

2021 -- H 5506 SUBSTITUTE A

=====
LC000803/SUB A/2
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

—————
A N A C T

RELATING TO HEALTH AND SAFETY -- RESPONSIBLE RECYCLING, REUSE AND
DISPOSAL OF MATTRESSES

Introduced By: Representatives Vella-Wilkinson, Azzinaro, and Shanley

Date Introduced: February 12, 2021

Referred To: House Corporations

(Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-90-5 of the General Laws in Chapter 23-90 entitled "Responsible
2 Recycling, Reuse and Disposal of Mattresses" is hereby amended to read as follows:

3 **23-90-5. Mattress stewardship plan.**

4 (a) On or before July 1, 2015, the mattress stewardship council shall submit a mattress
5 stewardship plan for the establishment of a mattress stewardship program to the corporation
6 director for approval.

7 (b) The plan submitted pursuant to subsection (a) of this section shall, to the extent it is
8 technologically feasible and economically practical:

9 (1) Identify each producer's participation in the program;

10 (2) Describe the fee structure for the program and propose a uniform stewardship fee that
11 is sufficient to cover the costs of operating and administering the program;

12 (3) Establish performance goals for the first two (2) years of the program;

13 (4) Identify proposed recycling facilities to be used by the program, such facilities shall not
14 require a solid waste management facilities license;

15 (5) Detail how the program will promote the recycling of discarded mattresses;

16 (6) Include a description of the public education program;

17 (7) Describe fee-disclosure language that retailers will be required to prominently display
18 that will inform consumers of the amount and purpose of the fee; and

1 (8) Identify the methods and procedures to facilitate implementation of the mattress
2 stewardship program in coordination with the corporation director and municipalities.

3 (c) Not later than ninety (90) days after submission of the plan pursuant to this section, the
4 corporation shall make a determination whether to:

5 (1) Approve the plan as submitted; or

6 (2) Deny the plan.

7 (d) The corporation director shall approve the plan for the establishment of the mattress
8 stewardship program, provided such plan reasonably meets the requirements of this section. Prior
9 to making such determination, the corporation director shall post the plan for at least thirty (30)
10 days, in accordance with the "Administrative Procedures Act" as set forth in chapter 35 of title 42
11 on the corporation's website and solicit public comments on the plan to be posted on the website.

12 (e) In the event that the corporation director denies the plan, the corporation director shall
13 provide a notice of determination to the council, within sixty (60) days, detailing the reasons for
14 the disapproval. The council shall revise and resubmit the plan to the corporation director not later
15 than forty-five (45) days after receipt of notice of the corporation director's denial notice. Not later
16 than forty-five (45) days after receipt of the revised plan, the corporation director shall review and
17 approve or deny the revised plan. The council may resubmit a revised plan to the corporation
18 director for approval on not more than two (2) occasions. If the council fails to submit a plan that
19 is acceptable to the corporation director, because it does not meet the criteria pursuant to
20 subdivisions (b)(1-8), the corporation director shall have the ability to modify the submitted plan
21 and approve it. Not later than one hundred twenty (120) days after the approval of a plan pursuant
22 to this section, the council shall implement the mattress stewardship program.

23 (f) It is the responsibility of the council to:

24 (1) Notify the corporation director whenever there is a proposed substantial change to the
25 program. If the corporation director takes no action on a proposed substantial change within ninety
26 (90) days after notification of the proposed change, the proposed change shall be deemed approved.

27 For the purposes of this subdivision, "substantial change" shall include, but not be limited
28 to:

29 (i) A change in the processing facilities to be used for discarded mattresses collected
30 pursuant to the program; or

31 (ii) A material change to the system for collecting mattresses.

32 (2) Not later than October 1, 2017, the council shall submit to the corporation director for
33 review, updated performance goals that are based on the experience of the program during the first
34 two (2) years of the program.

1 (g) The council shall notify the corporation director of any other changes to the program
2 on an ongoing basis, whenever they occur, without resubmission of the plan to the corporation
3 director for approval. Such changes shall include, but not be limited to, a change in the composition,
4 officers, or contact information of the council.

