



HB1146/543926/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Delegate Hill
(To be offered in the Environment and Transportation Committee)

AMENDMENTS TO HOUSE BILL 1146
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Mattresses and Box Springs**” and substitute “**Mattress Stewardship Program**”; strike beginning with “requiring” in line 3 down through “landfills;” in line 5; in line 6, after the first “to” insert “review and approve certain plans, including a certain assessment, submitted in accordance with the Mattress Stewardship Program and”; in the same line, strike “encouragement;”; in line 7, after “information” strike the comma; in lines 7 and 8, strike “and box springs”; in line 11, strike “and box springs”; strike beginning with “requiring” in line 11 down through “years” in line 13 and substitute “prohibiting a person from disposing of a mattress in a landfill after a certain date”; in line 14, strike “or box spring”; strike beginning with “requiring” in line 14 down through “year” in line 17 and substitute “requiring certain producers of mattresses sold at retail in the State or a certain representative organization to submit a plan for the establishment of a Mattress Stewardship Program to the Department for approval on or before a certain date and in accordance with certain requirements; authorizing a certain plan to identify a certain retailer as a postconsumer collection site under certain circumstances; requiring a certain plan to establish a certain assessment; prohibiting a certain assessment from exceeding certain costs; requiring a certain assessment to be evaluated by an independent financial auditor, as designated by the Department, for certain purposes; requiring the cost of certain work performed by a certain financial auditor to be funded by the Mattress Stewardship Program; requiring certain assessments to be used for a certain purpose; requiring a producer or representative organization to pay a plan review fee, as determined by the Department; requiring certain fees to be deposited in the State Recycling Trust Fund; authorizing the State Recycling Trust Fund to be used to cover certain costs; requiring the Department to approve a certain plan under certain circumstances; requiring the Department to list certain producers and brands on its”

(Over)

website under certain circumstances; requiring certain producers and retailers or distributors to add a certain assessment to the cost of all mattresses sold in the State beginning on a certain date; requiring a certain producer or representative organization to implement a certain program within a certain amount of time after the Department approves a certain plan; prohibiting a producer or retailer from selling or offering for sale certain mattresses under certain circumstances beginning on a certain date or after a certain amount of time after the Department approves a certain plan, whichever is later; requiring a certain producer or representative organization to provide consumers with certain educational materials in accordance with certain requirements; providing that certain retailers are in compliance with certain requirements under certain circumstances; providing that a certain producer or representative organization is immune from certain liability under certain circumstances; requiring a certain producer or representative organization to submit a certain report to the Department in accordance with certain requirements on or before a certain date and with a certain frequency thereafter; requiring the Department to review a certain report in accordance with certain requirements; requiring a producer or representative organization to pay an annual report review fee, as determined by the Department; requiring the Department to keep certain data confidential; authorizing the Department to release certain summary data under certain circumstances”; in line 18, strike “and box springs”; strike in their entirety lines 19 through 23, inclusive, and substitute:

“BY repealing and reenacting, without amendments,

Article - Environment

Section 9-1701(a), (i), and (m)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)”;

in line 26, strike “9-505(a)(20) and” and substitute “9-1701(j-1), (j-2), (o-1), (o-2), (r-1), (s-1), and (s-2),”; and in the same line, after “9-1715” insert “; and 9-1733 to be under the new part “Part V. Mattress Stewardship Program””.

On page 2, strike in their entirety lines 1 through 5, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article - Environment

Section 9-1702 and 9-1707(f)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)”.

AMENDMENT NO. 2

On page 2 in lines 9, 14, 15, and 17, and on page 3 in line 1, in each instance, strike “and box springs”.

On page 3, in line 3, strike “and box spring”; and in lines 5 and 6, strike “and box springs”.

On pages 3 and 4, strike in their entirety the lines beginning with line 10 on page 3 through line 1 on page 4, inclusive.

On page 4, after line 1, insert:

“9-1701.

(a) In this subtitle the following words have the meanings indicated.

(i) “Director” means the Director of the Office of Recycling.

(J-1) (1) “MATTRESS” MEANS A RESILIENT MATERIAL OR COMBINATION OF MATERIALS THAT IS ENCLOSED BY A TICKING, IS USED ALONE OR IN COMBINATION WITH OTHER PRODUCTS, AND IS INTENDED FOR OR PROMOTED FOR SLEEPING UPON.

(2) “MATTRESS” INCLUDES BOX SPRINGS.

