

# HOUSE BILL 1117

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By: **Delegates Hill, Atterbeary, Ebersole, Hettleman, Krimm, Lafferty, Lam, Morhaim, Patterson, Sample–Hughes, Turner, K. Young, and P. Young**

Introduced and read first time: February 11, 2016

Assigned to: Environment and Transportation and Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Mattress Stewardship Program**

3 FOR the purpose of requiring certain producers of mattresses sold at retail in the State or  
4 a certain representative organization to submit a plan for the establishment of a  
5 Mattress Stewardship Program to the Department of the Environment for approval  
6 on or before a certain date and in accordance with certain requirements; requiring a  
7 certain plan to establish a certain assessment; prohibiting a certain assessment from  
8 exceeding certain costs; requiring certain assessments to be used for a certain  
9 purpose; requiring the Office of Recycling within the Department to review and  
10 approve certain plans, including a certain assessment, submitted in accordance with  
11 the Mattress Stewardship Program; requiring a producer or representative  
12 organization to pay a plan review fee, as determined by the Department; requiring  
13 certain fees to be deposited in the State Recycling Trust Fund; authorizing the Fund  
14 to be used to cover certain costs; requiring the Department to approve a certain plan  
15 under certain circumstances; requiring the Department to list certain producers and  
16 brands on its Web site under certain circumstances; requiring certain producers and  
17 retailers or distributors to add a certain assessment to the cost of all mattresses sold  
18 in the State beginning on a certain date; requiring a certain producer or  
19 representative organization to implement a certain program on or before a certain  
20 date; prohibiting a producer or retailer from selling or offering for sale certain  
21 mattresses under certain circumstances beginning on a certain date; requiring a  
22 certain producer or representative organization to provide consumers with certain  
23 educational materials in accordance with certain requirements; providing that  
24 certain retailers are in compliance with certain requirements under certain  
25 circumstances; providing that a certain producer or representative organization is  
26 immune from certain liability under certain circumstances; requiring a certain  
27 producer or representative organization to submit a certain report to the Department  
28 in accordance with certain requirements, on or before a certain date, and with a  
29 certain frequency thereafter; requiring the Department to keep certain data  
30 confidential; authorizing the Department to release certain summary data under

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain circumstances; defining certain terms; and generally relating to the Mattress  
2 Stewardship Program.

3 BY repealing and reenacting, with amendments,  
4 Article – Environment  
5 Section 9–1702 and 9–1707(f)  
6 Annotated Code of Maryland  
7 (2014 Replacement Volume and 2015 Supplement)

8 BY adding to  
9 Article – Environment  
10 Section 9–1733 and 9–1734 to be under the new part “Part V. Mattress Stewardship  
11 Program”  
12 Annotated Code of Maryland  
13 (2014 Replacement Volume and 2015 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Environment**

17 9–1702.

18 (a) There is an Office of Recycling created within the Department.

19 (b) The Secretary shall appoint a Director and sufficient staff to perform the  
20 functions of the Office. After July 1, 1989, the number of staff shall be as provided in the  
21 budget.

22 (c) The Secretary may adopt regulations to carry out the provisions of this  
23 subtitle.

24 (d) The Office shall:

25 (1) Assist the counties in developing an acceptable recycling plan required  
26 under § 9–1703 of this subtitle and § 9–505 of this title, including technical assistance to  
27 the local governments;

28 (2) Coordinate the efforts of the State to facilitate the implementation of  
29 the recycling goals at the county level;

30 (3) Review all recycling plans submitted as part of a county plan as  
31 required under § 9–505 of this title and advise the Secretary on the adequacy of the  
32 recycling plan; [and]

33 (4) Administer the Statewide Electronics Recycling Program under Part IV  
34 of this subtitle; **AND**

