

HOUSE No. 881**The Commonwealth of Massachusetts**

PRESENTED BY:

Edward R. Philips*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish a mattress recycling program in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>1/19/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>1/25/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/11/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/15/2023</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>2/15/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>3/14/2023</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>3/31/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>9/18/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>9/18/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>10/18/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/7/2024</i>

HOUSE No. 881

By Representative Philips of Sharon, a petition (accompanied by bill, House, No. 881) of Edward R. Philips and others for legislation to establish a mattress recycling program. Environment and Natural Resources.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to establish a mattress recycling program in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1- PREAMBLE: The General Court finds and declares that:

2 (1) It is in the best interests of the Commonwealth of Massachusetts for producers of
3 mattresses to take responsibility for developing, implementing and administering a statewide
4 system for the financing, collection and environmentally sound management of discarded
5 mattresses; and

6 (2) It is the Commonwealth of Massachusetts' policy that a statewide system for the
7 financing, collection and environmentally sound management of discarded mattresses:

8 (a) Provide free, convenient and accessible opportunities for collection of mattresses
9 discarded in this state from any person, in both the urban and rural areas of this state;

10 (b) Be technologically feasible and economically practical.

11 SECTION 2- DEFINITIONS

As used in sections 1 to 14 of this Act:

(i) “Brand” shall mean a name, symbol, word or mark that attributes a mattress to the producer of the mattress.

(ii) “Consumer” shall mean a person who is the purchaser, by retail sale, of a mattress for final delivery and use in this state.

(iii) “Discarded mattress” shall mean a mattress that has been used, and abandoned or discarded, in this state.

(iv) “Environmentally sound management” includes, but is not limited to, the following management practices, implemented in a manner that is designed to protect public health and safety and the environment:

(a) Adequate record keeping;

(b) Keeping detailed documentation of the methods used to:

(A) Manage discarded mattresses; and

(B) Track and document the fate of discarded mattresses from collection through final disposition within this state.

(c) Performance audits and inspections of recyclers, haulers and other parties as determined by a stewardship organization;

(d) Compliance with worker health and safety requirements; and

(e) Maintenance of adequate liability insurance for a stewardship organization and contractors working for the stewardship organization.

(v) “Final disposition” shall mean the point beyond which no further processing takes place and a discarded mattress and its components have been recycled, renovated or disposed of.

(vi) “Foundation” shall mean a ticking-covered structure that is used to support a mattress or sleep surface and that may be constructed of frames, foam, box springs or other materials, used alone or in combination.

(vii)(a) “Mattress” shall mean:

(A) 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; or

(B) A foundation.

(b) “Mattress” shall not mean:

(A) An unattached mattress pad or unattached mattress topper, with or without resilient filling or ticking, that is intended to be used with or on top of a mattress;

(B) A sleeping bag;

(C) A pillow;

(D) A car bed, crib mattress or bassinet mattress;

(E) A carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper or other product manufactured for young children or the pad for a product described in this subparagraph;

(F) A water bed, an air mattress or another product that contains liquid- or gas-filled ticking and that does not contain upholstery material between the ticking and the mattress core; or

(G) A foldout sofa bed, futon, futon mattress or upholstered furniture.

(viii) “Mattress core” shall mean the principal support system that is present in a mattress and that may be constructed of materials such as springs, foam, air or water bladders or resilient filling.

(ix) “Mattress stewardship assessment” shall mean the amount added at retail sale to the purchase price of a mattress to cover the costs of a mattress stewardship program.

(x) “Mattress stewardship program” shall mean a statewide program for the collection of discarded mattresses and environmentally sound management of program mattresses that is operated by a stewardship organization pursuant to a plan approved by the Department of Environmental Protection under section 6 of this Act.

(xi) “Mattress topper” shall mean any item that contains resilient filling, with or without ticking, that is intended to be used with or on top of a mattress.

(xii) “Nonprofit organization” shall mean an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(xiii) “Person” shall mean the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or other legal entity.

(xiv) “Premium service” shall mean a service such as at-home pickup service, including curbside pickup service.

