

AMENDED IN ASSEMBLY AUGUST 24, 2012
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

Introduced by Senator Hancock

February 17, 2012

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~~

(1) ~~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 stewardship organization, to ~~submit~~ *provide* an ~~initial mattress recovery and recycling~~ *interim* 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 used~~ mattresses generated by consumers ~~purchasing a new mattress~~. The bill would require a manufacturer to implement the ~~initial~~ *interim* plan by July 1, 2013, ~~and to continue implementation until a stewardship plan is approved, conditionally approved, or disapproved by the department.~~

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~~ *stewardship* plan to the department by April 1, 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 goals.~~ The bill would specify a procedure for the department's approval, disapproval, or conditional approval of a ~~final~~ plan.

The bill would require a retailer of mattresses on and after July 1, ~~2014~~ *2013*, to offer the consumer the option of picking up a ~~waste used~~ 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 act* and would ~~prohibit a manufacturer from selling a mattress on or after August 1, 2014, if the manufacturer is not covered by an approved or conditionally approved plan.~~ ~~The bill would specify the conditions for determining compliance with the act.~~ The bill would require the department, by ~~July 1, 2013; August 1, 2014, except as specified, and on or before January 1 and by July 1~~ annually thereafter, to post a notice on its Internet Web site ~~a listing of 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 have submitted a plan and to annually post a listing of manufacturers in compliance with the act.~~ 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 the manufacturer 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~~ *plan* 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 recyclers and renovators, as defined, to submit an annual report to the department regarding mattresses received and recycled and would require the operator of a solid waste facility to submit an annual report to the department regarding the number of used mattresses received and designated for recycling in the state during the preceding calendar year.

The bill would require a manufacturer or stewardship organization ~~submitting a mattress recovery and recycling plan~~ to pay the department 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 require a manufacturer or stewardship organization to provide the department with reasonable and timely access, as determined by the department, to its facilities or operations, and to provide the department with any relevant records. The bill would require the records to be maintained and accessible for 3 years. The bill would require all reports and records to be provided to the department under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.

The bill would allow the department to impose an administrative civil penalty in specified amounts on a ~~person~~ *manufacturer, stewardship organization, or retailer* 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. *The bill would also authorize the department to take other actions to enforce the act.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~yes.

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

1 SECTION 1. Chapter 21 (commencing with Section 42985) is
2 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 reuse where possible, and recycle used mattresses generated in
16 this state.

17 (2) Consistent with existing state policy, the program developed
18 and implemented by manufacturers of mattresses sold in this state
19 shall be capable of the recovery and recycling of at least 75 percent
20 of used mattresses generated in this state annually on and after
21 January 1, 2020.

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

24 (c) This chapter does not prohibit a manufacturer from
25 internalizing the cost of implementing this chapter.

26 42986. For the purposes of this chapter, the following terms
27 have the following meanings:

28 (a) "Account" means the Mattress Recovery and Recycling
29 Account established pursuant to Section 42995.

1 (b) “Consumer” means an owner of a mattress, including a
2 person, business, corporation, limited partnership, nonprofit
3 organization, or governmental entity.

4 (c) “Interim plan” means a plan provided to the department
5 pursuant to Section 42987.

6 (d) (1) “Manufacturer” means one of the following persons:

7 (A) A person who manufactures a mattress and who sells, offers
8 for sale, or distributes the mattress in the state under that person’s
9 own name or brand.

10 (B) If there is no person who sells, offers for sale, or distributes
11 a mattress in the state under the person’s own name or brand, the
12 manufacturer of the mattress is the owner or licensee of a
13 trademark or brand under which the mattress is sold or distributed
14 in the state, whether or not the trademark is registered.

15 (2) A retailer whose name or brand may be on a mattress is not
16 the manufacturer of the mattress, unless the retailer actually made,
17 produced, and assembled that product.

18 (e) (1) “Mattress” means any resilient material or combination
19 of materials that is enclosed by a twin size or larger mattress
20 ticking, used alone or in combination with other products, and
21 that is intended for or promoted for sleeping upon.

22 (2) “Mattress” includes any foundation and any renovation.

23 (3) “Mattress” does not include an unattached mattress pad,
24 unattached mattress topper, sleeping bag, pillow, car bed, carriage,
25 basket, dressing table, stroller, playpen, infant carrier, lounge
26 pad, crib bumper, liquid and gaseous filled ticking including any
27 water bed and air mattress that does not contain upholstery
28 material between the ticking and the mattress core, and upholstered
29 furniture that does not otherwise contain a detachable mattress.

30 (f) “Mattress stewardship plan” or “plan” means a plan
31 submitted to the department pursuant to Section 42988.

32 (g) “Recycle” or “recycling” has the same meaning as defined
33 in Section 40180. For the purposes of this chapter renovation shall
34 be considered recycling.

