*  
2 *the first year of implementing the plan and any changes to those*  
3 *materials in subsequent years.*

4 (g) *Other information relevant to compliance with the plan.*

5 ~~42992.~~

6 42994. (a) The department may impose an administrative civil  
7 penalty on any person who is in violation of this chapter. The  
8 amount of the civil penalty shall not exceed one thousand dollars  
9 (\$1,000) per day, but if the violation is intentional, knowing, or  
10 negligent, the department may impose a civil penalty of not more  
11 than ten thousand dollars (\$10,000) per day.

12 (b) In assessing or reviewing the amount of a civil penalty  
13 imposed pursuant to subdivision (a) for a violation of this chapter,  
14 the department or the court shall consider all of the following:

15 (1) The nature and extent of the violation.

16 (2) The number and severity of the violation or violations.

17 (3) The economic effect of the penalty on the violator.

18 (4) Whether the violator took good faith measures to comply  
19 with this chapter and the period of time over which these measures  
20 were taken.

21 (5) The willfulness of the violator's misconduct.

22 (6) The deterrent effect that the imposition of the penalty would  
23 have on both the violator and the regulated community.

24 (7) Any other factor that justice may require.

25 (c) The department shall deposit all penalties collected pursuant  
26 to this section into the Mattress Recovery and Recycling Penalty  
27 Account, which is hereby established in the Integrated Waste  
28 Management Fund. Upon appropriation by the Legislature, moneys  
29 in the penalty account shall be expended by the department to  
30 implement this chapter.