(xv) “Producer” shall mean any person, irrespective of the selling technique used, including that of remote sale, that:

(a) Manufactures a mattress that is sold, offered for sale or distributed in this state;

(b) Is the owner of a trademark or brand under which a mattress is sold, offered for sale or distributed in this state, whether or not such trademark or brand is registered in this state; or

(c) Imports a mattress into the United States that is sold or offered for sale in this state.

(xvi)(a) “Program mattress” shall mean a discarded mattress that a stewardship organization will provide environmentally sound management for under a mattress stewardship program.

(b) “Program mattress” shall not mean a mattress transported from outside this state to be discarded in this state.

(xvii)(a) “Renovate” shall mean to alter a discarded mattress for resale through adding to or replacing the ticking or filling, adding additional filling or replacing components of the discarded mattress with new or recycled materials.

(b) “Renovate” shall not mean:

(A) Stripping a discarded mattress of the ticking or filling without adding new material; or

(B) The sanitization or sterilization of a discarded mattress without other alteration to the discarded mattress.

(xvii) “Renovator” shall mean a person that renovates discarded mattresses.

(xix) “Retailer” shall mean a person that offers new, used or renovated mattresses for retail sale.

(xx) “Retail sale” shall mean sale to a consumer in this state by any means and for any purpose other than resale, including but not limited to sale by remote offerings such as sales outlets, catalogs or the Internet.

(xxi) “Sanitization” shall mean the direct application of chemicals to a mattress to kill pathogens that cause human disease.

(xxii) “Sterilization” shall mean the mitigation of any deleterious substances or organisms, including pathogens that cause human disease, fungi and insects, from a mattress or filling material using a chemical or heat process.

(xxiii) “Stewardship organization” shall mean a nonprofit organization designated by a producer or group of producers to implement a mattress stewardship program.

(xxiv)(a) “Ticking” shall mean the outermost layer of fabric or related material of a mattress.

(b) “Ticking” shall not mean any layer of fabric or material quilted together with, or otherwise attached to, the outermost layer of fabric or material of a mattress.

SECTION 3. (1) Except as provided in subsection (3) of this section, a producer, renovator or retailer may not sell or offer for sale any mattress to any person in this state unless the producer, renovator or retailer is registered with a stewardship organization with a plan approved by the Department of Environmental Protection under section 6 of this Act.

(2) On and after the date that a mattress stewardship program is implemented, a retailer:

(a) May purchase a mattress only from a producer or renovator that is registered with a stewardship organization as of the date of purchase as evidenced by information made available by a stewardship organization pursuant to subsection (4) of this section;

(b) Shall collect, at the point of retail sale, the mattress stewardship assessment established pursuant to a plan approved by the department under section 6 of this Act and remit the mattress stewardship assessment to the stewardship organization that implements the mattress stewardship program; and

(c) Shall provide to consumers, at the point of retail sale, information on available collection opportunities for discarded mattresses through the mattress stewardship program.

(3) A retailer registered with a stewardship organization that purchased a mattress from a producer or renovator in compliance with subsection (2)(a) of this section is not in violation of subsection (1) of this section if, at the time the retailer sells the mattress to a

130 consumer, the producer or renovator that the retailer purchased the mattress from is no longer
131 registered with a stewardship organization.

132 (4) A stewardship organization shall make available on the stewardship
133 organization's website and on request:

134 (a) Information on the brands owned by all producers and renovators registered with
135 the stewardship organization;

136 (b) Information on available collection opportunities; and

137 (c) Any other information necessary for retailers to comply with subsection (2) of this
138 section.

139 (5) A retailer shall identify the mattress stewardship assessment as a separate line
140 item on the receipt for a mattress provided to a consumer at the point of sale.

141 (6)(a) Subject to paragraph (b) of this subsection, a stewardship organization may use a
142 mattress stewardship assessment collected in this state only to pay the costs necessary to plan,
143 implement, administer and operate a mattress stewardship program in this state, including a
144 financial reserve to prudently prepare for unexpected costs.

145 (b) A stewardship organization may not use any moneys collected through a mattress
146 stewardship assessment to pay penalties assessed against the stewardship organization by the
147 Department of Environmental Protection.