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

- 1 (i) (I) “Renovate” or “renovation” means altering a mattress
2 for the purpose of resale and includes any one, or a combination
3 of, the following:
- 4 (A) Replacing the mattress ticking or filling.
 - 5 (B) Adding additional filling.
 - 6 (C) Rebuilding a mattress.
 - 7 (D) Replacing components with new or recycled materials.
- 8 (2) “Renovate” or “renovation” does not include any of the
9 following:
- 10 (A) Stripping of a mattress of its ticking or filling without adding
11 new material.
 - 12 (B) Sterilizing or sanitizing a mattress without otherwise altering
13 the mattress.
 - 14 (C) Altering a mattress by a renovator when a person retains
15 the altered mattress for lease, rental, or personal use.
 - 16 (D) Refurbishing that disqualifies a mattress for a yellow
17 wholesale renovator tag to be affixed to the mattress, in accordance
18 with the regulations adopted by the Department of Consumer
19 Affairs.
 - 20 (j) “Renovator” means a person that renovates used mattresses.
 - 21 (k) “Retailer” means a person who sells mattresses in the state
22 or offers to consumers mattresses in the state through any means,
23 including, but not limited to, by remote offering such as sales
24 outlets or catalogs. “Retailer” does not include the sale of
25 mattresses through the Internet.
 - 26 (l) “Stewardship organization” means a nonprofit organization
27 created by one or more manufacturers to act on behalf of the
28 manufacturer to provide an interim plan to the department
29 pursuant to Section 42987 or to design, submit, and implement a
30 mattress stewardship plan pursuant to Section 42988.
 - 31 (m) “Used mattress” means a mattress that is no longer used
32 for its manufactured purpose.
 - 33 (n) “Voucher” means a promise to a consumer of a new mattress
34 to provide that consumer with a future, no cost take back of a used
35 mattress for recycling, as described in this chapter. The voucher
36 may include a payment, coupon, chit, or other form of paper or
37 electronic authorization that enables the consumer to drop off a
38 used mattress for recycling at any recycling facility or solid waste
39 facility at no cost to the consumer, and which the operator of the

1 facility can then redeem from a manufacturer or the manufacturer's
2 agent in order to cover the cost of recovery and recycling.

3 42987. (a) On or before April 1, 2013, a manufacturer of
4 mattresses sold in this state shall, individually, collectively, or
5 through a stewardship organization, provide an interim plan to
6 the department in an electronic format.

7 (b) The interim plan shall ensure that the manufacturer will be
8 responsible for the collection and recycling of used mattresses
9 generated by consumers. The interim plan shall include a
10 description of activities that the manufacturer shall undertake as
11 part of the plan and shall require the manufacturer to do all of the
12 following:

13 (1) Ensure that when a new mattress is delivered to a consumer
14 by a retailer, the consumer is given the option of having a used
15 mattress picked up for recycling at the time of delivery, at no
16 additional cost to the consumer or retailer. A retailer may contract
17 out to a third-party entity for the pickup of used mattresses.

18 (2) Ensure that when a new mattress is purchased and picked
19 up by a consumer, the consumer is given a voucher that provides
20 for the dropoff and recycling of a used mattress at a local solid
21 waste or recycling facility at no additional cost to the consumer,
22 retailer, or facility.

23 (3) Otherwise provide consumers with convenient opportunities
24 to properly dispose of their used mattresses.

25 (c) The department shall post the interim plan provided pursuant
26 to this section on its Internet Web site.

27 (d) On and after July 1, 2013, a manufacturer shall implement
28 the interim plan provided pursuant to subdivision (a) and shall
29 continue implementation of the interim plan until the mattress
30 stewardship plan required by Section 42988 is approved,
31 conditionally approved, or disapproved by the department pursuant
32 to Section 42989.

33 (e) A manufacturer shall provide retailers with relevant
34 materials 60 days prior to implementation of the interim plan.

35 42988. (a) On or before April 1, 2013, a manufacturer may
36 form and join a mattress stewardship organization.

37 (b) On or before April 1, 2014, a manufacturer shall,
38 individually, collectively, or through a mattress stewardship
39 organization, submit a mattress stewardship plan to the department
40 that meets the requirements of this section.

1 (c) A mattress stewardship plan submitted pursuant to this
2 section shall include all of the following elements:

3 (1) Program activities to achieve the used mattress recycling
4 goals established in subdivision (d).

5 (2) Existing and planned used mattress take-back sites or
6 collection locations, including estimated timelines for any planned
7 expansion, if applicable.

8 (3) Program objectives consistent with the state's solid waste
9 management hierarchy, in the following categories, and a
10 description of activities to achieve the program objectives:

11 (A) Activities to achieve source reduction and maximize reuse
12 and repair.

13 (B) Measures to design mattresses and their components for
14 recyclability.

15 (C) Activities or incentives to reduce the number of used
16 mattresses sent to landfills.

17 (D) Activities or incentives to prevent and mitigate the illegal
18 disposal of used mattresses, including coordination with local
19 governments and waste haulers.

20 (4) Ensure that local governments and solid waste facilities are
21 provided with a mechanism for the recovery of illegally dumped
22 used mattresses at no additional cost to the local government or
23 solid waste facility.

24 (5) Arrangements for the pickup of used mattresses that have
25 been accepted at solid waste facilities and for the delivery of those
26 used mattresses to a recycling or refurbishment facility.