1           **(5) REVIEW AND APPROVE PLANS, INCLUDING THE MATTRESS**  
2 **STEWARDSHIP ASSESSMENT, SUBMITTED IN ACCORDANCE WITH A MATTRESS**  
3 **STEWARDSHIP PROGRAM ESTABLISHED UNDER PART V OF THIS SUBTITLE.**

4           (e) Beginning on January 1, 1990, and biannually thereafter, the Office shall, in  
5 coordination with the Maryland Environmental Service, study and report to the Governor  
6 and, subject to § 2-1246 of the State Government Article, the General Assembly on:

7           (1) The availability of local, national, and international markets for  
8 recycling materials;

9           (2) The identification and location of recycling centers, including an  
10 analysis of existing recycling centers and the need to expand these facilities or construct  
11 new recycling centers;

12           (3) Programs necessary to educate the public on the need to participate in  
13 recycling efforts;

14           (4) The economics and financing of existing and proposed systems of waste  
15 disposal and recycling;

16           (5) State procurement policies for the purchase of recycled materials;

17           (6) Programs necessary to reduce the amount of solid waste generated for  
18 disposal by a State agency or unit;

19           (7) The liaison role with local governments, the federal government, and  
20 the private sector;

21           (8) The percentage reduction in the amount of solid waste that has been  
22 achieved by each county; and

23           (9) Economically feasible methods for the recycling of scrap automobile  
24 tires, batteries, and white goods.

25           (f) (1) By December 1, 1988, the Office shall, in coordination with the  
26 Maryland Environmental Service and the Governor's Task Force on Solid Waste, make  
27 recommendations to the General Assembly for the financing of a comprehensive system of  
28 recycling at the State and local level, including funding for recycling centers, recycling  
29 equipment, recycling education, and marketing strategies.

30           (2) After the financing recommendations are made under paragraph (1) of  
31 this subsection, each county may submit to the Office and the Governor a detailed request  
32 for funds necessary to assist in the development and implementation of a recycling plan  
33 under guidelines developed by the Office.

1 (g) In studying feasible methods for the management and recycling of used tires  
2 under subsection (e)(9) of this section, the Office of Recycling shall consult with the  
3 appropriate industry, including representatives of:

4 (1) Tire manufacturers;

5 (2) Tire dealers; and

6 (3) Tire recyclers.

7 9–1707.

8 (f) (1) There is a State Recycling Trust Fund.

9 (2) The Fund shall consist of:

10 (i) The newsprint recycling incentive fee;

11 (ii) The telephone directory recycling incentive fee collected under  
12 § 9–1709 of this subtitle;

13 (iii) The covered electronic device manufacturer registration fee  
14 collected under § 9–1728 of this subtitle;

15 (iv) The mercury switch or mercury switch assembly removal fees  
16 collected under § 6–905.4(c)(6)(iii)3 of this article;

17 (v) **MATTRESS STEWARDSHIP PROGRAM PLAN REVIEW FEES**  
18 **COLLECTED UNDER § 9–1734 OF THIS SUBTITLE;**

19 [(v)] (vi) All fines and penalties collected under this subtitle and  
20 under §§ 6–905.4 and 6–905.6 of this article;

21 [(vi)] (vii) Money appropriated in the State budget to the Fund; and

22 [(vii)] (viii) Any other money from any other source accepted for the  
23 benefit of the Fund.

24 (3) The Secretary shall administer the Fund.

25 (4) The Treasurer shall hold the Fund separately and the Comptroller shall  
26 account for the Fund.

27 (5) At the end of each fiscal year, any unspent or unencumbered balance in  
28 the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in  
29 accordance with § 7–302 of the State Finance and Procurement Article.