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(3) “MATTRESS” DOES NOT INCLUDE:

(I) AN UNATTACHED MATTRESS PAD OR TOPPER;

(II) A WATER BED, AIR MATTRESS, OR OTHER PRODUCT THAT CONTAINS LIQUID OR GAS-FILLED TICKING AND THAT DOES NOT CONTAIN UPHOLSTERY MATERIAL BETWEEN THE TICKING AND THE MATTRESS CORE; OR

(III) A CARRIAGE, BASKET, DRESSING TABLE, STROLLER, PLAYPEN, INFANT CARRIER, LOUNGE PAD, CRIB BUMPER, OR OTHER PRODUCT MANUFACTURED FOR YOUNG CHILDREN.

(J-2) “MATTRESS STEWARDSHIP ASSESSMENT” MEANS THE AMOUNT ADDED TO THE PURCHASE PRICE OF MATTRESSES SOLD IN THE STATE THAT IS NECESSARY TO COVER THE MATTRESS STEWARDSHIP PROGRAM’S COST OF COLLECTING, TRANSPORTING, AND PROCESSING POSTCONSUMER MATTRESSES STATEWIDE.

(m) “Office” means the Office of Recycling within the Department.

(O-1) “POSTCONSUMER MATTRESS” MEANS MATTRESSES NOT USED AND NO LONGER WANTED BY A PURCHASER.

(O-2) “PRODUCER” MEANS A MANUFACTURER OF MATTRESSES THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES MATTRESSES IN THE STATE UNDER THE PRODUCER’S OWN NAME OR BRAND.

(R-1) “REPRESENTATIVE ORGANIZATION” MEANS A NONPROFIT ORGANIZATION CREATED BY PRODUCERS TO IMPLEMENT A MATTRESS STEWARDSHIP PROGRAM.

(S-1) “RETAILER” MEANS ANY PERSON THAT OFFERS MATTRESSES FOR SALE AT RETAIL IN THE STATE.

(S-2) “SALE” OR “SELL” MEANS ANY TRANSFER OF TITLE FOR CONSIDERATION, INCLUDING REMOTE SALES CONDUCTED THROUGH SALES OUTLETS, CATALOGUES, THE INTERNET, OR ANY OTHER SIMILAR ELECTRONIC MEANS.”;

strike beginning with “ENCOURAGE” in line 15 down through “VALUES” in line 18 and substitute “REVIEW AND APPROVE PLANS AND ANNUAL REPORTS, INCLUDING THE MATTRESS STEWARDSHIP ASSESSMENT, SUBMITTED IN ACCORDANCE WITH A MATTRESS STEWARDSHIP PROGRAM ESTABLISHED UNDER PART V OF THIS SUBTITLE”; in line 21, strike “AND BOX SPRINGS”; and in line 23, strike “AND BOX SPRING”.

On page 5, in line 24, strike “AND BOX SPRINGS”; and after line 24, insert:

“9-1707.

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

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

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

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

(Over)

(IV) THE MATTRESS STEWARDSHIP PROGRAM PLAN AND ANNUAL REPORT REVIEW FEES COLLECTED UNDER § 9-1733(B) AND (H) OF THIS SUBTITLE;

[(iv)] (V) All fines and penalties collected under this subtitle;

[(v)] (VI) Money appropriated in the State budget to the Fund;

and

[(vi)] (VII) Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

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

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

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

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

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

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

(IV) TO COVER THE COSTS OF THE MATTRESS STEWARDSHIP PROGRAM PLAN REVIEW UNDER § 9-1733(B) OF THIS SUBTITLE, THE ANNUAL REPORT REVIEW UNDER § 9-1733(H) OF THIS SUBTITLE, AND ASSOCIATED COSTS FOR PROGRAM COMPLIANCE OVERSIGHT; AND

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

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

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

and strike beginning with “**THE**” in line 26 through “**2035**” in line 29, inclusive, and substitute “**ON OR AFTER JANUARY 1, 2026, A PERSON MAY NOT DISPOSE OF A MATTRESS IN A LANDFILL**”.

On page 6, in line 1, strike “**OR BOX SPRING**”.

On pages 6 and 7, strike in their entirety the lines beginning with line 3 on page 6 through line 21 on page 7, inclusive, and substitute:

9-1731. RESERVED.

9-1732. RESERVED.

PART V. MATTRESS STEWARDSHIP PROGRAM.

(Over)

9-1733.

(A) (1) ON OR BEFORE JULY 1, 2022, PRODUCERS OF MATTRESSES SOLD AT RETAIL IN THE STATE, OR A REPRESENTATIVE ORGANIZATION ACTING ON A PRODUCER'S BEHALF, SHALL SUBMIT A PLAN FOR THE ESTABLISHMENT OF A MATTRESS STEWARDSHIP PROGRAM TO THE DEPARTMENT FOR APPROVAL.

(2) THE PLAN SHALL MINIMIZE PUBLIC SECTOR INVOLVEMENT IN, AND FINANCIAL RESPONSIBILITY FOR, THE MANAGEMENT OF MATTRESS DISPOSAL BY:

(I) PROMOTING MATTRESS REUSE AND RECYCLING; AND

(II) NEGOTIATING AND EXECUTING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, PROCESS FOR RESOURCE RECOVERY, AND DISPOSE OF MATTRESSES.