27 (6) A program performance measurement that would collect
28 program data for purposes of the report required by Section 42991,
29 in accordance with the following:

30 (A) If the department does not provide a methodology for the
31 program performance methodology pursuant to subdivision (e) of
32 Section 42991, the plan shall include a methodology for estimating,
33 with regard to the manufacturers covered by the plan, the amount
34 of mattresses sold in the state and the used mattresses available
35 for collection in the state, and for quantifying the number of used
36 mattresses collected and recycled in the state.

37 (B) The program plan performance measurement may aggregate
38 the total number of mattresses sold and recycled by all
39 participating members in a plan submitted by manufacturers acting
40 collectively or through a stewardship organization.

1 (7) Education and outreach efforts to consumers and other
2 individuals within the supply chain to promote their participation
3 in achieving the purposes of the plan.

4 (8) A consultation process with affected stakeholders.

5 (9) The names of manufacturers and brands covered under the
6 plan.

7 (10) Procedures to ensure implementation of the plan if the
8 manufacturer or the stewardship organization no longer exists
9 due to bankruptcy, dissolution, or similar processes.

10 (11) Reimbursement of solid waste facilities for the reasonable
11 costs of collecting, storing, and processing used mattresses in the
12 implementation of the plan pursuant to this chapter.

13 (12) Policies to ensure there are adequate and convenient
14 opportunities for the collection, acceptance, and recovery for
15 recycling of used mattresses in low-income communities, in
16 accordance with the poverty line annually established by the
17 Secretary of California Health and Human Services pursuant to
18 the federal Omnibus Budget Reconciliation Act of 1981 (Public
19 Law 97-35), as amended.

20 (13) Policies to give priority to recycling facilities that are the
21 closest to the consumer or retailers.

22 (14) A program to ensure that used mattresses recovered by a
23 retailer pursuant to Section 42990 are delivered to a recycling
24 facility or solid waste facility for recycling. A manufacturer or
25 retailer may contract out to a third-party entity for the
26 transportation of used mattresses to such a facility.

27 (15) As an alternative to the requirements of paragraph (14),
28 a requirement that the manufacturer provide a retailer with extra
29 vouchers to provide to a consumer if, when picking up a
30 consumer's mattress upon the purchase of a new mattress, the
31 mattress is infested with a pest or contaminated so that it poses a
32 contamination risk to personnel, new products, or equipment.
33 These vouchers shall be provided at no additional cost to the
34 consumer, retailer, recycling facility, or solid waste facility.

35 (d) The plan shall meet the portion of the used mattress recycling
36 goals, for which a manufacturer, individually or collectively,
37 submitting the plan, or by the manufacturers included in a plan
38 submitted by a mattress stewardship organization, are subject to,
39 pursuant to the methodology specified in the plan pursuant to
40 paragraph (6) of subdivision (c):

1 (1) On and after January 1, 2015, recycle not less than 25
2 percent of used mattresses generated by consumers in the state
3 from the manufacturers included in the plan.

4 (2) On and after January 1, 2017, recycle not less than 50
5 percent of used mattresses generated by consumers in the state
6 from the manufacturers included in the plan.

7 (3) On and after January 1, 2020, recycle not less than 75
8 percent of used mattresses generated by consumers in the state
9 from the manufacturers included in the plan.

10 (e) A manufacturer is deemed to meet the mattress recycling
11 percentile goal specified in subdivision (d) if the plan submitted
12 by the manufacturer, or by the stewardship organization formed
13 or joined by the manufacturer, when implemented, collects an
14 amount of mattresses equal to, or greater than, the equivalent
15 portion of the mattresses available for collection, as determined
16 pursuant to subparagraph (A) of paragraph (6) of subdivision (c)
17 of the plan.

18 (f) A manufacturer, individually or collectively, or stewardship
19 organization may coordinate with local governments, solid waste
20 facilities, retailers, and mattress recyclers to achieve the purposes
21 of this chapter.

22 (g) The plan shall not require the funding for the plan to be
23 collected from a consumer at the point of collection or discard.

24 42989. (a) The department shall review the plan submitted
25 pursuant to Section 42988 and within 90 days of receipt shall
26 approve, disapprove, or conditionally approve the plan.

27 (b) If the department disapproves the plan pursuant to
28 subdivision (a), the manufacturer or stewardship organization
29 shall resubmit the plan to the department. If the manufacturer or
30 stewardship organization does not resubmit a plan, or submits a
31 plan that is not approved or conditionally approved by the
32 department, the department shall remove all manufacturers covered
33 by the plan from the department's Internet Web site pursuant to
34 Section 42992, and a manufacturer so removed from the Internet
35 Web site shall not sell a mattresses in the state until the department
36 approves a plan for that manufacturer.

37 (c) The approved plan shall be a public record, except that
38 financial, production, or sales data reported to the department by
39 a manufacturer or the stewardship organization is not a public
40 record for purposes of the California Public Records Act (Chapter

1 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the
2 Government Code) and shall not be open to public inspection. The
3 department may release financial, production, or sales data in
4 summary form only that cannot be attributable to a specific
5 manufacturer.

