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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

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

Introduced By: Representatives Fellela, Serpa, Messier, Canario, and Winfield

Date Introduced: February 03, 2017

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 23-90-4 and 23-90-5 of the General Laws in Chapter 23-90  
2 entitled "Responsible Recycling, Reuse and Disposal of Mattresses" are hereby amended to read  
3 as follows:

4           **23-90-4. Mattress stewardship council established.**

5           (a) On or before July 1, 2015, each producer shall join the council and such council shall  
6 submit a plan, for the corporation director's approval, to establish a state-wide mattress  
7 stewardship program, as described in this section. Any retailer may be a member of such council.  
8 Such mattress stewardship program shall, to the extent it is technologically feasible and  
9 economically practical:

10           (1) Minimize public sector involvement in the management of discarded mattresses;

11           (2) Provide for the convenient and accessible state-wide collection of discarded  
12 mattresses from any person in the state with a discarded mattress that was discarded in the state,  
13 including from participating covered entities that accumulated and segregated a minimum of fifty  
14 (50) discarded mattresses for collection at one time, or a minimum of thirty (30) discarded  
15 mattresses for collection at one time in the case of participating municipal transfer stations;

16           (3) Provide for council-financed recycling and disposal of discarded mattresses;

17           (4) Provide suitable storage containers at permitted municipal transfer stations, municipal  
18 government property or other solid waste management facilities for segregated, discarded

1 mattresses, or make other mutually agreeable storage and transportation agreements at no cost to  
2 such municipality provided the municipal transfer station, municipal government property or  
3 other solid waste management facilities make space available for such purpose and imposes no  
4 fee for placement of such storage container on its premises;

5 (5) Include a uniform mattress stewardship fee that is sufficient to cover the costs of  
6 operating and administering the program; and

7 (6) Establish a financial incentive that provides for the payment of a monetary sum,  
8 established by the council, to promote the recovery of mattresses.

9 (b) The council shall be a nonprofit organization with a fee structure that covers, but does  
10 not exceed, the costs of developing the plan and operating and administering the program in  
11 accordance with the requirements of this chapter, and maintaining a financial reserve sufficient to  
12 operate the program over a multi-year period of time in a fiscally prudent and responsible  
13 manner. The council shall maintain all records relating to the program for a period of not less than  
14 three (3) years.

15 (c) Pursuant to the program, recycling shall be preferred over any other disposal method  
16 to the extent that recycling is technologically feasible and economically practical.

17 (d) The council shall enter into an agreement with the corporation to reimburse for  
18 reasonable costs directly related to administering the program but not to exceed the cost of two  
19 (2) full time equivalent employees.

20 [\(e\) No fee shall be charged to any Rhode Island resident or business operating in the state](#)  
21 [of Rhode Island for the collection, transportation, storage or recycling of any mattress after](#)  
22 [January 1, 2018.](#)

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) Approve the plan as submitted; or

10 (2) Deny the plan.

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

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

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

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

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

34 (i) A change in the processing facilities to be used for discarded mattresses collected

1 pursuant to the program; or

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

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

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

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

31 (i) (1) On and after the implementation of the mattress stewardship program, each retailer  
32 shall add the amount of the fee established pursuant to subsection (b) of this section and described  
33 in subsection (h) of this section to the purchase price of all mattresses sold in this state. The fee  
34 shall be remitted by the retailer to the council. The council may, subject to the corporation

1 director's approval, establish an alternative, practicable means of collecting or remitting such fee.

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

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

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

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

13 (i) Municipal and/or transfer stations;

14 (ii) Retailers; and

15 (iii) All other covered entities;

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

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

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

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

22 (i) Rhode Island resource recovery corporation; and

23 (ii) Any other facilities;

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

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

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

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

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

1 council shall maintain all records relating to the program for not less than three (3) years.

2 (l) No covered entity that participates in the program shall charge for receipt of  
3 mattresses generated in the state. Covered entities may charge a fee for providing the service of  
4 collecting mattresses and may restrict the acceptance of mattresses by number, source or physical  
5 condition.

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

14 (n) No fee shall be charged to any Rhode Island resident or business operating in the state  
15 of Rhode Island for the collection, transportation, storage or recycling of any mattress after  
16 January 1, 2018.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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

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1           This act would abolish fees imposed upon Rhode Island residents and businesses  
2 operating within the state for the collection, transportation, storage or recycling of any mattress  
3 after January 1, 2018.

4           This act would take effect upon passage.

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