148 (7) Nothing in this section prevents a stewardship organization from, with notice to
149 the department, coordinating efforts for carrying out a mattress stewardship program in this state

150 with programs for the collection and environmentally sound management of discarded mattresses
151 in other states.

152 (8) The department shall maintain on its website a list of all producers, renovators
153 and retailers that are in compliance with sections 1 to 14 of this Act.

154 SECTION 4. (1) In a form and manner prescribed by the Department of Environmental
155 Protection, a stewardship organization shall submit to the department a plan for the development
156 and implementation of a mattress stewardship program. The plan must:

157 (a) Describe how the stewardship organization will manage and administer a mattress
158 stewardship program.

159 (b) Identify program mattresses.

160 (c) Describe how discarded mattresses that are received through collection sites or
161 collection events and that are not program mattresses will be handled.

162 (d) Identify each producer, renovator and retailer that is registered with the
163 stewardship organization as of 30 days before the plan is submitted to the department.

164 (e) Include a description of how the stewardship organization will provide for the
165 environmentally sound management of program mattresses, regardless of the producer, with no
166 charge at the point of collection of discarded mattresses, except that the stewardship organization
167 may allow for a person that provides a premium service under the mattress stewardship program
168 to charge for the additional cost of that premium service. The description shall include, at a
169 minimum:

170 (A) Identification of the proposed recyclers that the stewardship organization will
171 contract with to process program mattresses and the recycling methods that the recyclers will
172 use;

173 (B) The auditing, inspection and other procedures that will be used by the stewardship
174 organization and the frequency at which the procedures will be implemented to ensure that all
175 entities the stewardship organization contracts with to implement the mattress stewardship
176 program engage in environmentally sound management practices; and

177 (C) A description of the processes that will be used to ensure that the recyclers
178 contracted with by the stewardship organization to process program mattresses will comply with
179 environmentally sound management practices.

180 (f) Provide service as described in section 5 of this Act.

181 (g) Establish performance goals for:

182 (A) The collection target and recycling rates of program mattresses; and

183 (B) Public awareness of the mattress stewardship program.

184 (h) Include an anticipated annual operating budget, as described in subsection (2) of
185 this section, for the mattress stewardship program for two years of operation of the program,
186 beginning with the year in which the plan is submitted to the department.

187 (i) Include a proposed mattress stewardship assessment method for collecting the
188 mattress stewardship assessment from retailers and a method for ensuring the assessment is
189 remitted to the stewardship organization. The mattress stewardship assessment must be a flat
190 amount that applies equally to each mattress sold to a consumer in this state and must be

sufficient to recover, but not exceed, the costs of establishing and administering the mattress stewardship program, including but not limited to all costs incurred for the environmentally sound management of program mattresses during each stage of management, from collection of the program mattresses through final disposition of the program mattresses.

(j) Provide a mechanism to mitigate the costs associated with collection and management of discarded mattresses that are illegally dumped. The proposed mechanism must take into account the cost of one or more incentives to encourage collectors to properly dispose of discarded mattresses and discourage illegal dumping, and may include but need not be limited to proposals for funding of cleanup activities, for education and outreach or for studies to evaluate the causes of illegal dumping. The proposed mechanism may not require the stewardship organization or collectors to enter private property without authorization from the property owner or other appropriate authority.

(k) Provide for public education, advertising and promotion of discarded mattress collection opportunities statewide and on a regular basis.

(L) Include a closure plan that addresses how the stewardship organization will settle the affairs of the mattress stewardship program in the event of dissolution of the stewardship organization or cessation of operations of the mattress stewardship program by the stewardship organization in this state.

(m) Describe methods that will be used by the stewardship organization to coordinate activities with existing recycling programs, including existing nonprofit organizations that are mattress recyclers, to further the environmentally sound management of discarded mattresses.

212 (n) Address procedures for identifying substantial or material changes to the system
213 for collecting discarded mattresses for which a plan amendment will be required under section 7
214 of this Act.

