

1 S.217

2 Introduced by Senator Watson

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; extended producer liability;

6 mattresses

7 Statement of purpose of bill as introduced: This bill proposes to establish an
8 extended producer responsibility program for the collection of discarded
9 mattresses. The bill would require mattress producers, individually or
10 collectively through a mattress stewardship organization, to create, implement,
11 and administer a mattress stewardship collection plan for the collection and
12 disposition of discarded mattresses in Vermont.

13 An act relating to establishing an extended producer responsibility program
14 for the collection of discarded mattresses

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 10 V.S.A. chapter 164C is added to read:

17 CHAPTER 164C. MATTRESS COLLECTION PROGRAM

18 § 7201. DEFINITIONS

1 As used in this chapter:

2 (1) “Brand” means a name, symbol, word, or mark that attributes a
3 mattress to the producer of the mattress.

4 (2) “Consumer” means any person who presents or intends to present a
5 discarded mattress to a collection site operating an approved mattress
6 collection plan.

7 (3) “Discarded mattress” means any mattress that a consumer discarded,
8 intends to discard, or abandoned.

9 (4) “Energy recovery” means the process of burning or processing solid
10 waste materials to utilize the heat or other forms of energy within solid waste
11 materials.

12 (5)(A) “Foundation” means any ticking-covered structure that is used to
13 support a mattress and that is composed of one or more of the following:

14 (i) a constructed frame;

15 (ii) foam; or

16 (iii) a box spring.

17 (B) “Foundation” does not include any bed frame.

18 (6)(A) “Mattress” means any resilient material or combination of
19 materials that is enclosed by a ticking, that is used alone or in combination
20 with other products, and that is intended for or promoted for sleeping upon.

1 “Mattress” includes any foundation, renovated foundation, or renovated
2 mattress.

3 (B) “Mattress” does not include:

4 (i) an unattached mattress pad or an unattached mattress topper,
5 including any item with resilient filling, with or without ticking, that is
6 intended to be used with or on top of a mattress;

7 (ii) a sleeping bag or pillow;

8 (iii) a car bed;

9 (iv) juvenile products, including a carriage, basket, dressing table,
10 stroller, playpen, infant carrier, lounge pad, crib bumper, and any pad for such
11 juvenile product;

12 (v) a product that contains liquid- or gaseous-filled ticking,
13 including any waterbed or air mattress that does not contain upholstery
14 material between the ticking and the mattress core; or

15 (vi) any upholstered furniture that does not otherwise contain a
16 detachable mattress, including a foldout sofa bed or a futon.

17 (7) “Mattress core” means the principal support system that is present in
18 a mattress, including springs, foam, air bladder, water bladder, or resilient
19 filling.

20 (8) “Mattress stewardship collection plan,” “mattress collection plan,”
21 or “collection plan” means the systems, methods, or mechanisms developed by

1 producers or mattress stewardship organizations that pursue the goals of this
2 chapter.

3 (9) “Mattress stewardship organization” or “stewardship organization”
4 means the legal entity such as an organization, association, or other entity that
5 has developed a system, method, or other mechanism that assumes the
6 responsibilities, obligations, and liabilities under this chapter of multiple
7 producers of mattresses.

8 (10) “Performance goal” means a metric to annually measure the
9 performance of the mattress stewardship collection plan on how it is achieving
10 continuous, meaningful improvement to the rate of mattress collection and
11 recycling in the State and any other specified goal of the program.

12 (11) “Producer” means a person:

13 (A) who manufactures or renovates a mattress that is sold or offered
14 for sale in or into this State under the producer’s own name or brand;

15 (B) who owns a trademark or brand under which a mattress is sold or
16 offered for sale in or into this State, whether or not such trademark or brand is
17 registered in this State;

18 (C) who imports a mattress into the United States that is sold or
19 offered for sale in or into this State and that is manufactured or renovated by a
20 person who does not have a presence in the United States;

1 (D) who manufactures or renovates a mattress for sale in or into the
2 State without affixing a brand name; or

3 (E) who assumes the responsibilities, obligations, and liabilities of a
4 producer as defined under subdivisions (A) through (D) of this subdivision
5 (11), provided that the Secretary may enforce the requirements of this chapter
6 against a producer defined under subdivisions (A) through (D) of this
7 subdivision (11) if a person who assumes the producer’s responsibilities fails
8 to comply with the requirements of this chapter.