6 42990. (a) On and after July 1, 2013, a retailer shall offer a
7 consumer the option to have a used mattress picked up for recovery
8 at the time of delivery, at no additional cost to the consumer, if a
9 new mattress is delivered to the consumer. A retailer may contract
10 out to a third-party entity for the pickup of used mattresses.

11 (b) This chapter does not prohibit a retailer from charging a
12 consumer an additional cost for delivering a new mattress.

13 42991. (a) On or before April 1, 2015, and each year
14 thereafter, a manufacturer shall, individually, collectively, or
15 through a stewardship organization, submit a report to the
16 department describing the mattress stewardship efforts taken
17 pursuant to the approved or conditionally approved plan. At a
18 minimum, the report shall include all of the following:

19 (1) Quantitative information on progress in achieving the used
20 mattress program activities specified in the plan pursuant
21 subdivision (b) of Section 42988.

22 (2) A calculation of the plan's progress in achieving the
23 recycling goals specified in subdivision (d) of Section 42988,
24 consistent with the methodology specified in the plan pursuant to
25 paragraph (6) of subdivision (c) of Section 42988.

26 (3) A description of the achievement of program objectives
27 specified in the plan pursuant to paragraph (3) of subdivision (c)
28 of Section 42988.

29 (4) The total volume, number, and weight of used mattresses
30 collected, recycled, renovated, and reused, and used for energy
31 recovery in this state during the preceding calendar year, including
32 any conversion factor used to determine the number of mattresses
33 recovered.

34 (5) A description of the methods used to collect, transport, and
35 process used mattresses in this state.

36 (6) Examples of educational materials provided to consumers
37 the first year and any changes to those materials in subsequent
38 years.

39 (7) Any other information relevant to compliance with the plan.

1 (b) The department shall review the annual report required
2 pursuant this section and within 90 days of receipt shall adopt a
3 finding of compliance or noncompliance with this chapter.

4 (c) If the department adopts a finding of noncompliance
5 pursuant to subdivision (b), the department may require the
6 manufacturer or stewardship organization to amend and resubmit
7 the plan within 90 days of the department's determination.

8 (d) If the manufacturer or stewardship organization does not
9 resubmit the plan pursuant to subdivision (c), or the department
10 does not approve or conditionally approve the plan submitted to
11 subdivision (c), the department shall post a notice of
12 noncompliance pursuant to Section 42992 and the manufacturers
13 subject to the plan shall not sell a mattress in the state until the
14 department approves a plan.

15 (e) The department may adopt a uniform methodology that shall
16 be used by all manufacturers for purposes of estimating the amount
17 of mattresses sold in the state and the number of used mattresses
18 available for collection in the state, and for quantifying the number
19 of used mattresses collected and recycled in the state.

20 42992. (a) A manufacturer or retailer shall not sell or offer
21 for sale a mattress to any person in this state unless the
22 manufacturer is in compliance with this chapter.

23 (b) (1) On or after August 1, 2014, if a manufacturer is not
24 covered by an approved or conditionally approved plan, the
25 manufacturer shall not sell or offer for sale a mattress in the state.

26 (2) A manufacturer is a covered manufacturer if the
27 manufacturer has submitted a plan, either individually, collectively,
28 or through a stewardship organization, to the department pursuant
29 to Section 42988.

30 (c) (1) On August 1, 2014, or upon the date the plan is approved
31 or conditionally approved by the department, whichever date comes
32 first, and on or before July 1 annually thereafter, the department
33 shall post on its Internet Web site a list of manufacturers for which
34 the department has approved or conditionally approved the plan
35 pursuant to Section 42989.

36 (2) On July 1, 2015, and annually thereafter, the department
37 shall post on its Internet Web site a list of manufacturers for which
38 the department has adopted a finding of compliance with regard
39 to the report filed pursuant to subdivision (b) of Section 42991.

1 (3) A manufacturer that is not listed on the department's Internet
2 Web site pursuant to this section, but demonstrates to the
3 satisfaction of the department that it is in compliance with this
4 chapter before the next notice is required to be posted pursuant
5 to this section, may request a certification letter from the
6 department stating that the manufacturer is in compliance. The
7 manufacturer that receives that letter shall be deemed to be in
8 compliance with this chapter.

9 (4) A retailer that distributes or sells a mattress shall monitor
10 the department's Internet Web site to determine if a manufacturer
11 is a covered manufacturer or is in compliance with this chapter.
12 A retailer otherwise in compliance with this chapter shall be
13 deemed in compliance with subdivision (a) if, on the date the
14 retailer ordered or purchased a mattress, or within five calendar
15 days after that date, the manufacturer was listed as covered or
16 compliant on the department's Internet Web site.

17 (5) A retailer may exhaust existing stock in its inventory through
18 sales to the public if the existing stock was purchased when the
19 manufacturer was in compliance with the requirements of this
20 chapter at the time of the existing stock's initial purchase.

21 (d) If the department determines that a manufacturer or
22 stewardship organization is not in compliance with this chapter,
23 the department shall remove the manufacturer or the manufacturers
24 covered by the plan submitted by the stewardship organization
25 from the department's Internet Web site pursuant to this section
26 and the manufacturer shall not sell a mattresses in the state until
27 the department determines that the manufacturer is in compliance
28 with this chapter.