215 (2) The anticipated annual operating budget for a mattress stewardship program shall
216 include, but need not be limited to, budget line items relating to:

217 (a) The collection, transportation and processing of program mattresses;

218 (b) The administrative costs of the mattress stewardship program to the stewardship
219 organization;

220 (c) The costs of compensating collection sites for their reasonable actual costs to
221 collect and manage discarded mattresses;

222 (d) The anticipated amount of moneys that the stewardship organization will hold in
223 un- allocated reserve funds for the mattress stewardship program; and

224 (e) The annual fee to be paid to the department pursuant to section 9 (3) of this Act.

225 (3) In operating a mattress stewardship program, a stewardship organization shall:

226 (a) Meet the requirements of the plan submitted under this section, as approved by
227 the department pursuant to section 6 of this Act.

228 (b) Meet or exceed the service requirements described in section 5 of this Act.

229 (4) Notwithstanding section 4 of this Act, the initial plan submitted by a stewardship
230 organization is not required to include the information described in section 4 (1)(g) or (L) of this
231 Act. A stewardship organization operating a mattress stewardship program shall first submit the

information described in section 4 (1)(g) and (L) of this Act pursuant to the notification procedures set forth in section 7 (3) of this Act no later than two years after implementation of the mattress stewardship program.

(5) (b) At least 180 days before the expiration of a plan approved under section 6 of this Act, the stewardship organization shall submit the plan to the department to be reapproved for an additional five years as a subsequent plan. A plan submitted under this paragraph must include proposed improvements based on the results of the study conducted under section 9 (4)(a) of this Act.

SECTION 5. (1)(a) A plan submitted under section 4 of this Act must provide for convenient consumer access to the program, including permanent mattress dropoff locations throughout the state, collection events in underserved areas of the state, and a convenient way for the public to access a list of mattress collection opportunities.

(b) A plan may provide for methods for providing convenient service that are alternative methods to those provided for in paragraph (a) of this subsection if, based on a geographic information systems analysis or additional information, the alternative methods will result in providing service to residents throughout this state at an equivalent level of convenient service compared with the methods provided for under paragraph (a) of this subsection.

(2) A stewardship organization shall:

(a) Establish and maintain collection sites at:

(A) Permitted solid waste facilities; or

252 (B) Other suitable sites for the collection of discarded mattresses, if the sites do not
253 impose a fee for making space available for storage containers.

254 (b) Provide for storage containers at no charge at, and transportation and recycling of
255 program mattresses from, collection sites described in paragraph (a) of this subsection.

256 (c) Provide financial compensation to collection sites described in paragraph (a) of
257 this subsection for their reasonable actual costs to collect and manage discarded mattresses.

258 (d) Provide for bulk pickup service at no cost to collect a minimum of 100 properly
259 source separated program mattresses at one time from persons including, but not limited to:

260 (A) Public bodies including state government bodies, local government bodies and
261 special government bodies;

262 (B) Retailers;

263 (C) Public or private disposal, transfer or material or energy recovery sites or
264 facilities;

265 (D) Health care, educational or military facilities; and

266 (E) Hotels, motels, inns and other establishments that provide transient lodging.

267 (e) Offer organizations that recycle or renovate discarded mattresses the opportunity
268 to participate as collection sites.

269 (f) Prioritize renovation or recycling over disposal in providing for the
270 environmentally sound management and final disposition of program mattresses under the
271 mattress stewardship program.

(g) Notify retailers that sell or offer for sale mattresses made or sold by producers or renovators registered with the stewardship organization about the mattress stewardship program and provide retailers with information necessary to comply with sections 1 to 14 of this Act.

SECTION 6. (1) The Department of Environmental Protection shall approve, reject or request additional information for a plan submitted under section 4 of this Act or an amendment to a plan submitted under section 7 of this Act no later than 90 days after the date the department receives the plan or plan amendment from the stewardship organization. The department shall post a plan or plan amendment on its website and provide for a public comment period of no less than 30 days before approving, rejecting or requesting additional information on the plan or plan amendment.

(2)(a) If the department rejects, or requests additional information for, the plan or plan amendment, the department must provide the stewardship organization with the reasons, in writing, that the plan or plan amendment does not meet the plan requirements of section 4 of this Act. The stewardship organization shall have 60 days from the date that the rejection or request for additional information is received to submit to the department any additional information necessary for the approval of the plan or plan amendment. The department shall review and approve or disapprove the revised plan or plan amendment no later than 45 days after the date the department receives the revised plan or plan amendment.