1 (6) In accordance with the State budget, the Fund shall be used only:

2 (i) To provide grants to the counties to be used by the counties to  
3 develop and implement local recycling plans;

4 (ii) To provide grants to counties that have addressed methods for  
5 the separate collection and recycling of covered electronic devices in accordance with  
6 § 9-1703(c)(1) of this subtitle;

7 (iii) To provide grants to municipalities to be used by the  
8 municipalities to implement local covered electronic device recycling programs; [and]

9 (IV) TO COVER THE COSTS OF MATTRESS STEWARDSHIP PLAN  
10 REVIEW UNDER § 9-1734(A) OF PART V OF THIS SUBTITLE; AND

11 [(iv)] (V) To carry out the purposes of the land management  
12 administration.

13 (7) (i) The Treasurer shall invest the money in the Fund in the same  
14 manner as other State money may be invested.

15 (ii) Any investment earnings of the Fund shall be credited to the  
16 General Fund of the State.

17 **9-1731. RESERVED.**

18 **9-1732. RESERVED.**

19 **PART V. MATTRESS STEWARDSHIP PROGRAM.**

20 **9-1733.**

21 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "DISCARDED MATTRESS" MEANS A MATTRESS THAT A PERSON  
24 DISCARDS OR INTENDS TO DISCARD IN THE STATE.

25 (C) "DISTRIBUTOR" MEANS A COMPANY THAT HAS A CONTRACTUAL  
26 RELATIONSHIP WITH ONE OR MORE PRODUCERS TO MARKET AND SELL MATTRESSES  
27 TO RETAILERS IN THE STATE.

28 (D) (1) "MATTRESS" MEANS A RESILIENT MATERIAL OR COMBINATION OF  
29 MATERIALS THAT IS ENCLOSED BY A TICKING, IS USED ALONE OR IN COMBINATION  
30 WITH OTHER PRODUCTS, AND IS INTENDED FOR OR PROMOTED FOR SLEEPING ON.

1           **(2) “MATTRESS” INCLUDES A FOUNDATION AND A RENOVATED**  
2 **MATTRESS OR RENOVATED FOUNDATION.**

3           **(3) “MATTRESS” DOES NOT INCLUDE:**

4                   **(I) A MATTRESS PAD;**

5                   **(II) A MATTRESS TOPPER;**

6                   **(III) A SLEEPING BAG OR PILLOW;**

7                   **(IV) A CRIB OR BASSINET MATTRESS;**

8                   **(V) CHILD CARE PRODUCTS, INCLUDING A CARRIAGE, BASKET,**  
9 **DRESSING TABLE, STROLLER, PLAYPEN, INFANT CARRIER, LOUNGE PAD, OR CRIB**  
10 **BUMPER, AND THE PADS IN CHILD CARE PRODUCTS;**

11                   **(VI) A PRODUCT CONTAINING LIQUID- AND**  
12 **GASEOUS-FILLED TICKING, INCLUDING A WATER BED AND AIR MATTRESS THAT**  
13 **DOES NOT CONTAIN UPHOLSTERY MATERIAL BETWEEN THE TICKING AND THE**  
14 **MATTRESS CORE; AND**

15                   **(VII) UPHOLSTERED FURNITURE THAT DOES NOT OTHERWISE**  
16 **CONTAIN A DETACHABLE MATTRESS OR THAT IS A FOLD OUT SOFA BED OR FUTON.**

17           **(E) “MATTRESS STEWARDSHIP ASSESSMENT” MEANS THE AMOUNT ADDED**  
18 **TO THE PURCHASE PRICE OF MATTRESSES SOLD IN THE STATE THAT IS NECESSARY**  
19 **TO COVER THE MATTRESS STEWARDSHIP PROGRAM’S COST OF COLLECTING,**  
20 **TRANSPORTING, AND PROCESSING MATTRESSES STATEWIDE.**

21           **(F) “PRODUCER” MEANS A MANUFACTURER OF MATTRESSES THAT SELLS,**  
22 **OFFERS FOR SALE, OR DISTRIBUTES THE MATTRESS IN THE STATE UNDER THE**  
23 **PRODUCER’S OWN NAME OR BRAND.**