29 42993. (a) On or before April 1, 2015, and each year
30 thereafter, a person that is engaged in business as a recycler shall
31 submit a report to the department that includes, but is not limited
32 to, both of the following:

33 (1) Quantitative information on the number of mattresses
34 received and recycled or renovated in the state during the
35 preceding calendar year.

36 (2) Quantitative information on the number of vouchers received
37 from customers in the state in the preceding calendar year, if
38 applicable.

1 (b) On or before April 1, 2015, and each year thereafter, a
2 person who renovates used mattresses shall submit a report to the
3 department, that at a minimum, includes both of the following:

4 (1) Quantitative information on the number of mattresses
5 received and recycled or renovated in California during the
6 preceding calendar year.

7 (2) Quantitative information on the number of vouchers received
8 from customers in California in the preceding calendar year, if
9 applicable.

10 (c) For purposes of determining the recycling rate for a used
11 mattress, on or before April 1, 2015, and each year thereafter, a
12 solid waste landfill facility operator shall report to the department,
13 in a form and manner determined by the department, regarding
14 the number of used mattresses received and designated for
15 recycling or renovation within the state in the preceding calendar
16 year.

17 42994. (a) A manufacturer and a mattress stewardship
18 organization shall do all of the following:

19 (1) Upon request, provide the department with reasonable and
20 timely access, as determined by the department and as authorized
21 pursuant to Title 13 (commencing with Section 1822.50) of Part
22 3 of the Code of Civil Procedure, to its facilities and operations,
23 as necessary to determine compliance with this chapter.

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

26 (3) If a manufacturer or the stewardship organization does not
27 comply with the department's request made pursuant to paragraph
28 (1) or (2), it shall provide the department with a complete
29 explanation for its inability or decision not to comply with that
30 request.

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

35 (c) The department may take disciplinary action against a
36 manufacturer if the stewardship organization or manufacturer
37 fails to provide the department with the access required pursuant
38 to this section, including, but not limited to, imposing penalties
39 pursuant to Section 42996 and posting an immediate notice on the

1 department's Internet Web site pursuant to Section 42292 that the
2 manufacturer is no longer in compliance with this chapter.

3 42995. (a) Each manufacturer, shall pay the department a
4 quarterly administrative fee, as determined by the department.

5 (b) The amount of the administrative fees imposed pursuant to
6 subdivision (a) shall be established by the department in an amount
7 that is sufficient to cover the department's full costs of
8 administering and enforcing this chapter, including any program
9 development costs or regulatory costs incurred by the department
10 prior to the submittal of the plan required by Section 42988.

11 (c) 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 administer
16 and enforce this chapter. The fees collected pursuant to this section
17 shall not be expended for any other purpose.

18 42996. (a) The department may impose an administrative civil
19 penalty on any manufacturer or stewardship organization that is
20 in violation of this chapter. The amount of the civil penalty shall
21 not exceed five hundred dollars (\$500) per day, but if the violation
22 is intentional, knowing, or reckless, the department may impose
23 a civil penalty of not more than five thousand dollars (\$5,000) per
24 day.

25 (b) The department may impose an administrative civil penalty
26 on any retailer who is in violation of this chapter. The amount of
27 the civil penalty shall not exceed five hundred dollars (\$500) per
28 day, but if the violation is intentional, knowing, or reckless the
29 department may impose a civil penalty of not more than five
30 thousand dollars (\$5,000) per day.

31 (c) In assessing or reviewing the amount of a civil penalty
32 imposed pursuant to subdivision (a) or (b) for a violation of this
33 chapter, the department or the court shall consider all of the
34 following:

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

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

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

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

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

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

4 (7) *Any other factor that justice may require.*

5 (d) *If more than one stewardship organization submits a plan*
6 *pursuant to this chapter, the department shall determine the*
7 *manufacturer's or retailer's compliance with this chapter in*
8 *accordance with the plan to which the manufacturer or retailer is*
9 *subject.*

10 (e) *The department may impose the administrative civil penalties*
11 *pursuant to this section in accordance with Chapter 5 (commencing*
12 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
13 *Government Code, except that subdivision (c) of Section 11505 of*
14 *the Government Code shall not apply to the department.*

15 (f) *The department shall not impose a penalty upon a mattress*
16 *stewardship organization pursuant to this section for a failure to*
17 *comply with this chapter as a result of submitting false or*
18 *misleading information if the stewardship organization*
19 *demonstrates that it received false or misleading information from*
20 *a manufacturer that was the direct cause of its failure to comply*
21 *with this chapter.*

22 (g) *The department shall deposit all penalties collected pursuant*
23 *to this section into the Mattress Recovery and Recycling Penalty*
24 *Account, which is hereby created in the Integrated Waste*
25 *Management Fund. Upon appropriation by the Legislature, moneys*
26 *deposited into the Mattress Recovery and Recycling Penalty*
27 *Account may be expended by the department to implement this*
28 *chapter.*

29 42997. *Upon a finding that a manufacturer or stewardship*
30 *organization has not met a requirement of this chapter, in addition*
31 *to any other penalties authorized under this chapter, the*
32 *department may take any of following actions to ensure compliance*
33 *with the requirements of this chapter:*

34 (a) *Revoke the manufacturer's or stewardship organization's*
35 *plan approval, amend an approval or conditional approval to*
36 *include new conditions, or require the manufacturer or stewardship*
37 *organization to resubmit the plan.*

38 (b) *Remove the manufacturer from the department's Internet*
39 *Web site and list of compliant manufacturers, as specified in*
40 *subdivision (d) of Section 42992.*

1 (c) As a condition for approval of plans submitted by the
2 manufacturer or stewardship organization pursuant to Section
3 42989 after the date of the department's finding, require additional
4 reporting not otherwise required under this chapter, at a frequency
5 determined by the department.