9 (12) “Program mattress” means any discarded mattress that a
10 stewardship organization provides environmentally sound management for
11 under a mattress collection plan required under this chapter. “Program
12 mattress” does not mean a mattress transported from outside the State into the
13 State.

14 (13)(A) “Recycling” means any process in which discarded mattresses,
15 components, and by-products may lose their original identity or form as they
16 are transformed into new, useable, or marketable materials.

17 (B) “Recycling” does not include the use of incineration for energy
18 recovery.

19 (14)(A) “Renovate” or “renovation” means altering a mattress for the
20 purpose of resale, including replacing the ticking or filling, adding additional
21 filling, or replacing components with new or recycled materials.

1 (B) “Renovate” or “renovation” does not include:

2 (i) the stripping of a mattress of its ticking or filling without
3 adding new material;

4 (ii) the sanitization or sterilization of a mattress without other
5 alteration of the mattress; or

6 (iii) the altering of a mattress by a renovator when a person retains
7 the altered mattress for personal use.

8 (15) “Renovator” means any person who renovates discarded mattresses
9 for the purpose of reselling the mattresses.

10 (16) “Retailer” means any person who sells mattresses in this State or
11 offers for sale or transfers mattresses in this State to other persons.

12 (17) “Sale” or “sell” means the transfer of title of a mattress for
13 consideration, including the use of a sales outlet, catalog, internet, or similar
14 electronic means. “Sale” or “sell” does not include the sale, resale, or transfer
15 of a discarded mattress that has not been renovated.

16 (18) “Sanitization” means the direct application of chemicals to a
17 mattress to kill human disease-causing pathogens.

18 (19) “Sterilization” means the mitigation of any deleterious substances
19 or organisms, including human disease-causing pathogens, fungi, and insects,
20 from a mattress or filling material using a process approved by the Secretary.

1 (20)(A) “Ticking” means the outermost layer of fabric or material of a
2 mattress.

3 (B) “Ticking” does not include any layer of fabric or material quilted
4 together with, or attached to, the outermost layer of fabric or material of a
5 mattress.

6 (21) “Upholstery material” means all material, loose or attached,
7 between the ticking and the core of a mattress.

8 § 7202. SALE OF MATTRESS; CONDITION ON SALE

9 Beginning on July 1, 2028, a producer of a mattress shall not sell, offer for
10 sale, or deliver to a retailer for subsequent sale a mattress unless all of the
11 following have been met:

12 (1) The producer is operating under an individual collection plan for
13 program mattresses approved by the Secretary or is participating in a mattress
14 stewardship organization implementing an approved collection plan for
15 program mattresses.

16 (2) The name of the producer, the producer’s brand, and the name of
17 mattresses are submitted to the Agency of Natural Resources by the producer
18 or a mattress stewardship organization and are listed on the producer’s or
19 mattress stewardship organization’s website as covered by an approved
20 collection plan.

1 (3) The producer or mattress stewardship organization in which the
2 producer participates has submitted an annual report consistent with the
3 requirement of section 7206 of this title.

4 (4) The producer or the mattress stewardship organization in which the
5 producer participates has conducted a plan audit consistent with the
6 requirements of section 7206 of this title.

7 § 7203. MATTRESS STEWARDSHIP ORGANIZATION;

8 REGISTRATION; OBLIGATIONS

9 (a) A producer may meet the requirements of this chapter by participating
10 in a mattress stewardship organization that undertakes the producer's
11 responsibilities under this chapter.

12 (b) To qualify as a mattress stewardship organization under this chapter, an
13 organization shall:

14 (1) commit to assume the responsibilities, obligations, and liabilities of
15 all producers participating in the stewardship organization;

16 (2) represent at least 45 percent of the market share of mattresses sold in
17 the State;

18 (3) not create unreasonable barriers for participation in the stewardship
19 organization; and

1 (4) maintain a public website that lists all producers and producers'
2 brands covered by the mattress stewardship organization's approved collection
3 plan.

4 (c)(1) On or before July 1, 2027, and annually thereafter, a mattress
5 stewardship organization shall file a registration with the Secretary. The
6 Secretary shall provide the registration form to the stewardship organization.

