

AMENDED IN SENATE MARCH 24, 2014

**SENATE BILL**

**No. 1274**

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**Introduced by ~~Senator~~ *Senators Hancock and Correa***

February 21, 2014

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An act to amend Sections 42986, 42987, 42987.1, 42989.1, 42990, 42991, 42993.1, 42993.2, 42993.3, and 42993.4 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, as amended, Hancock. Recycling: used mattresses.

(1) Existing law, the Used Mattress Recovery and Recycling Act, requires a mattress recycling organization to be established by a qualified industry association to develop, implement, and administer a mattress recycling program, including the development of a state plan by July 1, 2015, for recycling used mattresses in the state that includes specified goals and elements. The plan is required to include an element that ensures that urban and rural local governments and participating solid waste facilities that accept mattresses are provided with a mechanism for the recovery of illegally disposed used mattresses that is funded at no additional cost to the local government or solid waste facility, as provided.

This bill would require that element to ensure that urban and rural local governments and participating permitted solid waste facilities and authorized solid waste operations that accept mattresses are provided with the above mechanism.

The plan is also required to include a provision that allows an individual to drop off a mattress, at no charge, at a mattress recycling center, permitted solid waste facility, or other municipal facility that

accepts mattresses, and for the payment of a reasonable amount to that municipal or solid waste facility.

This bill would authorize an individual to also drop off a mattress at a recycler, renovator, authorized solid waste operation, or other municipal facility that accepts mattresses consistent with solid waste regulations. The bill would also require the payment amount to be determined as reasonable by the municipal facility or solid waste facility or operation and the mattress recycling organization.

For purposes of the act, existing law defines a solid waste facility to mean a facility that accepts, under its normal operating conditions, used mattresses from the public for collection, storing, and handling, whether for recycling or disposal.

This bill would instead define a solid waste facility as including a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, an EMSW conversion facility, and a disposal facility, as provided.

*(2) The act requires, commencing 90 days after the date the department approves or conditionally approves the mattress recycling plan, each manufacturer, renovator, retailer, or distributor that sells a mattress to add a charge to the purchase price of the mattress, as provided. Existing law requires the department to approve or disprove a final used mattress recycling program budget.*

*This bill would instead require, commencing 90 days after the date the department approves the budget, each manufacturer, renovator, retailer, or distributor that sells a mattress to add a charge to the purchase price of the mattress, as provided.*

~~(2)~~

(3) The act requires the mattress recycling organization to arrange for an audit conducted by a independent certified public accountant to be delivered to the department, allows the mattress recycling organization to obtain copies of that audit, and prohibits the department from disclosing any confidential proprietary information in the audit. The department is authorized to conduct its own audit if it determines that an audit is necessary. The act also requires a mattress recycler or mattress renovator to submit an annual report to the department, which the department is required to make public.

This bill would instead prohibit the department from disclosing any confidential proprietary information in the audit that the department is authorized to conduct, would instead allow the mattress recycling organization to obtain copies of that audit, and would also prohibit the

department from disclosing this confidential information in the annual report submitted by recyclers and renovators.

(3)

(4) The act authorizes the department to impose an administrative civil penalty on a manufacturer, organization, recycler, renovator, or retailer in violation of the act and to take other specified enforcement actions. The department is required to deposit these penalties into the Mattress Recovery and Recycling Penalty Account, which is available for expenditure by the department, upon appropriation by the Legislature, to implement and enforce the act and for offsetting certain costs reimbursed by the mattress recycling organization.

This bill would additionally authorize the department to impose civil penalties against distributors and to take those specified enforcement actions against distributors and recyclers. The bill would delete the authorization for the expenditure of these penalties to offset those reimbursed costs. The bill would also make technical and clarifying changes.

(4)

(5) Existing law authorizes the department to adopt emergency regulations relating to the used mattress recovery and recycling plan and the program budget. Existing law prohibits the department from adopting regulations with regard to any other provision of the act.