6 42998. (a) Except as provided in subdivision (c), an action
7 specified in subdivision (b) that is taken by a stewardship
8 organization or its members that relates to any of the following is
9 not a violation of the Cartwright Act (Chapter 2 (commencing with
10 Section 16700) of Part 2 of Division 7 of the Business and
11 Professions Code), the Unfair Practices Act (Chapter 4
12 (commencing with Section 17000) of Part 2 of Division 7 of the
13 Business and Professions Code), or the Unfair Competition Law
14 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
15 7 of the Business and Professions Code).

16 (b) Subdivision (a) shall apply to all of the following actions
17 taken by the stewardship organization or a manufacturer:

18 (1) The creation, implementation, or management of a plan
19 approved by the department pursuant to Section 42989 and the
20 types or quantities of used mattresses recycled or otherwise
21 managed pursuant to plan, as described in Section 42988.

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

23 (3) The establishment, administration, or disbursement of the
24 costs associated with funding the implementation of this chapter.

25 (c) Subdivision (a) does not apply to an agreement that does
26 any of the following:

27 (1) Fixes a price of or for mattresses, except for an agreement
28 related to costs associated with participation in a plan approved
29 or conditionally approved by the department and otherwise in
30 accordance with this chapter.

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

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

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

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

6
7 CHAPTER 21. ~~MATTRESS RECOVERY AND RECYCLING ACT~~

8
9 42985. ~~(a) The Legislature finds and declares all of the~~
10 ~~following:~~

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

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

23 (b) ~~This chapter shall be known, and may be cited, as the~~
24 ~~“Mattress Recovery and Recycling Act.”~~

25 42986. ~~For the purposes of this chapter, the following terms~~
26 ~~have the following meanings:~~

27 (a) ~~“Account” means the Mattress Recovery and Recycling~~
28 ~~Account established pursuant to Section 42992.~~

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

32 (2) ~~Manufacturer includes either of the following:~~

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

36 (B) ~~A person who imports a mattress into the United States that~~
37 ~~is sold or offered for sale in the state and that is manufactured or~~
38 ~~renovated by a person who does not have a presence in the United~~
39 ~~States.~~

1 (e) ~~“Mattress” means a large pad of twin size or larger that is~~
2 ~~four or more inches thick filled with resilient material, including~~
3 ~~a pad incorporating coiled springs, used as a bed or part of a bed,~~
4 ~~including, but not limited to, an inner spring mattress, a foam~~
5 ~~mattress, and a box spring and mattress used in conjunction with~~
6 ~~a futon frame.~~

7 (d) (1) ~~“Mattress recovery and recycling plan” or “plan” means~~
8 ~~a plan submitted to the department pursuant to this chapter.~~

9 (2) ~~“Initial plan” means the mattress recovery and recycling~~
10 ~~plan submitted to the department pursuant to Section 42987.~~

11 (3) ~~“Final plan” means the mattress recovery and recycling plan~~
12 ~~submitted to the department pursuant to Section 42988.~~

13 (e) ~~“Penalty account” means the Mattress Recovery and~~
14 ~~Recycling Penalty Account established pursuant to Section 42994.~~

15 (f) ~~“Recycle” or “recycling” has the same meaning as defined~~
16 ~~in Section 40180.~~

17 (g) ~~“Retailer” means a person who sells mattresses in the state~~
18 ~~or offers to consumers mattresses in the state through any means,~~
19 ~~including, but not limited to, by remote offering such as sales~~
20 ~~outlets or catalogs. “Retailer” does not include a person who sells~~
21 ~~mattresses through the Internet.~~

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

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

28 (j) ~~“Wholesaler” means a person who sells mattresses in the~~
29 ~~state to a retailer.~~

30 ~~42987. (a) On or before April 1, 2013, a manufacturer of~~
31 ~~mattresses sold in this state shall, individually, collectively, or~~
32 ~~through a stewardship organization, submit an initial mattress~~
33 ~~recovery and recycling plan to the department in an electronic~~
34 ~~format that ensures that the manufacturer will be responsible for~~
35 ~~the collection and recycling of waste mattresses generated by~~
36 ~~consumers purchasing a new mattress. The initial plan shall include~~
37 ~~a description of activities that the manufacturer or stewardship~~
38 ~~organization shall undertake as part of the plan and shall require~~
39 ~~a manufacturer to do all of the following:~~