7 The registration form shall include:

8 (A) a list of the producers participating in the mattress stewardship
9 organization;

10 (B) a list of the brands of each producer participating in the
11 stewardship organization;

12 (C) a list of the mattresses of each producer participating in the
13 stewardship organization;

14 (D) the name, address, and contact information of a person
15 responsible for ensuring compliance with this chapter;

16 (E) a description of how the stewardship organization meets the
17 requirements of subsection (b) of this section, including any reasonable
18 requirements for participation in the stewardship organization; and

19 (F) the name, address, and contact information of a person for a
20 nonmember manufacturer to contact regarding how to participate in the
21 stewardship organization to satisfy the requirements of this chapter.

1 (2) A renewal of a mattress stewardship organization registration
2 without changes may be accomplished through notifying the Agency of
3 Natural Resources on a form provided by the Agency.

4 § 7204. MATTRESS COLLECTION PLANS

5 (a) On or before January 1, 2028, a producer, individually or as a
6 participant in a mattress stewardship organization, shall submit a mattress
7 collection plan for program mattresses to the Secretary for approval.

8 (b) The plan shall include, at a minimum, all of the following:

9 (1) List of participants and products. A list of the producers, brands,
10 and products participating in the mattress collection plan and a methodology
11 for adding and removing producers and notifying the Agency of new
12 participants.

13 (2) Free collection. Provide for collection of discarded program
14 mattresses free of charge to consumers, provided that not more than four
15 discarded mattresses are provided to a collection site by a consumer at any one
16 time.

17 (3) Convenient collection.

18 (A) A description of how the producer or mattress stewardship
19 organization shall provide for a convenient and cost-effective collection of
20 discarded program mattresses that may include using existing public and
21 private waste collection channels and collection sites in the State pursuant to

1 voluntary agreements. The description shall also include a description of how
2 the program will achieve within a reasonable period of time a minimum
3 convenience goal that ensures that all counties of the State shall have at least
4 one collection site, and within two years after the program approval, not less
5 than 70 percent of the State's residents will live within a 30 mile radius of a
6 collection site, and within three years after the program approval, not less than
7 80 percent of the State's residents will live within a 30 mile radius of a
8 collection site.

9 (B) To meet these convenience goals, the producer or stewardship
10 organization shall:

11 (i) enter into voluntary agreements to establish collection sites at
12 public and private solid waste facilities, transfer stations, landfills, recyclables
13 handling and recovery facilities that are permitted or registered with the
14 Secretary, or other suitable sites for the collection of discarded mattresses;

15 (ii) provide mattress storage containers at no cost to a participating
16 collection site;

17 (iii) negotiate mutually agreed upon voluntary agreements with
18 participating collection sites described in subdivision (i) of this subdivision
19 (b)(3)(B) that provide for reasonable compensation for the actual costs these
20 collection sites incur to handle, store, and transport discarded mattresses for
21 recycling;

1 (iv) provide for bulk pickup service at no cost to collect a
2 minimum of 100 properly source-separated program mattresses at one time
3 from persons including:

4 (I) State agencies;

5 (II) municipalities;

6 (III) public or private disposal or solid waste transfer facilities;

7 (IV) health care, education, or military facilities; and

8 (V) hotels, motels, inns, and other establishments that provide
9 transient lodging;

10 (v) offer organizations that recycle or renovate discarded
11 mattresses the opportunity to participate as collection site; and

12 (vi) enter into voluntary agreements with retailers that pick up or
13 accept mattresses from consumers upon the purchase of a new mattress for
14 recycling.

15 (4) List of plan partners. The names and locations of collection sites,
16 transporters, and recyclers who will manage discarded mattresses delivered to
17 collection sites at the time of plan submission.

18 (5) Collection and disposition of discarded mattresses. A description of
19 how the discarded mattresses will be safely and securely collected and
20 transported, tracked, and handled from collection sites through final recycling
21 and processing, including:

1 (A) a description of the methods to be used to reuse or recycle
2 discarded mattresses to ensure that the components, to the extent feasible, are
3 transformed or remanufactured into finished products for use; and

4 (B) a description of the methods to be used to manage or dispose of
5 discarded mattresses that cannot be recycled or reused.

6 (6) Education and outreach materials. A detailed description of the
7 outreach and educational methods and materials to be used under the plan,
8 including:

9 (A) materials that shall be provided to consumers, retailers, collection
10 sites, and transporters of discarded mattresses;

11 (B) outreach and education methods that will be used to encourage
12 municipal landfill and transfer station participation; and

13 (C) how such outreach materials and methods shall be evaluated for
14 effectiveness.