24           **(G) “REPRESENTATIVE ORGANIZATION” MEANS A NONPROFIT**  
25 **ORGANIZATION CREATED BY PRODUCERS TO IMPLEMENT A MATTRESS**  
26 **STEWARDSHIP PROGRAM.**

27           **(H) “RETAILER” MEANS ANY PERSON THAT OFFERS MATTRESSES FOR SALE**  
28 **AT RETAIL IN THE STATE.**

1 (I) "SALE" OR "SELL" MEANS ANY TRANSFER OF TITLE FOR  
2 CONSIDERATION, INCLUDING REMOTE SALES CONDUCTED THROUGH SALES  
3 OUTLETS, CATALOGUES, THE INTERNET, OR ANY OTHER SIMILAR ELECTRONIC  
4 MEANS.

5 9-1734.

6 (A) (1) ON OR BEFORE JULY 1, 2017, PRODUCERS OF MATTRESSES SOLD  
7 AT RETAIL IN THE STATE, OR A REPRESENTATIVE ORGANIZATION ACTING ON THE  
8 PRODUCER'S BEHALF, SHALL SUBMIT A PLAN FOR THE ESTABLISHMENT OF A  
9 MATTRESS STEWARDSHIP PROGRAM TO THE DEPARTMENT FOR APPROVAL.

10 (2) THE PLAN SHALL MINIMIZE PUBLIC SECTOR INVOLVEMENT IN  
11 THE MANAGEMENT OF DISCARDED MATTRESSES.

12 (3) THE PLAN SHALL PROMOTE THE RECYCLING OF DISCARDED  
13 MATTRESSES.

14 (4) THE PLAN SHALL PROVIDE FOR FREE, CONVENIENT, AND  
15 ACCESSIBLE STATEWIDE COLLECTION OF DISCARDED MATTRESSES.

16 (5) THE PLAN SHALL IDENTIFY EACH PRODUCER PARTICIPATING IN  
17 THE MATTRESS STEWARDSHIP PROGRAM AND THE BRANDS OF MATTRESSES SOLD  
18 IN THE STATE THAT ARE COVERED BY THE PROGRAM.

19 (6) THE PLAN SHALL ESTABLISH PERFORMANCE GOALS FOR THE  
20 FIRST 2 YEARS OF THE MATTRESS STEWARDSHIP PROGRAM;

21 (7) THE PLAN SHALL IDENTIFY PROPOSED RECYCLING FACILITIES TO  
22 BE USED BY THE MATTRESS STEWARDSHIP PROGRAM;

23 (8) THE PLAN SHALL DESCRIBE PROPOSED PLANS FOR PUBLIC  
24 EDUCATION AND OUTREACH.

25 (9) THE PLAN SHALL ESTABLISH:

26 (I) A UNIFORM MATTRESS STEWARDSHIP ASSESSMENT FOR  
27 ALL MATTRESSES SOLD IN THE STATE; AND

28 (II) A MECHANISM FOR MATTRESS PRODUCERS PARTICIPATING  
29 IN A MATTRESS STEWARDSHIP PROGRAM TO REMIT TO THE REPRESENTATIVE  
30 ORGANIZATION PAYMENT OF THE MATTRESS STEWARDSHIP ASSESSMENT FOR EACH  
31 MATTRESS SOLD IN THE STATE.

1           **(10) THE TOTAL AMOUNT OF THE MATTRESS STEWARDSHIP**  
2 **ASSESSMENT MAY NOT EXCEED THE COSTS OF IMPLEMENTING THE MATTRESS**  
3 **STEWARDSHIP PROGRAM.**

4           **(11) MATTRESS STEWARDSHIP ASSESSMENTS MAY BE USED ONLY TO**  
5 **IMPLEMENT THE MATTRESS STEWARDSHIP PROGRAM.**

6           **(B) (1) THE DEPARTMENT SHALL REVIEW THE PROGRAM PLAN**  
7 **REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.**