1 ~~(1) Ensure that when a new mattress is delivered to a consumer~~
2 ~~by a retailer, the consumer is given the option of having a waste~~
3 ~~mattress picked up for recycling at the time of delivery, at no~~
4 ~~additional cost to the consumer or retailer.~~

5 ~~(2) Ensure that when a new mattress is purchased and picked~~
6 ~~up by a consumer, the consumer is given a voucher that provides~~
7 ~~for the manufacturer to arrange for the drop-off and recycling of~~
8 ~~a waste mattress at a local solid waste or recycling facility at no~~
9 ~~additional cost to the consumer, retailer, or facility.~~

10 ~~(3) Otherwise provide consumers with convenient opportunities~~
11 ~~to properly dispose of their waste mattress.~~

12 ~~(b) The department shall post the initial plan on its Internet Web~~
13 ~~site.~~

14 ~~(c) On and after July 1, 2013, a manufacturer shall implement~~
15 ~~the initial plan submitted pursuant to subdivision (a).~~

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

18 ~~42988. (a) On or before April 1, 2014, a manufacturer of~~
19 ~~mattresses sold in this state shall, individually, collectively, or~~
20 ~~through a stewardship organization, submit a final mattress~~
21 ~~recovery and recycling plan to the department that includes the~~
22 ~~requirements of this section.~~

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

25 ~~(1) Provisions to ensure that when new mattresses are delivered~~
26 ~~to a consumer, the consumer is given the option of having an~~
27 ~~equivalent number of waste mattresses picked up for recovery at~~
28 ~~the time of delivery, at no additional cost to the consumer or~~
29 ~~retailer, in accordance with Section 42989.~~

30 ~~(2) Arrangements, when new mattresses are sold to a consumer,~~
31 ~~for the drop-off of an equivalent number of waste mattresses at a~~
32 ~~recycling facility at no additional cost to the consumer or retailer.~~

33 ~~(3) Techniques designed to prevent and mitigate the illegal~~
34 ~~discarding of waste mattresses.~~

35 ~~(4) Arrangements for the pickup of waste mattresses that have~~
36 ~~been accepted at solid waste facilities and for the delivery of those~~
37 ~~waste mattresses to a recycling facility.~~

38 ~~(5) Policies to ensure there are adequate and convenient~~
39 ~~opportunities for the collection, acceptance, and recovery for~~
40 ~~recycling of waste mattresses in low-income, rural, and other~~

1 communities where illegal dumping of waste mattresses has been
2 a historical problem.

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

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

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

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

12 ~~(7) Provisions for a financial mechanism for implementing the~~
13 ~~plan.~~

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

18 ~~42989. On and after July 1, 2014, a retailer shall offer the~~
19 ~~consumer the option to have a waste mattress picked up for~~
20 ~~recovery at the time of delivery, at no additional cost to the~~
21 ~~consumer, if a new mattress is being delivered to the consumer.~~
22 ~~A retailer may contract out to a third-party entity for the pickup~~
23 ~~of waste mattresses.~~

24 ~~42990. (a) A manufacturer or retailer shall not sell or offer for~~
25 ~~sale a mattress to any person in this state unless the manufacturer~~
26 ~~of that mattress is in compliance with this chapter.~~

27 ~~(1) (A) On and after August 1, 2014, if a manufacturer is not~~
28 ~~covered by an approved plan or a conditionally approved plan, as~~
29 ~~specified in Section 42991, the manufacturer shall not sell or offer~~
30 ~~for sale a mattress in the state.~~

31 ~~(B) For purposes of this paragraph, “covered” means the~~
32 ~~manufacturer has submitted a final plan to the department pursuant~~
33 ~~to Section 42988 either individually, collectively, or through a~~
34 ~~stewardship organization.~~

35 ~~(C) On August 1, 2014, or upon the date a final plan is approved~~
36 ~~or conditionally approved by the department, whichever date comes~~
37 ~~first, and every six months thereafter, the department shall post on~~
38 ~~its Internet Web site a list of manufacturers covered by a final plan~~
39 ~~that is approved or conditionally approved by the department~~
40 ~~pursuant to subdivision (a) of Section 42991.~~

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

11 ~~(2) (A) On or before July 1, 2013, and on or before January 1~~
12 ~~and July 1 annually thereafter, the department shall post a notice~~
13 ~~on its Internet Web site listing manufacturers that are in compliance~~
14 ~~with this chapter.~~

15 ~~(B) A manufacturer that is not listed on the department's Internet~~
16 ~~Web site pursuant to this paragraph, but demonstrates to the~~
17 ~~satisfaction of the department that the manufacturer is in~~
18 ~~compliance with this chapter before the next notice is required to~~
19 ~~be posted, may request a certification letter from the department~~
20 ~~stating that the manufacturer is in compliance. A manufacturer~~
21 ~~that receives a letter pursuant to this paragraph shall be deemed~~
22 ~~to be in compliance with this chapter and the department shall~~
23 ~~include the manufacturer on the list specified in subparagraph (A).~~