15 (7) Performance goals. A description of how the program will meet
16 annual performance goals, including collection, recycling, and reuse rates, as
17 determined by the Secretary, provided that, at a minimum, the program shall
18 achieve a 70 percent recycling rate of mattresses in the first program year.

19 (8) Retailer incentives. A description of what, if any, incentives will be
20 used to encourage retailer participation.

1 (9) Additional information. Any other information required by the
2 Secretary to implement the program.

3 (c) A producer or a mattress stewardship organization shall:

4 (1) Notify the Secretary whenever there is a proposed substantial change
5 to their approved mattress collection plan. For the purposes of this subsection,
6 “substantial change” includes:

7 (A) a change in the processing facilities to be used for discarded
8 mattresses collected pursuant to the program; or

9 (B) a material change to the system for collecting mattresses.

10 (2) Not later than two years after initial approval of a mattress collection
11 plan, the producer or mattress stewardship organization shall submit to the
12 Secretary for review updated performance goals that are based on collection
13 under the program during the first two years of the program.

14 (d) A producer or a mattress stewardship organization shall notify the
15 Secretary of any minor changes to the mattress collection plan on an ongoing
16 basis without resubmitting the plan for the Secretary’s approval. These
17 changes include a change in the membership, officers, or contact information
18 of the organization.

19 § 7205. RETAILER OBLIGATIONS; EXEMPTION

20 (a)(1) On and after July 1, 2028, no person shall sell or offer for sale a
21 mattress to any person in this State if the producer of the mattress does not

1 have or is not participating in an approved mattress stewardship collection
2 plan.

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

7 (b) A retailer shall not be responsible for an unlawful sale of a mattress
8 under this subsection if the retailer purchased the mattress prior to July 1,
9 2028, and sells the mattress on or before July 1, 2029.

10 § 7206. ANNUAL REPORT; PLAN AUDIT

11 (a) Annual report. Annually, a mattress producer or a mattress stewardship
12 organization shall submit a report to the Secretary that contains the following:

13 (1) the weight of discarded mattresses collected by the producer or the
14 mattress stewardship organization in the prior calendar year;

15 (2) the percentage of discarded mattresses collected in the prior calendar
16 year that are from producers who are not participating in any approved
17 mattress stewardship organization;

18 (3) the collection rate achieved in the prior calendar year under the
19 mattress collection plan, including a report of the estimated total sales data by
20 weight for mattresses sold in the State for the previous three calendar years;

1 (4) the locations of all collection points available under the mattress
2 collection plan and contact information for each location;

3 (5) examples and description of educational materials used to increase
4 collection;

5 (6) the weight of program mattress materials sent for disposal at each of
6 the following:

7 (A) energy recovery;

8 (B) landfills; and

9 (C) any other facilities;

10 (7) an evaluation of why the mattress materials sent for disposal were
11 not recycled and a description of program efforts to increase the recycling rate
12 of mattress materials under the mattress stewardship program;

13 (8) any substantial change to the mattress collection plan approved by
14 the Secretary pursuant to section 7204 of this title; and

15 (9) the cost of implementation of the mattress collection plan, including
16 the costs of collection, recycling, education, and outreach.

17 (b) Plan audit. After five years of implementation of an approved mattress
18 plan, a producer or mattress stewardship organization shall hire an independent
19 third party to conduct a one-time audit of the mattress collection plan and plan
20 operation. The auditor shall examine the effectiveness of the mattress
21 collection plan in collecting and recycling discarded mattresses. The

1 independent auditor shall examine the cost-effectiveness of the plan and
2 compare it to that of collection plans or programs for discarded mattresses in
3 other jurisdictions. The independent auditor shall submit the results of the
4 audit to the Secretary as part of the annual report required under subsection (a)
5 of this section.

6 § 7207. ANTITRUST; CONDUCT AUTHORIZED

7 (a) Activity authorized. A producer, group of producers, or stewardship
8 organization implementing or participating in an approved mattress collection
9 plan under this chapter for the collection, transport, processing, and end-of-life
10 management of discarded mattresses is individually or jointly immune from
11 liability for conduct under State laws relating to antitrust, restraint of trade,
12 unfair trade practices, and other regulation of trade or commerce under 9
13 V.S.A. chapter 63, subchapter 1 to the extent that the conduct is reasonably
14 necessary to plan, implement, and comply with the producer's or stewardship
15 organization's chosen system for managing discarded mattresses.