(b) A stewardship organization may resubmit a revised plan or plan amendment to the department on not more than two consecutive occasions. If, after the second consecutive resubmission, the department determines that the revised plan or plan amendment does not meet the plan requirements of section 4 of this Act, the department shall modify the plan or plan

amendment as necessary for the plan or plan amendment to meet the requirements of section 4 of this Act and approve the plan or amended plan.

(3) The department's rejection of, or request for additional information for, a plan amendment does not relieve a stewardship organization from continuing to implement a mattress stewardship program in compliance with a previously approved plan pending a final action by the department on the plan amendment.

(4) Beginning no later than 90 days after a plan or amended plan is approved under this section, a stewardship organization must implement a mattress stewardship program as described in the plan or amended plan.

(5)(a) Upon a written finding described in paragraph (b) of this subsection, and after providing the stewardship organization an opportunity to respond to the finding, the department may, in addition to any other penalty provided by law:

(A) Revoke approval of a plan or plan amendment under this section or require a stewardship organization to resubmit a plan or plan amendment; or

(B) Require a stewardship organization to meet reporting requirements in addition to those required under section 9 of this Act, as the Commissioner of the Department of Environmental Protection determines by rule or order may be appropriate to avoid future violations.

(b) Paragraph (a) of this subsection applies only if the department finds:

(A) That a stewardship organization has violated a provision of sections 1 to 14 of this Act; and

(B) That the violation has a material impact on the implementation and administration of a plan previously approved by the department under this section.

SECTION 7. (1) A stewardship organization shall submit to the Department of Environmental Protection for approval an amendment to a plan that has been approved by the department under section 6 of this Act if, at any time:

(a) There is a substantial or material change, as provided for under section 4 (1)(n) of this Act, to the system for collecting discarded mattresses;

(b) The stewardship organization proposes a change to the mattress stewardship assessment; or

(c) The department requests an amendment to the plan in order to address a specific finding by the department that:

(A) The administrative costs of the stewardship organization for the mattress stewardship program equaled 20 percent or more of the organization's total annual operating budget for the program during the prior calendar year; or

(B) The unallocated reserve funds held by the stewardship organization for the mattress stewardship program during the prior calendar year equaled 75 percent or more of the organization's total annual operating budget for the program during the year.

(2) The department may not request an amendment under subsection (1)(c) of this section until two years after the implementation of a mattress stewardship program by the stewardship organization.

(3) Not less than once per month, a stewardship organization shall provide written notice to the department of any changes made during the previous month to a plan approved by the department under section 6 of this Act that are changes for which an amendment is not required under subsection (1) of this section. Changes subject to notice under this subsection include, but are not limited to:

(a) A change in the location or the number of permanent collection sites identified in the plan;

(b) A change in the producers or renovators that are registered with the stewardship organization; or

(c) A change in the recyclers or renovators that manage the discarded mattresses collected by the stewardship organization under the program.

(4) If the department determines that a change for which notice was given under subsection (3) of this section has a material impact on a previously approved plan, the department may require the stewardship organization to submit an amendment under subsection

(1) of this section, regardless of whether the change has been implemented.

SECTION 8. (1)(a) A plan submitted under section 4 of this Act and approved by the Department of Environmental Protection under section 6 of this Act is valid for five years.

SECTION 9. (1) A stewardship organization that implements a mattress stewardship program pursuant to a plan approved by the Department of Environmental Protection under section 6 of this Act shall, no later than July 1 of each year, submit for review and approval to the department:

356 (a) The annual report provided for under subsection (2) of this section for the
357 preceding calendar year;

358 (b) An updated budget for the upcoming calendar year that follows the budget
359 requirements provided for in section 4 of this Act; and

360 (2) The annual report submitted by a stewardship organization shall include, at a
361 mini- mum, with respect to mattresses collected in this state:

362 (a) The mattress stewardship program's costs and revenues for the previous calendar
363 year;