This bill would prohibit the department from adopting emergency regulations with regard to any other provision of the act.

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. Section 42986 of the Public Resources Code is
- 2 amended to read:
- 3 42986. For purposes of this chapter, the following definitions
- 4 shall apply:
- 5 (a) (1) “Consumer” means an owner of a mattress, including a
- 6 person, business, corporation, limited partnership, nonprofit
- 7 organization, or governmental entity, and including the ultimate
- 8 purchaser, owner, or lessee of a mattress.
- 9 (2) “Consumer” does not include a government organization or
- 10 other party that obtains one or more used mattresses in the course
- 11 of collecting used mattresses for recycling for purposes of this

1 chapter, or through the ordinary collection and handling of  
2 municipal solid waste.

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

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

10 (d) “Good faith effort” means all reasonable and economically  
11 practical efforts by a mattress recycling organization to implement  
12 the components identified in its approved plan consistent with its  
13 annual budget.

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

19 (f) (1) “Manufacturer” means any of the following:

20 (A) The person who manufactures a mattress and who sells,  
21 offers for sale, or distributes a mattress in the state.

22 (B) If there is no person who is a manufacturer of a mattress  
23 for purposes of subparagraph (A), the manufacturer is the person  
24 who imports the mattress into the state for sale or distribution.

25 (2) Except as provided pursuant to paragraph (2) of subdivision  
26 (b) of Section 42987, a retailer that brings a mattress into its store  
27 locations from an out-of-state warehouse or distribution center is  
28 not a manufacturer.

29 (g) (1) “Mattress” means a resilient material or combination of  
30 materials that is enclosed by a ticking, is used alone or in  
31 combination with other products, and is intended for or promoted  
32 for sleeping upon.

33 (2) “Mattress” includes a foundation and a renovated mattress  
34 or renovated foundation.

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

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

39 (B) A sleeping bag or pillow.

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

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

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

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

9 (h) “Mattress recycling organization” or “organization” means  
10 an organization exempt from taxation under Section 501(c)(3) or  
11 Section 501(c)(6) of the Internal Revenue Code of 1986, that is  
12 established by a qualified industry association, composed of  
13 manufacturers, renovators, and retailers, and certified pursuant to  
14 Section 42987, to develop, implement, and administer the mattress  
15 recycling program established pursuant to this chapter.

16 (i) “Used mattress recovery and recycling plan” or “plan” means  
17 the plan for recycling used mattresses that is developed by the  
18 mattress recycling organization pursuant to this chapter.

19 (j) “Program” or “used mattress recycling program” means the  
20 program implemented by the mattress recycling organization  
21 pursuant to a plan approved by the department.

22 (k) “Qualified industry association” means the International  
23 Sleep Products Association or a successor of that organization, or  
24 a group of mattress manufacturers that collectively represent at  
25 least 35 percent of the volume of mattresses manufactured in the  
26 United States.

27 (l) “Recycle” or “recycling” has the same meaning as defined  
28 in Section 40180.

29 (m) “Recycler” means a person that engages in the manual or  
30 mechanical separation of mattresses to substantially recover  
31 components and commodities contained in mattresses for the  
32 purpose of reuse or recycling.

33 (n) “Recycling charge” or “charge” means the charge imposed  
34 on the sale of a new or renovated mattress at the point of sale and  
35 collected by the organization to fund the recycling of used  
36 mattresses pursuant to this chapter.

37 (o) (1) “Renovate” or “renovation” means altering a used  
38 mattress for the purpose of resale and includes one or more of the  
39 following:

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

1 (B) Adding additional filling.

2 (C) Rebuilding a used mattress.

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

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

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

11 (B) Sterilizing or sanitizing a mattress without otherwise altering  
12 the mattress.

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

15 (D) Refurbishing that disqualifies a mattress for a yellow  
16 wholesale renovator tag to be affixed to the mattress, in accordance  
17 with the regulations adopted by the Department of Consumer  
18 Affairs.