(3) THE PLAN SHALL PROVIDE FOR CONVENIENT AND AVAILABLE STATE COLLECTION OF MATTRESSES THAT:

(I) PROVIDES FOR COLLECTION RATES AND CONVENIENCE EQUAL TO OR GREATER THAN THE COLLECTION PROGRAMS AVAILABLE TO CONSUMERS PRIOR TO THE MATTRESS STEWARDSHIP PROGRAM;

(II) IDENTIFIES EACH PRODUCER PARTICIPATING IN THE MATTRESS STEWARDSHIP PROGRAM AND THE BRANDS OF MATTRESSES SOLD IN THE STATE THAT ARE COVERED BY THE PROGRAM; AND

(III) PROVIDES GEOGRAPHIC MODELING TO DETERMINE THE NUMBER AND DISTRIBUTION OF SITES FOR COLLECTION OF POSTCONSUMER MATTRESSES BASED ON THE FOLLOWING CRITERIA:

1. AT LEAST 90% OF THE RESIDENTS OF THE STATE SHALL HAVE A COLLECTION SITE WITHIN A 15-MILE RADIUS; AND

2. UNLESS OTHERWISE APPROVED BY THE DEPARTMENT, ONE ADDITIONAL COLLECTION SITE SHALL BE ESTABLISHED FOR EVERY 50,000 RESIDENTS OF A GEOGRAPHICAL AREA DESIGNATED UNDER FEDERAL LAW AS AN URBANIZED AREA.

(4) THE PLAN MAY IDENTIFY A RETAILER AS A POSTCONSUMER MATTRESS COLLECTION SITE IF:

(I) THE RETAILER VOLUNTEERS TO ACT AS A POSTCONSUMER MATTRESS COLLECTION SITE;

(II) THE RETAILER IS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS; AND

(III) THE SITE LOCATION OF THE RETAILER IS CONSISTENT WITH MAINTAINING A COST-EFFECTIVE NETWORK OF POSTCONSUMER MATTRESS COLLECTION LOCATIONS.

(5) THE PLAN SHALL ESTABLISH:

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

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

(6) THE TOTAL AMOUNT OF THE MATTRESS STEWARDSHIP ASSESSMENT MAY NOT EXCEED THE COSTS OF IMPLEMENTING THE MATTRESS STEWARDSHIP PROGRAM.

(7) (I) THE MATTRESS STEWARDSHIP ASSESSMENT SHALL BE EVALUATED BY AN INDEPENDENT FINANCIAL AUDITOR, AS DESIGNATED BY THE DEPARTMENT, TO ENSURE THE COSTS OF IMPLEMENTING THE MATTRESS STEWARDSHIP PROGRAM ARE COVERED BUT NOT EXCEEDED.

(II) THE COST OF ANY WORK PERFORMED BY AN INDEPENDENT FINANCIAL AUDITOR SHALL BE FUNDED BY THE MATTRESS STEWARDSHIP PROGRAM.

(8) MATTRESS STEWARDSHIP ASSESSMENTS MAY BE USED ONLY TO IMPLEMENT THE MATTRESS STEWARDSHIP PROGRAM.

(B) (1) THE DEPARTMENT SHALL REVIEW:

(I) THE MATTRESS STEWARDSHIP PROGRAM PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR DESIGNATED BY THE DEPARTMENT TO EVALUATE MATTRESS STEWARDSHIP ASSESSMENTS.

(2) THE PRODUCER OR REPRESENTATIVE ORGANIZATION THAT SUBMITS A PLAN FOR APPROVAL SHALL PAY A PLAN REVIEW FEE TO THE DEPARTMENT TO BE DEPOSITED IN THE STATE RECYCLING TRUST FUND UNDER § 9-1707 OF THIS SUBTITLE THAT COVERS THE DEPARTMENT'S COST OF PLAN REVIEW, INCLUDING ASSOCIATED COSTS FOR MATTRESS STEWARDSHIP PROGRAM COMPLIANCE OVERSIGHT, AS DETERMINED BY THE DEPARTMENT.

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

(4) THE DEPARTMENT SHALL LIST ON ITS WEBSITE THE PRODUCERS AND BRANDS IMPLEMENTING OR PARTICIPATING IN AN APPROVED MATTRESS STEWARDSHIP PROGRAM.

(C) (1) A PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL IMPLEMENT ITS MATTRESS STEWARDSHIP PROGRAM PLAN WITHIN 1 YEAR AFTER THE PLAN'S APPROVAL BY THE DEPARTMENT.

