

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.8,*  
 3 *consisting of sections numbered 10.1-1425.40 through 10.1-1425.43, relating to Mattress Stewardship*  
 4 *Program established; report.*

5 [H 86]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 3.8,**  
 9 **consisting of sections numbered 10.1-1425.40 through 10.1-1425.43, as follows:**

10 *Article 3.8.*11 *Mattress Stewardship Program.*12 **§ 10.1-1425.40. Definitions.**13 *As used in this article, unless the context requires a different meaning:*

14 *"Consumer" means an owner or a purchaser of a mattress, including a person, business, corporation,*  
 15 *limited partnership, nonprofit organization, or governmental entity in the Commonwealth, and including the*  
 16 *ultimate purchaser, owner, or lessee of a mattress. "Consumer" does not include a government organization*  
 17 *or other party that obtains one or more used mattresses in the course of collecting used mattresses for*  
 18 *recycling for the purposes of this article or through the ordinary collection and handling of municipal solid*  
 19 *waste.*

20 *"Discarded mattress" means any mattress that a consumer discarded or intends to discard or is*  
 21 *abandoned in the Commonwealth and that is unacceptable for recycling because it is contaminated, wet,*  
 22 *crushed, or would otherwise pose a risk to the consumer's health, safety, or equipment.*

23 *"Foundation" means a ticking-covered structure used to support a mattress or sleep surface. The*  
 24 *structure may include constructed frames, foam, box springs, or other materials, used alone or in*  
 25 *combination with other products.*

26 *"Mattress" means a resilient material or combination of materials that is enclosed by a ticking, is used*  
 27 *alone or in combination with other products, and is intended for or promoted for sleeping on. "Mattress"*  
 28 *includes a foundation. "Mattress" does not include:*

29 *1. An unattached mattress pad or topper that is designed to be used on top of or in addition to a mattress;*  
 30 *2. A waterbed, air mattress, or any other product that contains liquid-filled or gas-filled ticking and that*  
 31 *does not contain upholstery material between the ticking and the mattress core;*

32 *3. A carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, crib*  
 33 *mattress, bassinet mattress, or any other product manufactured for young children; or*

34 *4. A sleeping bag, pillow, futon, sleeper sofa, fold-out sofa bed, car bed, or any furniture that otherwise*  
 35 *does not contain a detachable mattress.*

36 *"Mattress core" means the principal support system that is present in a mattress, including springs, foam,*  
 37 *an air bladder, a water bladder, or resilient filling.*

38 *"Mattress recycling fee" means the uniform per unit amount added to the price of a new or renovated*  
 39 *mattress at the point of sale to a consumer, collected by a retailer, and remitted to the mattress recycling*  
 40 *organization to fund the Mattress Stewardship Program by distributing the organization's costs uniformly*  
 41 *over all mattresses sold in the Commonwealth.*

42 *"Mattress recycling organization" means a nonprofit organization formed by a qualified industry*  
 43 *association to implement the Mattress Stewardship Program.*

44 *"Mattress recycling plan" or "plan" means the plan for recycling discarded mattresses developed by the*  
 45 *mattress recycling organization and approved by the Department.*

46 *"Mattress Stewardship Program" or "Program" means the program to recycle mattresses discarded in the*  
 47 *Commonwealth established in § 10.1-1425.41.*

48 *"Producer" means (i) a manufacturer of a mattress that sells, offers for sale, or distributes mattresses to*  
 49 *consumers in the Commonwealth under the producer's own name or brand or (ii) an individual that imports*  
 50 *mattresses into the United States to sell, offer for sale, or distribute in the Commonwealth. "Producer"*  
 51 *includes the owner of a mattress trademark or brand.*

52 *"Qualified industry association" means the International Sleep Products Association or a successor of*  
 53 *that organization, or a group of mattress producers that collectively represent at least 35 percent of the*  
 54 *volume of mattresses manufactured in the United States.*

55 *"Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting*  
 56 *materials that would otherwise become solid waste and returning them to the economic mainstream in the*

57 form of raw material for new, reused, or reconstituted products that meet the quality standards necessary to  
58 be used in the marketplace.

59 "Recycler" means a person that engages in the manual or mechanical separation of mattresses to  
60 substantially recover components and commodities contained in mattresses for the purpose of recycling.

61 "Renovate" means to alter a discarded mattress for resale in compliance with any regulations  
62 promulgated pursuant to § 32.1-12 by the State Board of Health through replacing the ticking or filling,  
63 adding additional filling, or replacing components of the discarded mattress with new or recycled materials.  
64 "Renovate" does not include (i) stripping a discarded mattress of the ticking or filling without adding new  
65 material or (ii) the sanitization or sterilization of a discarded mattress without other alteration to the  
66 discarded mattress.