19 (p) “Renovator” means a person who renovates used mattresses  
20 for the purpose of sale, or offering for sale, in this state.

21 (q) “Retailer” means a person who sells mattresses in the state  
22 or offers to a consumer a mattress in the state through any means,  
23 including, but not limited to, by remote offering, including sales  
24 outlets or catalogs, electronically through the Internet, by  
25 telephone, or through the mail.

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

33 (s) “Solid waste facility” has the same meaning as that term is  
34 defined in Section 40194.

35 (t) (1) “Ticking” means the outermost layer of fabric or related  
36 material of a mattress.

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

1 (u) “Used mattress” means a mattress that has been abandoned  
2 or discarded by a consumer.

3 SEC. 2. Section 42987 of the Public Resources Code is  
4 amended to read:

5 42987. (a) (1) A qualified industry association or a successor  
6 organization may establish a mattress recycling organization for  
7 purposes of this chapter, which shall be composed of  
8 manufacturers, renovators, and retailers and be certified pursuant  
9 to this section to develop, implement, and administer the mattress  
10 recycling program established pursuant to this chapter.

11 (2) Within 60 days of receipt of a request for certification, the  
12 department shall notify the requesting qualified industry association  
13 of the department’s decision whether or not to certify that a  
14 mattress recycling organization has been established by the  
15 qualified industry association or successor organization and is  
16 composed of manufacturers, renovators, and retailers for purposes  
17 of establishing the mattress recycling plan.

18 (3) Prior to certification by the department, the department’s  
19 director shall appoint an advisory committee to be part of the  
20 mattress recycling organization.

21 (A) The advisory committee may be comprised of members of  
22 the environmental community, solid waste industry, local  
23 government, and public and private representatives involved in  
24 the collection, processing and recycling of used mattresses, and  
25 other interested parties.

26 (B) The mattress recycling organization shall consult the  
27 advisory committee at least once during the development and  
28 implementation of the plan required pursuant to Section 42987.1,  
29 and annually prior to the submittal of both an annual report required  
30 pursuant to Section 42990.1 and an annual budget required pursuant  
31 to Section 42988.

32 (b) (1) Each manufacturer, retailer, and renovator shall register  
33 with the mattress recycling organization.

34 (2) A retailer may register with the mattress recycling  
35 organization as a manufacturer for a brand for which there is not  
36 a registered manufacturer.

37 (c) On and after January 1, 2016, a retailer shall not sell,  
38 distribute, or offer for sale a mattress in the state unless the retailer  
39 is in compliance with this chapter and the manufacturer or

1 renovator of the mattress sold by the retailer is listed in compliance  
2 with this chapter.

3 (d) On and after January 1, 2016, a manufacturer or renovator  
4 shall not sell, offer for sale, or import a mattress in this state, or  
5 sell or distribute a mattress to a distributor or retailer, unless the  
6 manufacturer or renovator is in compliance with this chapter.

7 SEC. 3. Section 42987.1 of the Public Resources Code is  
8 amended to read:

9 42987.1. On or before July 1, 2015, the mattress recycling  
10 organization shall develop and submit to the department a plan for  
11 recycling used mattresses in the state in an economically efficient  
12 and practical manner that includes all of the following goals and  
13 elements:

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

16 (b) The names of manufacturers, renovators, and brands covered  
17 under the plan.

18 (c) A consultation process with affected stakeholders, including,  
19 but not limited to, local government representatives, recyclers, and  
20 solid waste industry representatives.

21 (d) Methods to increase the number of used mattresses diverted  
22 from landfills, reduce the number of illegally dumped used  
23 mattresses, and increase the quantity of used materials recovered  
24 through this process and recycled for other uses.

25 (e) (1) The establishment and administration of a means for  
26 funding the plan in a manner that distributes the mattress recycling  
27 organization’s costs uniformly over all mattresses sold in the state.

