

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 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 require a manufacturer of mattresses sold in this state, individually, collectively, or through a designated third party, to submit a mattress recovery and recycling plan to the Department of Resources Recycling and Recovery by April 1, 2013. 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.

The bill would require a retailer of mattresses, *as defined*, on and after July 1, 2013, to offer the consumer the option of picking up ~~an equivalent~~ a 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 bill would require a manufacturer submitting a mattress recovery and recycling plan to pay the department an annual 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

1 management of used mattresses, the Used Mattress Recovery and
2 Recycling Act is hereby established by this chapter to require
3 manufacturers of mattresses sold in this state to develop, finance,
4 and implement a convenient and cost-effective program to collect
5 and recycle used mattresses generated in this state.

6 (2) Consistent with existing state policy, the program developed
7 and implemented by manufacturers of mattresses sold in this state
8 shall be capable of the recovery and recycling of at least 75 percent
9 of used mattresses generated in this state annually on and after
10 January 1, 2020.

11 (b) This chapter shall be known, and may be cited, as the “Used
12 Mattress Recovery and Recycling Act.”

13 42986. For the purposes of this chapter, the following terms
14 have the following meanings:

15 (a) “Account” means the Mattress Recovery and Recycling
16 Account established pursuant to Section 42991.

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

20 (2) Manufacturer includes either of the following:

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

24 (B) A person who imports a mattress into the United States that
25 is sold or offered for sale in the state and that is manufactured or
26 renovated by a person who does not have a presence in the United
27 States.

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

34 (d) “Mattress recovery and recycling plan” or “plan” means a
35 plan submitted to the department pursuant to Section 42987.

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

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

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

(h) “Used mattress” means a mattress that is no longer wanted by its owner and is discarded or is intended to be discarded.

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

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

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

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

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

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

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

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

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

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

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

3 (7) Provisions for a financial mechanism for implementing the
4 plan.

5 (c) A manufacturer, individually or through a designated third
6 party, may coordinate with local governments, solid waste
7 facilities, retailers, and mattress recyclers to achieve the purposes
8 of this chapter.

9 42988. On and after July 1, 2013, a retailer shall offer the
10 consumer the option to have ~~an equivalent~~ a used mattress picked
11 up for recovery at the time of delivery, at no additional cost to the
12 consumer, if a new mattress is being delivered to the consumer.
13 A retailer may contract out to a third-party entity for the pickup
14 of used mattresses.

15 42989. (a) A manufacturer or retailer shall not sell or offer for
16 sale a mattress to any person in this state unless the manufacturer
17 of that mattress is in compliance with this chapter.

18 (b) A manufacturer is in compliance with this chapter if the
19 manufacturer complies with the following requirements:

20 (1) On or before April 1, 2013, submits a mattress recovery and
21 recycling plan to the department.

22 (2) On and after July 1, 2013, implements a plan that the
23 department has determined is in compliance with this chapter.

24 42990. The department shall review a mattress recovery and
25 recycling plan submitted pursuant to Section 42987 and within 90
26 days of receipt shall adopt a finding of the plan's compliance or
27 noncompliance with this chapter.

28 42991. (a) A manufacturer submitting a mattress recovery and
29 recycling plan shall pay the department an annual administrative
30 fee, as determined by the department.

31 (b) The amount of the administrative fee imposed pursuant to
32 subdivision (a) shall be established by the department for the
33 reasonable regulatory costs to the department incident to
34 performing any audits and inspections necessary to enforce the
35 provisions of this chapter and for the administrative enforcement
36 costs and adjudication thereof.

37 (c) In determining the amounts of the administrative fee imposed
38 pursuant to subdivision (a), the department may establish a variable
39 fee based on relevant factors, including, but not limited to, the
40 portion of mattresses sold in the state by individual manufacturers,

1 as compared to the total amount of mattresses sold in the state by
2 all manufacturers submitting a mattress recovery and recycling
3 plan.

4 (d) The administrative fees collected pursuant to this section
5 shall be deposited into the Mattress Recovery and Recycling
6 Account, which is hereby established in the Integrated Waste
7 Management Fund. Upon appropriation by the Legislature, moneys
8 in the account shall be expended by the department to implement
9 this chapter.

10 42992. (a) The department may impose an administrative civil
11 penalty on any person who is in violation of this chapter. The
12 amount of the civil penalty shall not exceed one thousand dollars
13 (\$1,000) per day, but if the violation is intentional, knowing, or
14 negligent, the department may impose a civil penalty of not more
15 than ten thousand dollars (\$10,000) per day.

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

- 19 (1) The nature and extent of the violation.
- 20 (2) The number and severity of the violation or violations.
- 21 (3) The economic effect of the penalty on the violator.
- 22 (4) Whether the violator took good faith measures to comply
23 with this chapter and the period of time over which these measures
24 were taken.
- 25 (5) The willfulness of the violator's misconduct.
- 26 (6) The deterrent effect that the imposition of the penalty would
27 have on both the violator and the regulated community.
- 28 (7) Any other factor that justice may require.

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 established in the Integrated Waste
32 Management Fund. Upon appropriation by the Legislature, moneys
33 in the penalty account shall be expended by the department to
34 implement this chapter.