8           **(2) THE PRODUCER OR REPRESENTATIVE ORGANIZATION THAT**  
9 **SUBMITS A PLAN FOR APPROVAL SHALL PAY A PLAN REVIEW FEE TO BE DEPOSITED**  
10 **IN THE STATE RECYCLING TRUST FUND UNDER § 9-1707 OF THIS SUBTITLE THAT**  
11 **COVERS THE DEPARTMENT'S COST OF PLAN REVIEW, AS DETERMINED BY THE**  
12 **DEPARTMENT.**

13           **(3) IF THE DEPARTMENT DETERMINES THAT THE PROGRAM PLAN,**  
14 **INCLUDING THE MATTRESS STEWARDSHIP ASSESSMENT, COMPLIES WITH THE**  
15 **REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL**  
16 **APPROVE THE PROGRAM.**

17           **(4) THE DEPARTMENT SHALL LIST ON ITS WEB SITE THE PRODUCERS**  
18 **AND THE BRANDS IMPLEMENTING OR PARTICIPATING IN THE APPROVED MATTRESS**  
19 **STEWARDSHIP PROGRAM.**

20           **(C) (1) ON OR BEFORE OCTOBER 1, 2017, A PRODUCER OR**  
21 **REPRESENTATIVE ORGANIZATION SHALL IMPLEMENT A MATTRESS STEWARDSHIP**  
22 **PROGRAM.**

23           **(2) BEGINNING OCTOBER 1, 2017:**

24           **(I) A PRODUCER OR RETAILER MAY NOT SELL OR OFFER FOR**  
25 **SALE A BRAND OF MATTRESS TO ANY PERSON IN THE STATE UNLESS THE PRODUCER**  
26 **OF THE BRAND OR A REPRESENTATIVE ORGANIZATION TO WHICH THE PRODUCER IS**  
27 **A MEMBER IS IMPLEMENTING AN APPROVED MATTRESS STEWARDSHIP PROGRAM;**

28           **(II) A PRODUCER SHALL ADD THE MATTRESS STEWARDSHIP**  
29 **ASSESSMENT ESTABLISHED UNDER AN APPROVED MATTRESS STEWARDSHIP**  
30 **PROGRAM TO THE COST OF ALL MATTRESSES SOLD TO RETAILERS AND**  
31 **DISTRIBUTORS IN THE STATE; AND**

1           **(III) EACH RETAILER OR DISTRIBUTOR SHALL ADD A MATTRESS**  
2 **STEWARDSHIP ASSESSMENT TO THE PURCHASE PRICE OF ALL MATTRESSES SOLD IN**  
3 **THE STATE.**

4           **(D) A PRODUCER OR REPRESENTATIVE ORGANIZATION PARTICIPATING IN**  
5 **AN APPROVED MATTRESS STEWARDSHIP PROGRAM SHALL PROVIDE CONSUMERS**  
6 **WITH EDUCATIONAL MATERIALS REGARDING THE PROGRAM THAT INCLUDE:**

7           **(1) INFORMATION REGARDING AVAILABLE END-OF-LIFE**  
8 **MANAGEMENT OPTIONS FOR MATTRESSES OFFERED THROUGH THE PROGRAM; AND**

9           **(2) INFORMATION THAT NOTIFIES CONSUMERS THAT AN**  
10 **ASSESSMENT TO COVER THE COSTS OF IMPLEMENTING THE PROGRAM IS INCLUDED**  
11 **IN THE PURCHASE PRICE OF ALL MATTRESSES SOLD IN THE STATE.**

12           **(E) A RETAILER COMPLIES WITH THE REQUIREMENTS OF THIS PART IF, ON**  
13 **THE DATE THE MATTRESS WAS ORDERED FROM THE PRODUCER OR ITS AGENT, THE**  
14 **PRODUCER OF THE MATTRESS BRAND IS LISTED ON THE DEPARTMENT'S WEB SITE**  
15 **AS IMPLEMENTING OR PARTICIPATING IN AN APPROVED MATTRESS STEWARDSHIP**  
16 **PROGRAM.**