5 (h) On or before July 1, 2015, and every two (2) years thereafter, the council shall propose
6 a uniform fee for all mattresses sold in this state. The council may propose a change to the uniform
7 fee more frequently than once every two (2) years if the council determines such change is needed
8 to avoid funding shortfalls or excesses. Any proposed fee shall be reviewed by an independent
9 auditor to ensure that such assessment does not exceed the costs of the mattress stewardship
10 program described in subsection (b) of this section and to maintain financial reserves sufficient to
11 operate the program over a multi-year period in a fiscally prudent and responsible manner. Not
12 later than sixty (60) days after the council proposes a mattress stewardship fee, the auditor shall
13 render an opinion to the corporation director as to whether the proposed mattress stewardship fee
14 is reasonable to achieve the goals set forth in this section. If the auditor concludes that the mattress
15 stewardship fee is reasonable, then the proposed fee shall go into effect not less than ninety (90)
16 days after the auditor notifies the corporation director that the fee is reasonable. If the auditor
17 concludes that the mattress stewardship fee is not reasonable, the auditor shall provide the council
18 with written notice explaining the auditor's opinion. [Specific documents or information provided](#)
19 [to the auditor by the council, along with any associated internal documents or information held by](#)
20 [the council, shall be made available to the corporation for its review upon request but shall not be](#)
21 [made public if the documents and information contain trade secrets or commercial or financial](#)
22 [information of a privileged or confidential nature, pursuant to chapter 2 of title 38 \("access to public](#)
23 [records"\).](#) Not later than fourteen (14) days after the council's receipt of the auditor's opinion, the
24 council may either propose a new mattress stewardship fee, or provide written comments on the
25 auditor's opinion. If the auditor concludes that the fee is not reasonable, the corporation director
26 shall decide, based on the auditor's opinion and any comments provided by the council, whether to
27 approve the proposed mattress stewardship fee. Such auditor shall be selected by the council. The
28 cost of any work performed by such auditor pursuant to the provisions of this subsection and
29 subsection (i) of this section shall be funded by the council.

30 (i)(1) On and after the implementation of the mattress stewardship program, each retailer
31 shall add the amount of the fee established pursuant to subsection (b) of this section and described
32 in subsection (h) of this section to the purchase price of all mattresses sold in this state. The fee
33 shall be remitted by the retailer to the council. The council may, subject to the corporation director's
34 approval, establish an alternative, practicable means of collecting or remitting such fee.

1 (2) On and after the implementation date of the mattress stewardship program, no producer,
2 distributor or retailer shall sell or offer for sale a mattress to any person in the state if the producer
3 is not a member of the council.

4 (3) No retailer or distributor shall be found to be in violation of the provisions of this
5 section, if, on the date the mattress was ordered from the producer or its agent, the producer of said
6 mattress was listed on the corporation's website in accordance with the provisions of this chapter.

7 (j) Not later than October 1, 2016, and annually thereafter, the council shall submit an
8 annual report to the corporation director. The corporation director shall post such annual report on
9 the corporation's website. Such report shall include, but not be limited to:

10 (1) The weight of mattresses collected pursuant to the program from:

11 (i) Municipal and/or transfer stations;

12 (ii) Retailers; and

13 (iii) All other covered entities;

14 (2) The weight of mattresses diverted for recycling;

15 (3) Identification of the mattress recycling facilities to which mattresses were delivered for
16 recycling;

17 (4) The weight of discarded mattresses recycled, as indicated by the weight of each of the
18 commodities sold to secondary markets;

19 (5) The weight of mattresses, or parts thereof, sent for disposal at each of the following:

20 (i) Rhode Island resource recovery corporation; and

21 (ii) Any other facilities;

22 (6) Samples of public education materials and methods used to support the program;

23 (7) A description of efforts undertaken and evaluation of the methods used to disseminate
24 such materials;

25 (8) Updated performance goals and an evaluation of the effectiveness of the methods and
26 processes used to achieve performance goals of the program; and

27 (9) Recommendations for any changes to the program.

28 (k) Two (2) years after the implementation of the program and upon the request of the
29 corporation director, but not more frequently than once a year, the council shall cause an audit of
30 the program to be conducted by the auditor described in subsection (h) of this section. Such audit
31 shall review the accuracy of the council's data concerning the program and provide any other
32 information requested by the corporation director. Such audit shall be paid for by the council. The
33 council shall maintain all records relating to the program for not less than three (3) years.

34 (l) No covered entity that participates in the program shall charge for receipt of mattresses

1 generated in the state. Covered entities may charge a fee for providing the service of collecting
2 mattresses and may restrict the acceptance of mattresses by number, source or physical condition.

3 (m) Covered entities that, upon the date of this act's passage, have an existing program for
4 recycling discarded mattresses may continue to operate such program without coordination of the
5 council, so long as the entities are able to demonstrate, in writing, to the corporation director that
6 the facilities to which discarded mattresses are delivered are engaged in the business of recycling
7 said mattresses and the corporation director approves the written affirmation that the facility
8 engages in mattress recycling of mattresses received by the covered entity. A copy of the written
9 affirmation and the corporation's approval shall be provided to the council by the corporation
10 director in a timely manner.

11 SECTION 2. This act shall take effect upon passage.

=====
LC000803/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- RESPONSIBLE RECYCLING, REUSE AND
DISPOSAL OF MATTRESSES

1 This act would require specific documents or information provided to the auditor relative
2 to evaluations and opinions about fees to be made available to the Rhode Island Resource Recovery
3 Corporation upon request; provided that, any documents and information that contain trade secrets
4 or commercial or financial information of a privileged or confidential nature would not be public
5 records pursuant to chapter 2 of title 38, ("access to public records").

6 This act would take effect upon passage.

=====
LC000803/SUB A/2
=====