28 (2) The funding mechanism shall provide sufficient funding for  
29 the mattress recycling organization to carry out the plan, including  
30 the administrative, operational, and capital costs of the plan.

31 (f) The publishing of an annual report for each calendar year of  
32 operation.

33 (g) Conducting research, as needed, related to improving used  
34 mattress collection, dismantling, and recycling operations,  
35 including pilot programs to test new processes, methods, or  
36 equipment on a local, regional, or otherwise limited basis.

37 (h) A program performance measurement that shall collect  
38 program data for the purpose of the annual report. The information  
39 shall include:

1 (1) A methodology for estimating the amount of mattresses sold  
2 in the state, used mattresses available for collection in the state,  
3 and for quantifying the number of used mattresses collected and  
4 recycled in the state.

5 (2) A methodology for determining mattresses sold in the state  
6 by the manufacturers and renovators of the mattress recycling  
7 organization.

8 (i) A description of methods used to coordinate activities with  
9 existing used mattress collecting and recycling programs, including  
10 existing nonprofit mattress recyclers, and with other relevant parties  
11 as appropriate, with regard to the proper management or recycling  
12 of discarded or abandoned mattresses, for purposes of providing  
13 the efficient delivery of services and avoiding unnecessary  
14 duplication of effort and expense.

15 (j) Entering into contracts or agreements, which may include  
16 contracts and agreements with existing nonprofit or for-profit  
17 recyclers, that are necessary and proper for the mattress recycling  
18 organization to carry out these duties consistent with the terms of  
19 this chapter.

20 (k) Establishment of a financial incentive to encourage parties  
21 to collect for recycling used mattresses discarded or illegally  
22 dumped in the state.

23 (l) Ensuring, to the maximum extent possible, that urban and  
24 rural local governments and participating permitted solid waste  
25 facilities and authorized solid waste operations that accept  
26 mattresses are provided with a mechanism for the recovery of  
27 illegally disposed used mattresses that is funded at no additional  
28 cost to the local government, solid waste facility, or solid waste  
29 operation.

30 (m) Developing processes to collect used mattresses from  
31 low-income communities for recycling in accordance with the  
32 poverty line annually established by the Secretary of California  
33 Health and Human Services pursuant to the federal Omnibus  
34 Budget Reconciliation Act of 1981 (Public Law 97-35), as  
35 amended.

36 (n) Providing outreach efforts and education to consumers,  
37 manufacturers, and retailers, for the purpose of promoting the  
38 recycling of used mattresses and options available to consumers  
39 for the free dropoff of used mattresses.

1 (o) A provision that allows an individual to drop off, at no  
2 charge, a mattress at a recycler, renovator, mattress recycling  
3 center, permitted solid waste facility, authorized solid waste  
4 operation, or other municipal facility that accepts mattresses  
5 consistent with state solid waste regulations, and that provides for  
6 the payment to a municipal or solid waste facility or operation that  
7 accepts mattresses an amount determined by the municipal or solid  
8 waste facility or operation and the mattress recycling organization  
9 to be reasonable for accepting, collecting, storing, transporting,  
10 and handling used mattresses.

11 (p) Ensuring that the impact of Article XIII C of the California  
12 Constitution is addressed for local governments participating in  
13 the program.

14 (q) A report from the advisory committee, established pursuant  
15 to paragraph (3) of subdivision (a) of Section 42987, which  
16 includes a summary of the consultative process between the  
17 advisory committee and the mattress recycling organization during  
18 the development of the plan, as well as any other information  
19 deemed pertinent by the advisory committee to maximizing the  
20 recovery and recycling of used mattresses in the state.

21 (r) Other information requested by the department that is  
22 reasonably related to compliance with the recycling plan and that  
23 the organization can reasonably compile.