364 (b) Information on the number and tonnage of discarded mattresses collected
365 pursuant to the mattress stewardship program during the previous calendar year at a sufficient
366 level of disaggregation to determine how the program is performing in different regions of the
367 state;

368 (c) Information on the number and tonnage of program mattresses collected pursuant
369 to the mattress stewardship program for recycling during the previous calendar year at a
370 sufficient level of disaggregation to determine how the program is performing in different
371 regions of the state;

372 (d) Information on the number and tonnage of program mattresses collected pursuant
373 to the mattress stewardship program for renovation during the previous calendar year at a
374 sufficient level of disaggregation to determine how the program is performing in different
375 regions of the state which renovators shall provide upon request of the Department not more than
376 once annually;

- 377 (e) The weight of mattress materials recycled and the final disposition of mattress
378 materials, by weight and by material, sold as commodities in secondary markets;
- 379 (f) The weight of mattress materials sent for disposal at each of the following:
- 380 (A) Waste-to-energy facilities;
- 381 (B) Landfills; and
- 382 (C) Any other facilities;
- 383 (g) An evaluation of why the mattress materials sent for disposal were not recycled
384 and a description of efforts that will be taken to increase the recycling rate of mattress materials
385 under the mattress stewardship program;
- 386 (h) The number of discarded mattresses received through collection that were not
387 program mattresses, the number of discarded mattresses that were illegally dumped as reported
388 to the department, an analysis of how the data required by this paragraph has changed over time
389 and strategies the stewardship organization will take to address discarded mattresses that are not
390 program mattresses and discarded mattresses that are illegally dumped;
- 391 (i) The total sales of mattresses sold to consumers in this state in the previous
392 calendar year by producers, renovators and retailers registered with the stewardship organization;
- 393 (j) A summary of the public education offered in the previous calendar year that
394 supports the mattress stewardship program and examples of public education materials;
- 395 (k) An evaluation of the effectiveness of methods and processes used to achieve the
396 goals of the mattress stewardship program, information on progress made toward achieving the

goals, an explanation of why any goals were not met during the previous calendar year and any efforts that will be taken to improve progress toward meeting the goals in the future, if applicable;

(L) A report by an independent certified public accountant, retained by the stewardship organization at the stewardship organization's expense, on the accountant's audit of the stewardship organization's financial statements;

(m) A report on the outcome of audits of entities the stewardship organization contracts with, as provided in section 4 (1)(e)(B) and (C) of this Act; and

(n) Recommendations for any changes to the mattress stewardship program, including the potential utility of a ban on disposal of mattresses and information relevant to compliance with the plan.

(3) The department shall establish an annual fee to be paid by the stewardship organization that is reasonably calculated to cover the costs to the department to administer, implement and enforce sections 1 to 14 of this Act. The department shall provide notice to a stewardship organization no later than April 1 of each year of the annual fee for the upcoming calendar year. Fees collected by the department under this section shall be deposited in the State Treasury to the credit of the Mattress Stewardship Fund established under section 12 of this Act.

(4) In addition to meeting the requirements of subsection (1) of this section, a stewardship organization shall:

(a) Conduct during the third year of implementing a mattress stewardship program, and in consultation with community organizations, a study evaluating the most effective methods

of providing discarded mattress collection services to low-income individuals and multifamily housing structures.

(b) Include in the annual report required for the third year of implementing a mattress stewardship program under a plan or initial plan approved under section 6 of this Act:

(A) A report to the department on the scope of discarded mattresses in this state that are not being collected as part of the stewardship organization's mattress stewardship program and recommendations on how to direct the discarded mattresses to, and include them, in the stewardship organization's program; and

(B) A life cycle assessment report of mattresses sold in this state.

(5)(a) The department may require a stewardship organization to have a performance audit of the mattress stewardship program conducted and to include a report on the performance audit in the next required annual report. A performance audit required under this subsection must conform to audit standards established by nationally recognized entities including, but not limited to, the United States Government Accountability Office and the National Association of State Auditors, Comptrollers and Treasurers.

(b) Except as provided in paragraph (c) of this subsection, the department may require a performance audit to be conducted under paragraph (a) of this subsection no more than once every five years. The department may not first request a performance audit to be conducted until the third year that a stewardship organization has implemented a mattress stewardship program.