67 "Renovator" means a person who renovates used mattresses for the purpose of sale, or offering for sale,  
68 in the Commonwealth in compliance with any regulations promulgated pursuant to § 32.1-12 by the State  
69 Board of Health.

70 "Retailer" means any person that sells or offers for sale mattresses to consumers in the Commonwealth  
71 through any means, including remote offering, sales outlets or catalogs, electronically through the internet,  
72 by telephone, or through the mail. Such means also includes sales or offers for sale to lodging  
73 establishments, educational facilities, health facilities, and similar types of customers.

74 "Sale" or "sell" means any transfer of title, including remote sales conducted through sales outlets,  
75 catalogs, or the internet or any other similar electronic means.

76 "Sanitization" means the process of treating renovated mattresses in accordance with processes approved  
77 by the State Commissioner of Health.

78 "Sterilization" means the mitigation of any deleterious substances or organisms, including pathogens that  
79 cause human disease, fungi, and insects, from a mattress or filling using a chemical or heat process.

80 "Ticking" means the outermost layer of fabric or related material of a mattress. "Ticking" does not  
81 include another layer of fabric or related material that is quilted together with, or otherwise attached to, the  
82 outermost layer of fabric or related material.

83 **§ 10.1-1425.41. Mattress Stewardship Program.**

84 A. On or before January 1, 2027, a qualified industry association may request that the Department certify  
85 such organization as a mattress recycling organization. Within 30 days of receipt of such request, the  
86 Department shall notify the qualified industry association of its decision whether to certify such mattress  
87 recycling organization.

88 B. On or before June 1, 2027, each producer, retailer, and renovator shall register with the certified  
89 mattress recycling organization. Each producer shall identify each mattress brand that it sells or offers for  
90 sale to consumers in the Commonwealth.

91 C. On or before July 1, 2027, the certified mattress recycling organization shall submit a mattress  
92 recycling plan to the Department for its approval for the establishment of the Program. Such plan shall:

93 1. Identify the producers, brands, retailers, and renovators registered with the mattress recycling  
94 organization;

95 2. Describe how the mattress recycling organization shall collect, transport, and recycle discarded  
96 mattresses;

97 3. Propose a uniform per unit mattress recycling fee that is sufficient to cover all costs of establishing and  
98 administering the Program, including a financial reserve;

99 4. Describe how the mattress recycling stewardship organization shall (i) work with existing recyclers  
100 and mattress collection infrastructure and (ii) consult with state and local governments and other  
101 stakeholders;

102 5. Describe how the mattress recycling organization shall educate consumers, producers, and retailers to  
103 promote the recycling of discarded mattresses and options available to consumers for recycling discarded  
104 mattresses;

105 6. Describe how the Program will provide for convenient mattress collection in the Commonwealth;

106 7. Include performance goals; and

107 8. Include other information requested by the Department that is reasonably related to the mattress  
108 recycling plan and the requirements of this article and that the mattress recycling organization can  
109 reasonably provide.

110 D. The Department shall review the plan proposed by the mattress recycling organization. The  
111 Department shall approve the plan proposed by the mattress recycling organization if it determines that the  
112 plan, including the proposed budget and proposed mattress recycling fee, complies with the requirements of  
113 this article. The Department shall reevaluate the approved plan five years following the approval.

114 E. The mattress recycling organization that submits a proposed plan for approval shall pay to the  
115 Department (i) a plan review fee that reimburses the Department's actual cost of plan review and (ii) an  
116 annual fee that reimburses the Department for its actual costs associated with Program compliance  
117 oversight, including the Department's review of the mattress recycling organization's annual report.

118 F. Following the Department's approval of the plan, including the budget and mattress recycling fee:

119 1. *The mattress recycling organization shall implement its plan within one year after approval of such*  
 120 *plan.*

121 2. *At least 90 days before the date on which Program implementation will commence, the mattress*  
 122 *recycling organization shall notify all producers, retailers, and renovators of that implementation date and*  
 123 *their obligations under the plan.*

124 3. *Upon plan implementation:*

125 a. *No producer or retailer shall sell or offer for sale a brand of mattress to any person in the*  
 126 *Commonwealth unless both the producer of the brand and the retailer are registered with the mattress*  
 127 *recycling organization. A retailer shall be considered compliant with this requirement if (i) it is registered*  
 128 *with the mattress recycling organization and (ii) on the date the retailer orders a mattress from a producer,*  
 129 *the producer is listed on the mattress recycling organization's website as having registered with the mattress*  
 130 *recycling organization.*

131 b. *Each producer, retailer, or renovator that sells a mattress to a consumer in the Commonwealth shall*  
 132 *add the mattress recycling fee to the purchase price of the mattress. Such fee shall be clearly visible as a*  
 133 *separate line item on the invoice, receipt, or functionally equivalent billing document that the seller provides*  
 134 *to the consumer. The seller shall remit such fee collected to the mattress recycling organization. The mattress*  
 135 *recycling organization shall determine the rules and procedures that are necessary and proper to implement*  
 136 *the collection of the fee in a fair, efficient, and lawful manner.*