24 *SEC. 4. Section 42989.1 of the Public Resources Code is*  
25 *amended to read:*

26 42989.1. (a) Commencing 90 days after the date the department  
27 approves ~~or conditionally approves the plan~~ *budget* pursuant to  
28 ~~Section 42987.3~~ *42988.1*, each manufacturer, renovator, retailer,  
29 or distributor that sells a mattress to a consumer or to the ultimate  
30 end user of the mattress in the state shall add the charge to the  
31 purchase price of the mattress and shall remit the charge collected  
32 to the mattress recycling organization.

33 (b) In each transaction described in subdivision (a), the charge  
34 shall be clearly visible on the invoice, receipt, or functionally  
35 equivalent billing document provided by the seller to the consumer  
36 as a separate line item.

37 (c) The mattress recycling organization shall develop  
38 reimbursement criteria to enable retailers to recover administrative  
39 costs associated with collecting the charge.

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

4 ~~SEC. 4.~~

5 *SEC. 5.* Section 42990 of the Public Resources Code is  
6 amended to read:

7 42990. (a) The mattress recycling organization shall keep  
8 minutes, books, and records that clearly reflect the activities and  
9 transactions of the mattress recycling organization.

10 (b) The accounting books of the mattress recycling organization  
11 shall be audited at the organization's expense by an independent  
12 certified public accountant retained by the organization at least  
13 once each calendar year.

14 (c) The mattress recycling organization shall arrange for the  
15 audit to be delivered to the department, along with the annual  
16 report required pursuant to Section 42990.1. The department shall  
17 review the audit for compliance with this chapter and consistency  
18 with the plan created pursuant to this chapter. The department shall  
19 notify the mattress recycling organization of any compliance issues  
20 or inconsistencies. The department shall not disclose any  
21 confidential proprietary information in the audit.

22 (d) The department may conduct its own audit if it determines  
23 that an audit is necessary to enforce the requirements of this chapter  
24 and that the audit conducted pursuant to subdivision (b) is not  
25 adequate for this purpose. The mattress recycling organization  
26 may obtain copies of the audit upon request. The department shall  
27 not disclose any confidential proprietary information in the audit.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 42991 of the Public Resources Code is  
30 amended to read:

31 42991. (a) On or before July 1, 2017, and annually thereafter,  
32 a person that is engaged in business as a recycler or renovator shall  
33 submit a report to the department that includes the following:

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

37 (2) Other information deemed necessary by the department that  
38 is reasonably related to compliance with this chapter and that can  
39 be reasonably compiled.

1 (b) For purposes of determining the used mattress recycling  
 2 rate, on or before July 1, 2017, and annually thereafter, an operator  
 3 of a solid waste facility or operation, shall report to the department,  
 4 if requested, in a form and manner determined by the department,  
 5 regarding the number of used mattresses received by that facility  
 6 that were recycled, renovated, or disposed of within the state in  
 7 the preceding calendar year.

8 (c) The department shall make the information provided pursuant  
 9 to this section available to interested parties and to the public. The  
 10 department shall not disclose any confidential proprietary  
 11 information.

12 ~~SEC. 6.~~

13 *SEC. 7.* Section 42993.1 of the Public Resources Code is  
 14 amended to read:

15 42993.1. (a) The department may impose an administrative  
 16 civil penalty on any manufacturer, mattress recycling organization,  
 17 distributor, recycler, renovator, or retailer that is in violation of  
 18 this chapter. The amount of the administrative civil penalty shall  
 19 not exceed five hundred dollars (\$500) per day, but, if the violation  
 20 is intentional, knowing, or reckless, the department may impose  
 21 an administrative civil penalty of not more than five thousand  
 22 dollars (\$5,000) per day.

23 (b) The department shall not impose a penalty on the mattress  
 24 recycling organization pursuant to this section for a failure to  
 25 comply with this chapter if the organization demonstrates it  
 26 received false or misleading information from a member of the  
 27 organization or other party that was the direct cause of its failure  
 28 to comply.