16 (b) Limitations on antitrust activity. Subsection (a) of this section shall not
17 apply to an agreement among producers, groups of producers, retailers,
18 wholesalers, or stewardship organizations affecting the price of mattresses or
19 any agreement restricting the geographic area in which or customers to whom
20 mattresses shall be sold.

1 § 7208. AGENCY RESPONSIBILITY

2 (a) The Secretary shall:

3 (1) Review for approval the mattress collection plan of a producer,
4 either individually or as part of a mattress stewardship organization.

5 (A) Not later than 90 days after the plan described in section 7204 of
6 this chapter is submitted, the Secretary shall decide whether to:

7 (i) approve the plan as submitted; or

8 (ii) deny the plan.

9 (B) If the Secretary denies the plan, the Secretary shall provide a
10 notice of determination to the producer or mattress stewardship organization
11 within 60 days after the decision, including reasons for the disapproval. The
12 producer or stewardship organization shall revise and resubmit the plan to the
13 Secretary not later than 45 days after receipt of the Secretary's denial notice.
14 Not later than 45 days after the receipt of the revised plan, the Secretary shall
15 review and approve or deny the revised plan. The producer or mattress
16 stewardship organization may resubmit a revised plan to the Secretary not
17 more than twice. If the producer or mattress stewardship organization fails to
18 submit a plan that is accepted by the Secretary because it does not meet the
19 requirements of subsection (b) of this section, the Secretary shall have the
20 ability to require the producer or mattress stewardship organization to submit
21 modifications to the submitted plan prior to approval. The producer or

1 mattress stewardship organization shall implement the mattress stewardship
2 program not later than 120 days after the approval of the plan by the Secretary.

3 (2) Maintain on the Agency of Natural Resources' website information
4 on collection opportunities for mattresses, including collection site locations.
5 This information shall be made available in a printable format for retailers and
6 consumers.

7 (3) List the names of participating producers covered under approved
8 mattress collection plans on the Agency of Natural Resources' website.

9 (4) Report biennially to the General Assembly on the operation of the
10 statewide system for collection, transportation, recycling, and recovery of
11 mattresses.

12 (b) The Secretary may adopt rules and regulations to implement the
13 requirements of this chapter.

14 § 7209. FEES; DISPOSITION

15 (a) A producer or mattress stewardship organization shall pay \$2,000.00
16 annually for operation of an approved mattress collection plan.

17 (b) The fees collected under subsection (a) of this section shall be deposited
18 in the Environmental Permit Fund established under 3 V.S.A. § 2805.

19 Sec. 2. 10 V.S.A. § 6621a(a) is amended to read:

20 (a) In accordance with the following schedule, no person shall knowingly
21 dispose of the following materials in solid waste or in landfills:

1 * * *

2 (13) Mattresses after July 1, 2028.

3 Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

4 (a) The Secretary may take action under this chapter to enforce the
5 following statutes and rules, permits, assurances, or orders implementing the
6 following statutes, and the Board may take such action with respect to
7 subdivision (10) of this subsection:

8 * * *

9 (32) 10 V.S.A. chapter 164B, relating to collection and management of
10 covered household hazardous products; ~~and~~

11 (33) 10 V.S.A. chapter 24A, relating to the Climate Superfund Cost
12 Recovery Program; and

13 (34) 10 V.S.A. chapter 164C, relating to the Mattress Collection
14 Program.

15 Sec. 4. 10 V.S.A. § 8503(a) is amended to read:

16 (a) This chapter shall govern all appeals of an act or decision of the
17 Secretary, excluding enforcement actions under chapters 201 and 211 of this
18 title and rulemaking, under the following authorities and under the rules
19 adopted under those authorities:

20 (1) The following provisions of this title:

21 * * *

- 1 (V) chapter 124 (trade in covered animal parts or products); ~~and~~
2 (W) chapter 164B (collection and management of covered household
3 hazardous products); and
4 (X) chapter 164C (Mattress Collection Program).
5 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).
6 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).
7 (4) 3 V.S.A. § 2810 (interim environmental media standards).

8 Sec. 5. EFFECTIVE DATE

9 This act shall take effect on July 1, 2026.