137 c. *The mattress recycling organization shall provide producers, retailers, renovators, and consumers with*  
 138 *educational materials regarding the Program. A retailer shall provide such educational materials to*  
 139 *consumers at the point of sale.*

140 G. *No mattress collection site that participates in the Program shall charge any additional fee for*  
 141 *accepting a discarded mattress from consumers for recycling unless otherwise specified by contract.*

142 H. *An action taken by a mattress recycling organization or entities registered with the mattress recycling*  
 143 *organization that relates to any of the following shall not be a violation of state or federal antitrust, restraint*  
 144 *of trade, or unfair competition laws:*

145 1. *The creation, implementation, or management of a mattress recycling plan approved by the*  
 146 *Department and the types or quantities of used mattresses recycled or otherwise managed pursuant to such*  
 147 *plan;*

148 2. *The cost and structure of an approved plan; or*

149 3. *The establishment, administration, collection, or disbursement of the mattress recycling fees associated*  
 150 *with funding the implementation of the mattress recycling organization and related functions that the*  
 151 *mattress recycling organization performs.*

152 *The provisions of this subsection shall not authorize any person to engage in activities or to conspire to*  
 153 *engage in activities that constitute per se violations of state or federal antitrust laws that are not otherwise*  
 154 *authorized by this article.*

155 **§ 10.1-1425.42. Annual reporting requirements.**

156 A. *Beginning June 1 of the year following the calendar year during which the mattress recycling*  
 157 *organization implements an approved plan, and annually thereafter, the mattress recycling organization*  
 158 *shall submit to the Department and publish online a report that details the Program during the preceding*  
 159 *calendar year, including the following:*

160 1. *A description of the methods used to collect, transport, and process mattresses discarded in the*  
 161 *Commonwealth;*

162 2. *The quantity and type of discarded mattresses collected in the Commonwealth by (i) collection site or*  
 163 *collection method and (ii) method of disposition, including reuse, recycling, and other methods of processing,*  
 164 *or method of disposal if mattresses were found unacceptable for recycling or for other reasons;*

165 3. *The quantity of each category of materials recycled and the quantity of otherwise disposed of*  
 166 *materials;*

167 4. *The uses for the recycled materials;*

168 5. *The audit report of the mattress recycling organization's accounting books conducted at the mattress*  
 169 *recycling organization's expense by an independent certified public accountant retained by the organization;*

170 6. *Samples of educational materials used to inform consumers about mattress recycling, a summary of*  
 171 *public education efforts, and an evaluation of the effectiveness of such educational materials and public*  
 172 *education efforts;*

173 7. *An evaluation of why unrecycled mattresses were not recycled;*

174 8. *Recommendations for any changes to the Program, including information relevant to compliance with*  
 175 *the plan; and*

176 9. *Other information requested by the Department that is reasonably related to the mattress recycling*  
 177 *plan and the requirements of this article and that the mattress recycling organization can reasonably*  
 178 *provide.*

179 B. *The Department shall review the annual report and (i) evaluate the total revenues and expenses of the*  
 180 *Program to determine whether the revenue earned from the mattress recycling fee meets or exceeds the costs*

181 of the Program, including a financial reserve sufficient to operate the Program over a multiyear period of  
182 time in a fiscally prudent and responsible manner, and (ii) determine whether the Program is being  
183 implemented in accordance with the mattress recycling organization's approved plan. If the Department  
184 determines that the annual report complies with the requirements of subsection A and that the revenue  
185 earned from the mattress recycling fee does not exceed the costs of the Program pursuant to this section, the  
186 Department shall approve the annual report. The mattress recycling organization shall post the approved  
187 annual report on the organization's website. If the Department determines that the annual report does not  
188 comply with the requirements of subsection A or that the revenue earned from the mattress recycling fee  
189 exceeds the costs of the Program, the mattress recycling organization shall submit to the Department a plan  
190 on how the organization shall address the noncompliance in the upcoming year.

191 C. Financial, production, or sales data reported to the Department by a producer, retailer, mattress  
192 recycling organization, or recycler shall be kept confidential by the Department, not be subject to public  
193 inspection, and be exempt from disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700  
194 et seq.). The Department may release summary data that does not disclose financial, production, or sales  
195 data of a producer, retailer, or mattress recycling organization.

196 **§ 10.1-1425.43. Powers and duties of the Department; regulations.**

197 A. The Department shall require renovators, localities, and other relevant entities to report to the  
198 Department any information that the mattress recycling organization will need to prepare its annual report  
199 and will provide aggregated data to the organization for this purpose.

200 B. The Board shall make, adopt, and promulgate such regulations as may be necessary to carry out the  
201 provisions of this article and the Department shall enforce any such regulations.