(2) BEGINNING JULY 1, 2022, OR 1 YEAR AFTER THE PLAN APPROVAL, WHICHEVER IS LATER:

(I) A PRODUCER OR RETAILER MAY NOT SELL OR OFFER FOR SALE A BRAND OF MATTRESS TO ANY PERSON IN THE STATE, UNLESS THE

PRODUCER OF THE BRAND OR A REPRESENTATIVE ORGANIZATION OF WHICH THE PRODUCER IS A MEMBER IS IMPLEMENTING AN APPROVED MATTRESS STEWARDSHIP PROGRAM;

(II) A PRODUCER SHALL ADD THE MATTRESS STEWARDSHIP ASSESSMENT ESTABLISHED UNDER AN APPROVED MATTRESS STEWARDSHIP PROGRAM TO THE COST OF ALL MATTRESSES SOLD TO RETAILERS AND DISTRIBUTED IN THE STATE; AND

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

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

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

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

(E) FOLLOWING THE IMPLEMENTATION OF THE MATTRESS STEWARDSHIP PROGRAM, A RETAILER COMPLIES WITH THE REQUIREMENTS OF THIS SECTION IF, ON THE DATE THE MATTRESS WAS ORDERED FROM THE

PRODUCER OR ITS AGENT, THE PRODUCER OF THE MATTRESS BRAND IS LISTED ON THE DEPARTMENT'S WEBSITE AS IMPLEMENTING OR PARTICIPATING IN AN APPROVED MATTRESS STEWARDSHIP PROGRAM.

(F) A POSTCONSUMER MATTRESS COLLECTION SITE THAT IS IDENTIFIED IN THE PLAN MAY NOT CHARGE AN ADDITIONAL FEE FOR THE DISPOSAL OF MATTRESSES WHEN IT IS OFFERED FOR DISPOSAL.

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

(H) (1) BEGINNING JULY 1, 2022, AND ANNUALLY THEREAFTER, THE PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL SUBMIT A REPORT TO THE DEPARTMENT THAT DETAILS THE MATTRESS STEWARDSHIP PROGRAM INCLUDING:

(I) A DESCRIPTION OF THE METHODS USED TO COLLECT, TRANSPORT, AND PROCESS MATTRESSES IN THE STATE;

(II) THE VOLUME OF MATTRESSES COLLECTED IN THE STATE;

(III) THE VOLUME AND TYPE OF MATTRESSES COLLECTED IN THE STATE BY METHOD OF DISPOSITION, INCLUDING REUSE, RECYCLING, AND OTHER METHODS OF PROCESSING OR DISPOSAL, THAT INCLUDES AN

ACCOUNTING OF THE VOLUME OF MATTRESSES COLLECTED IN THE STATE FOR EACH COUNTY IN THE STATE;

(IV) THE TOTAL COST OF IMPLEMENTING AND ADMINISTERING THE PROGRAM, AS DETERMINED BY AN INDEPENDENT FINANCIAL AUDIT FUNDED BY THE MATTRESS STEWARDSHIP ASSESSMENT; AND

(V) SAMPLES OF EDUCATIONAL MATERIALS USED TO INFORM CONSUMERS OF MATTRESS DISPOSAL.

(2) THE PRODUCER OR REPRESENTATIVE ORGANIZATION THAT SUBMITS A REPORT REQUIRED UNDER THIS SECTION SHALL PAY A REPORT REVIEW FEE TO THE DEPARTMENT TO BE DEPOSITED IN THE STATE RECYCLING TRUST FUND UNDER § 9-1707 OF THIS SUBTITLE THAT COVERS THE DEPARTMENT'S COST OF REPORT REVIEW, INCLUDING ASSOCIATED COSTS FOR PROGRAM COMPLIANCE OVERSIGHT, AS DETERMINED BY THE DEPARTMENT.

(I) (1) THE DEPARTMENT SHALL REVIEW THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (H) OF THIS SECTION AND:

(I) EVALUATE THE TOTAL COSTS OF THE MATTRESS STEWARDSHIP PROGRAM, INCLUDING ALL EXPENSES AND REVENUES, TO DETERMINE WHETHER THE MATTRESS STEWARDSHIP ASSESSMENT MEETS OR EXCEEDS THE COSTS OF THE PROGRAM IN ACCORDANCE WITH SUBSECTION (A)(5) OF THIS SECTION; AND

(II) DETERMINE WHETHER THE PLAN IS BEING IMPLEMENTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(2) IF THE DEPARTMENT DETERMINES THAT THE MATTRESS STEWARDSHIP ANNUAL REPORT, INCLUDING THE MATTRESS STEWARDSHIP ASSESSMENT, COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL APPROVE THE ANNUAL REPORT.

(3) THE PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL MAKE THE APPROVED ANNUAL REPORT AVAILABLE TO THE PUBLIC.

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

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