29 (c) The department shall deposit all penalties collected pursuant  
 30 to this section into the Mattress Recovery and Recycling Penalty  
 31 Account, which is hereby created in the Used Mattress Recycling  
 32 Fund. Upon appropriation by the Legislature, moneys deposited  
 33 into the Mattress Recovery and Recycling Penalty Account shall  
 34 be expended by the department to administer and enforce this  
 35 chapter.

36 ~~SEC. 7.~~

37 *SEC. 8.* Section 42993.2 of the Public Resources Code is  
 38 amended to read:

39 42993.2. Upon a written finding that a manufacturer, mattress  
 40 recycling organization, renovator, distributor, recycler, or retailer

1 has not met a material requirement of this chapter, in addition to  
2 any other penalties authorized under this chapter, the department  
3 may take any of the following actions, after affording the  
4 manufacturer, organization, renovator, or retailer a reasonable  
5 opportunity to respond to, or rebut, the finding, to ensure  
6 compliance with the requirements of this chapter:

7 (a) Revoke the mattress recycling organization’s plan approval  
8 or require the mattress recycling organization to resubmit the plan.

9 (b) Remove the manufacturer or renovator from the department’s  
10 Internet Web site and list of compliant manufacturers and  
11 renovators, as specified in Section 42993.

12 (c) Require additional reporting requirements relating to  
13 compliance with the material requirement identified by the  
14 department.

15 ~~SEC. 8.~~

16 *SEC. 9.* Section 42993.3 of the Public Resources Code is  
17 amended to read:

18 42993.3. (a) A manufacturer, renovator, distributor, recycler,  
19 retailer, and mattress recycling organization shall do both of the  
20 following:

21 (1) Upon request, provide the department with reasonable and  
22 timely access, as determined by the department and as authorized  
23 pursuant to Title 13 (commencing with Section 1822.50) of Part  
24 3 of the Code of Civil Procedure, to its facilities and operations,  
25 as necessary to determine compliance with this chapter.

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

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

32 (c) The department may take disciplinary action against a  
33 manufacturer, renovator, distributor, recycler, retailer, or mattress  
34 recycling organization if the manufacturer, renovator, distributor,  
35 recycler, retailer, or mattress recycling organization fails to provide  
36 the department with the access required pursuant to this section,  
37 including, but not limited to, imposing penalties pursuant to Section  
38 42993.1 and posting an immediate notice on the department’s  
39 Internet Web site pursuant to Section 42993 that the manufacturer  
40 or renovator is no longer in compliance with this chapter.

1     ~~SEC. 9.~~

2     *SEC. 10.* Section 42993.4 of the Public Resources Code is  
3 amended to read:

4     42993.4. (a) (1) The department may adopt emergency  
5 regulations to implement this chapter with regard to establishing  
6 a process for the submission of the used mattress recovery and  
7 recycling plan to the department, and the approval of that plan,  
8 pursuant to Section 42987.3 and for the submission of the proposed  
9 used mattress recycling program budget to the department, and  
10 the approval of the budget by the department, pursuant to Sections  
11 42988 and 42988.1.

12     (2) The department shall not adopt emergency regulations  
13 pursuant to this section with regard to any other provision of this  
14 chapter.

15     (3) This section does not limit the department’s authority to  
16 adopt regulations pursuant to Section 40502.

17     (b) The emergency regulations adopted pursuant to this section  
18 shall be adopted in accordance with Chapter 3.5 (commencing  
19 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
20 Government Code, and for the purposes of that chapter, including  
21 Section 11349.6 of the Government Code, the adoption of these  
22 regulations is an emergency and shall be considered by the Office  
23 of Administrative Law as necessary for the immediate preservation  
24 of the public peace, health, safety, and general welfare.  
25 Notwithstanding Chapter 3.5 (commencing with Section 11340)  
26 of Part 1 of Division 3 of Title 2 of the Government Code, any  
27 emergency regulations adopted by the department pursuant to this  
28 section shall be filed with the Office of Administrative Law.

O