24 ~~(3) A wholesaler or retailer that distributes or sells mattresses~~
25 ~~shall monitor the department's Internet Web site to determine if~~
26 ~~the manufacturer is a covered manufacturer or in compliance with~~
27 ~~the requirements of this chapter. A wholesaler or retailer otherwise~~
28 ~~in compliance with this chapter shall be deemed in compliance~~
29 ~~with this section if, on the date the wholesaler or retailer ordered~~
30 ~~or purchased a mattress, the manufacturer was listed as a covered~~
31 ~~or compliant manufacturer on the department's Internet Web site~~
32 ~~pursuant to paragraph (1) or (2) or within five calendar days of the~~
33 ~~department posting its notice on January 1 or July 1.~~

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

38 ~~(b) A manufacturer is in compliance with this chapter if the~~
39 ~~manufacturer complies with the following requirements, as~~
40 ~~applicable:~~

1 ~~(1) On or before April 1, 2013, submits an initial mattress~~
2 ~~recovery and recycling plan to the department pursuant to Section~~
3 ~~42987.~~

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

6 ~~(3) On and after July 1, 2014, implements a final plan that the~~
7 ~~department has approved or conditionally approved pursuant to~~
8 ~~Section 42991.~~

9 ~~42991. (a) The department shall review a final plan submitted~~
10 ~~pursuant to Section 42988 and within 90 days of receipt shall~~
11 ~~approve, disapprove, or conditionally approve the plan. If a final~~
12 ~~plan is disapproved, the department shall remove the name of the~~
13 ~~manufacturer from the department's Internet Web site specified~~
14 ~~in subparagraph (A) of paragraph (2) of subdivision (a) of Section~~
15 ~~42990.~~

16 ~~(b) The department shall review the annual report required~~
17 ~~pursuant to Section 42993 and within 90 days of receipt shall adopt~~
18 ~~a finding of compliance or noncompliance with this chapter.~~

19 ~~(1) If the department determines that a manufacturer or~~
20 ~~stewardship organization is not meeting the requirements of this~~
21 ~~chapter, the department may require that the manufacturer or~~
22 ~~stewardship organization to amend and resubmit the plan within~~
23 ~~90 days of the department's determination.~~

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

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

37 ~~42992. (a) A manufacturer or stewardship organization~~
38 ~~submitting a final mattress recovery and recycling plan shall pay~~
39 ~~the department a quarterly administrative fee, as determined by~~
40 ~~the department.~~

1 (b) ~~The amount of the administrative fee imposed pursuant to~~
2 ~~subdivision (a) shall be established by the department for the~~
3 ~~reasonable regulatory costs to the department incident to~~
4 ~~performing any audits and inspections necessary to enforce the~~
5 ~~provisions of this chapter and for the administrative enforcement~~
6 ~~costs and adjudication thereof.~~

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

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

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

26 (a) ~~Quantitative information on progress in achieving the waste~~
27 ~~mattress program activities specified in paragraphs (1) and (2) of~~
28 ~~subdivision (b) of Section 42988.~~

29 (b) ~~Calculations of progress in achieving the recycling goals~~
30 ~~specified in paragraph (6) of subdivision (b) of Section 42988,~~
31 ~~consistent with the methodology adopted pursuant to that~~
32 ~~paragraph.~~

33 (c) ~~A description of achievement in the program techniques~~
34 ~~specified in paragraph (3) of subdivision (b) of Section 42988.~~

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

- 1 ~~(e) A description of methods used to collect, transport, and~~
2 ~~process waste mattresses in this state.~~
- 3 ~~(f) Examples of any educational materials provided to consumers~~
4 ~~the first year of implementing the plan and any changes to those~~
5 ~~materials in subsequent years.~~
- 6 ~~(g) Other information relevant to compliance with the plan.~~
- 7 ~~42994. (a) The department may impose an administrative civil~~
8 ~~penalty on any person who is in violation of this chapter. The~~
9 ~~amount of the civil penalty shall not exceed one thousand dollars~~
10 ~~(\$1,000) per day, but if the violation is intentional, knowing, or~~
11 ~~negligent, the department may impose a civil penalty of not more~~
12 ~~than ten thousand dollars (\$10,000) per day.~~
- 13 ~~(b) In assessing or reviewing the amount of a civil penalty~~
14 ~~imposed pursuant to subdivision (a) for a violation of this chapter,~~
15 ~~the department or the court shall consider all of the following:~~
- 16 ~~(1) The nature and extent of the violation.~~
- 17 ~~(2) The number and severity of the violation or violations.~~
- 18 ~~(3) The economic effect of the penalty on the violator.~~
- 19 ~~(4) Whether the violator took good faith measures to comply~~
20 ~~with this chapter and the period of time over which these measures~~
21 ~~were taken.~~
- 22 ~~(5) The willfulness of the violator's misconduct.~~
- 23 ~~(6) The deterrent effect that the imposition of the penalty would~~
24 ~~have on both the violator and the regulated community.~~
- 25 ~~(7) Any other factor that justice may require.~~
- 26 ~~(e) The department shall deposit all penalties collected pursuant~~
27 ~~to this section into the Mattress Recovery and Recycling Penalty~~
28 ~~Account, which is hereby established in the Integrated Waste~~
29 ~~Management Fund. Upon appropriation by the Legislature, moneys~~
30 ~~in the penalty account shall be expended by the department to~~
31 ~~implement this chapter.~~