

The Hon. Marc Korman
Chair, House Environment and Transportation Committee
250 Taylor House Office Building
Annapolis, MD 21401

**RE: HB858 – Mattress Stewardship Program – Establishment;
FWA**

Dear Chair Korman and Committee Members,

The International Sleep Products Association (ISPA) represents mattress manufacturers and suppliers of components and services to the mattress industry. The mattress industry is a \$10 Billion industry and employs over 25,000 people throughout the United States. ISPA supports with amendments MD HB 858. The bill would establish an industry-led mattress recycling in the Commonwealth, which is a concept ISPA has long supported. However, we urge the Committee to make several changes to HB 858 to address problems that we have identified based on our experience in operating existing successful mattress recycling programs in other states.

ISPA has been a leader in mattress recycling. As the primary association representing the mattress industry in the U.S., ISPA works to assist our members in not only improving the environmental sustainability of their operations, but also their products. To further this goal, ISPA created the Mattress Recycling Council (MRC) to operate mattress recycling programs in states that adopt mattress recycling program laws. MRC currently operates in California, Oregon, Rhode Island, and Connecticut. In the 10 years the MRC program has been operating, it has successfully recycled over 15 million mattresses and boxsprings and is now processing over 2 million mattresses annually.

Based on MRC's experience operating these successful programs, ISPA has engaged with Delegate Hill to seek amendments to HB 858. A solid legislative framework is vital for the success of a statewide mattress recycling program in Maryland.

Based on ISPA's review of HB 858 and the mattress industry's experience in implementing other statewide recycling programs, our concerns and suggested changes to the bill are as follows:

1. Clarify the fee language

We recommend changes to the fee language, including:

- A. The provisions regarding phasing of the assessment depending on the profitability of the program must be eliminated from the bill as they are confusing and inconsistent with the non-profit nature of the program. The program is mandated by the legislation to be non-profit; the program facilitates the recycling of mattresses; however, the program does not operate the recycling system and would not own any recycled materials to profit from the sale of such. Thus, the language suggesting the phase in and out of the assessment based on profitability of the program is not applicable and cannot be complied with.
- B. The fee should cover but not exceed the costs of operating and administering the program and should maintain a financial reserve sufficient to operate the program over a multi-year period. This provides for a stable and functioning program that serves residents, underlines the non-profit nature of that program and should not be confused with profitability.
- C. Clarify that the fee should be remitted at the point of sale by the mattress retailer. MRC's experience with the fee remitted by the retailer rather than others in the supply chain is simpler, thus reducing costs, and allows for uniformity for retailers operating in Maryland.

2. Reasonable performance standards and reporting requirements

ISPA recognizes and advocates for performance standards generally, however HB 858 contains reporting requirements that would hamper the success of a mattress recycling program. For example, requiring the stewardship organization to report data on and set goals related to the number of illegally dumped units may prove impossible as municipalities do not routinely collect

this data. Likewise, performance standards for the stewardship organization related to renovation rates assume the stewardship organization can control the business activity of an independent mattress renovator, which it cannot. Similarly, it is unclear what a closed-loop recycling goal is intended to cover. In addition, many states prohibit a new mattress from containing any used components. Thus, ISPA urges reconsideration of the performance standards to allow for successful implementation of the bill and ensure the stewardship organization is set up for success.

3. Reasonable convenience criteria

ISPA urges the Committee to reconsider the convenience criteria proposed in HB 858 and to confirm whether that standard is appropriate for collecting and recycling used mattresses in Maryland. We understand this standard was adopted from the paint stewardship bill. Although this standard may be appropriate for collecting paint, it may not be for mattresses, given that paint and mattresses are very different products. ISPA prefers that convenience criteria be based on geographic modeling and a state-wide assessment of needs and costs and placed into the plan for final approval by the Maryland Department of Environment. This allows for the criteria to be specific to the state and updated, when necessary, without further legislation.

4. Strong Antitrust language

Strong antitrust language is essential for mattress producers to successfully administer and implement the program. The current antitrust language only covers state antitrust law and must be expanded to include federal law. This is commonly referred to as the State Action doctrine. States cannot be less stringent than the federal law, which the current language purports to do. This is an easy fix, and without such, producers seeking to set up a mattress recycling program to serve Maryland consumers could be held liable for working to operationalize it.

5. Regional Cooperation and Cross Border Concerns

Maryland borders four other states and the District of Columbia. Several large urban areas are located in these other jurisdictions close to Maryland's border. As a result, any recycling program funded by a fee on retail mattress sales will run two significant risks:

- that consumers will leave Maryland to buy their mattresses, and
- that waste haulers outside of Maryland will attempt to discard the mattresses they collect in Maryland.

As a result, the program could become both underfunded and overwhelmed with volume. Language that clarifies that this program is for Maryland residents and entities only should be inserted into HB 858. The more consistent HB 858 is with the existing mattress recycling programs, the more cost savings and efficiencies we would expect to see in any mattress recycling program in Maryland. A similar bill was introduced in Virginia and D.C. is also interesting.

In conclusion, Maryland could greatly benefit from an efficient statewide mattress recycling program. Mattresses are bulky waste, occupying large amounts of precious landfill space and are often illegally dumped, creating hazards and eyesores. Moreover, it may cost a municipality or consumer upwards of \$50 to \$75 to discard a mattress. By contrast, a small fee collected when the consumer buys a new mattress funds MRC's existing programs in other states and allows for discarded mattress to be collected at no-cost to the consumer or municipality. Establishing an effective mattress recycling program in Maryland can save municipalities and residents a significant amount of money. This is compounded by the current interest in mattress recycling programs in neighboring states, which could provide for further economies of scale.

We look forward to working with Delegate Hill, the Committee, retailers, the Department of Environment, and other stakeholders to implement a workable and sustainable solution to this pressing challenge with a few amendments to this bill. ISPA and the mattress industry want to establish an efficient, proven mattress recycling program in Maryland.

Therefore, we respectfully urge you to amend HB 858 to bring it in line with other statewide mattress recycling laws in the United States.

Sincerely,

Grant Johnson

Government Affairs Manager

International Sleep Products Association