17           **(F) A PRODUCER OR REPRESENTATIVE ORGANIZATION THAT ORGANIZES**  
18 **THE COLLECTION, TRANSPORT, AND PROCESSING OF DISCARDED MATTRESSES, IN**  
19 **ACCORDANCE WITH AN APPROVED MATTRESS STEWARDSHIP PROGRAM, SHALL BE**  
20 **IMMUNE FROM LIABILITY FOR ANY CLAIM OF A VIOLATION OF ANTITRUST,**  
21 **RESTRAINT OF TRADE, OR UNFAIR TRADE PRACTICE ARISING FROM CONDUCT**  
22 **UNDERTAKEN IN ACCORDANCE WITH THE PROGRAM.**

23           **(G) BEGINNING DECEMBER 1, 2017, AND ANNUALLY THEREAFTER, THE**  
24 **PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL SUBMIT A REPORT TO THE**  
25 **DEPARTMENT THAT DETAILS THE MATTRESS STEWARDSHIP PROGRAM,**  
26 **INCLUDING:**

27           **(1) A DESCRIPTION OF THE METHODS USED TO COLLECT,**  
28 **TRANSPORT, AND PROCESS DISCARDED MATTRESSES;**

29           **(2) THE WEIGHT OF MATTRESSES COLLECTED UNDER THE PROGRAM**  
30 **BY COLLECTION SITE, INCLUDING COLLECTION FROM RETAILERS, SOLID WASTE**  
31 **ACCEPTANCE FACILITIES, AND OTHER FACILITIES THAT POSSESS DISCARDED**  
32 **MATTRESSES;**

33           **(3) THE WEIGHT OF MATTRESSES DIVERTED TO RECYCLING**  
34 **FACILITIES;**

1           **(4) THE WEIGHT OF MATTRESS MATERIALS RECYCLED BY WEIGHT OF**  
2 **EACH OF THE COMMODITIES SOLD TO SECONDARY MARKETS;**

3           **(5) THE WEIGHT OF MATTRESS MATERIALS SENT FOR DISPOSAL TO**  
4 **WASTE-TO-ENERGY FACILITIES, LANDFILLS, OR OTHER DISPOSAL OR PROCESSING**  
5 **FACILITIES;**

6           **(6) THE TOTAL COST OF IMPLEMENTING THE PROGRAM, AS**  
7 **DETERMINED BY AN INDEPENDENT FINANCIAL AUDIT FUNDED BY THE MATTRESS**  
8 **STEWARDSHIP ASSESSMENT;**

9           **(7) SAMPLES OF EDUCATIONAL MATERIALS AND PUBLIC OUTREACH**  
10 **METHODS USED TO SUPPORT THE PROGRAM;**

11           **(8) UPDATED PERFORMANCE GOALS AND AN EVALUATION OF THE**  
12 **EFFECTIVENESS OF THE METHODS USED TO ACHIEVE THE PERFORMANCE GOALS OF**  
13 **THE PROGRAM; AND**

14           **(9) RECOMMENDATIONS FOR ANY CHANGES TO THE PROGRAM.**

15           **(H) (1) FINANCIAL, PRODUCTION, OR SALES DATA REPORTED TO THE**  
16 **DEPARTMENT BY A PRODUCER OR THE REPRESENTATIVE ORGANIZATION SHALL BE**  
17 **KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT BE SUBJECT TO PUBLIC**  
18 **INSPECTION.**

19           **(2) THE DEPARTMENT MAY RELEASE SUMMARY DATA THAT DOES**  
20 **NOT DISCLOSE FINANCIAL, PRODUCTION, OR SALES DATA OF A PRODUCER,**  
21 **RETAILER, OR REPRESENTATIVE ORGANIZATION.**

22           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2016.