(c) The department may require a performance audit to be conducted under paragraph

(a) of this subsection less than five years after the last time that a performance audit was conducted, if the department determines that the performance audit is warranted based on information contained in a plan amendment submitted to the department under section 7 of this Act.

(6) The department may not disclose any confidential proprietary information obtained by the department under this section or section 4, 5, 6 or 7 of this Act.

SECTION 10. (1)(a) The Commissioner of the Department of Environmental Protection shall appoint a mattress stewardship program advisory committee of not more than 10 members representing the interests of the following entities in the stewardship of discarded mattresses:

(A) Local governments;

(B) The solid waste industry;

(C) The environmental community; and

(D) The public.

(b) The Commissioner may not appoint to the advisory committee any person that has or who may have a pecuniary interest in any contract awarded by a stewardship organization as part of the implementation of a mattress stewardship program.

(2) The advisory committee shall meet not less than once annually and shall consult with stewardship organizations operating mattress stewardship programs and advise the Department of Environmental Protection regarding:

(a) The review and approval of any plan for the development and implementation of a mattress stewardship program submitted to the department under section 4 of this Act;

(b) The review and approval of any amendment to a plan submitted under section 7 of this Act; and

(c) The review of annual reports submitted by a stewardship organization under section 9 of this Act.

SECTION 11. (1) The Department of Environmental Protection shall have the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected violation of sections 1 to 14 of this Act.

(2) A stewardship organization shall retain all records related to implementation of a mattress stewardship program for not less than three years and make the records available for inspection by the department upon request.

SECTION 12. The Mattress Stewardship Fund is established, separate and distinct from the General Fund. All moneys in the Mattress Stewardship Fund are continuously appropriated to the Department of Environmental Protection and may be used only to pay the costs of administering, implementing and enforcing sections 1 to 14 of this Act.

SECTION 13. (1) The Massachusetts General Court declares that the collaboration of producers and stewardship organizations to develop and implement mattress stewardship programs is in the best interests of the public. Therefore, the Legislature declares its intent that the establishment, administration, collection or disbursement of the mattress stewardship

assessment shall be exempt from state antitrust laws. The Legislature further declares its intent to provide immunity for the establishment, administration, collection or disbursement of the mattress stewardship assessment from federal antitrust laws.

(2)(a) This section does not authorize any person to engage in activities or to conspire to engage in activities that constitute per se violations of state or federal antitrust laws that are not authorized under sections 1 to 14 of this Act.

(b) This section does not apply to any activities related to:

(A) Pricing agreements for mattresses unrelated to the mattress stewardship assessment;

(B) Agreements regarding the output or production of mattresses; or

(C) Restrictions on the geographic area in which, or the consumers to whom, mattresses will be sold.

(3) The Department of Environmental Protection shall actively supervise the conduct of a stewardship organization in establishing, administering, collecting and disbursing the mattress stewardship assessment.

SECTION 14. The Department of Environmental Protection may adopt rules as necessary to implement sections 1 to 14 of this Act.

SECTION 15. Sections 1 to 14 of this Act apply to all producers, renovators and retailers engaging in the activities set forth in section 3 (1) of this Act upon passage of this Act into law.

498 SECTION 16. (1) Sections 1 to 15 of this Act become operative upon passage of this Act
499 into law.

500 (2) The Department of Environmental Protection may take any action before the
501 operative date specified in subsection (1) of this section that is necessary for the commission and
502 the department to exercise, on and after the effective date of this section, all of the duties,
503 functions and powers conferred on the department by sections 1 to 14 of this Act

504 SECTION 17. (1) Initial plans for mattress stewardship programs under sections 4 and 8
505 of this Act must be submitted to the Commissioner of the Department of Environmental
506 Protection no later than 180 days after this Act becomes law.

507 (2) Notwithstanding section 6 (4) of this Act, a stewardship organization shall implement
508 a mattress stewardship program as described in an initial plan submitted pursuant to subsection
509 (1) of this section no later than seven months after the date that the initial plan is approved by the
510 department under section 6 of this Act.

511 SECTION 18. This Act shall take effect upon passage.