

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1767

(SENATE AUTHORS: HOWE and Ruud)		
DATE	D-PG	OFFICIAL STATUS
03/04/2021	693	Introduction and first reading
		Referred to Environment and Natural Resources Policy and Legacy Finance
03/17/2021	961	Author added Ruud
		See SF814, Sec. 83

1.1

A bill for an act

1.2

relating to environment; establishing mattress recycling program; proposing coding

1.3

for new law in Minnesota Statutes, chapter 115A.

1.4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5

Section 1. **[115A.143] MATTRESS RECYCLING.**

1.6

Subdivision 1. Definitions. (a) For purposes of this section, the terms in this subdivision

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have the meanings given.

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(b) "Brand" means a name, symbol, word, or mark that attributes a mattress to the

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producer of the mattress.

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(c) "Covered entity" means a political subdivision of the state, mattress retailer, permitted

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transfer station, waste-to-energy facility, health care facility, educational facility, military

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base, or commercial or nonprofit lodging establishment that possesses a discarded mattress

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that was used and discarded in this state. Covered entity does not include a renovator,

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refurbisher, or person that only transports a discarded mattress.

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(d) "Discarded mattress" means a mattress that a consumer discarded, intends to discard,

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or abandoned in the state, but does not include a mattress that cannot be safely recycled

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because it is contaminated by putrescible solid waste or is substantially soiled, is infested

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with bedbugs, or poses a risk to worker health or equipment, which mattress should be

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disposed of through the existing solid waste system.

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(e) "Energy recovery" means the process by which all or a portion of solid waste materials

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are processed or combusted to use the heat content or other forms of energy derived from

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the solid waste materials.

2.1 (f) "Foundation" means any ticking-covered structure that is used to support a mattress
2.2 and that is composed of one or more of the following: a constructed frame, foam, or a box
2.3 spring, whether stationary, adjustable, or foldable. Foundation does not include any bed
2.4 frame or base made of wood, metal, or other material that rests upon the floor and that serves
2.5 as a brace for a mattress.

2.6 (g) "Mattress" means any resilient material or combination of materials that is enclosed
2.7 by ticking, used alone or in combination with other products, and that is intended or promoted
2.8 for sleeping upon. Mattress includes any foundation and any used or renovated mattress.
2.9 Mattress does not include any mattress pad; mattress topper; sleeping bag; pillow; car bed;
2.10 carriage; basket; dressing table; stroller; playpen; infant carrier; lounge pad; crib or bassinet
2.11 mattress; crib bumper; liquid or gaseous filled ticking, including any water bed and any air
2.12 mattress that does not contain upholstery material between the ticking and the mattress core;
2.13 or upholstered furniture, including a sleeper sofa.

2.14 (h) "Mattress core" means the principal support system that is present in a mattress,
2.15 including but not limited to springs, foam, air bladder, water bladder, or resilient filling.

2.16 (i) "Mattress recycling council" or "council" means the nonprofit organization created
2.17 by producers or created by any trade association that represents producers who account for
2.18 a majority of mattress production in the United States to design, submit, and implement the
2.19 mattress stewardship program described in subdivision 2.

2.20 (j) "Mattress stewardship fee" means the amount added to the purchase price of a mattress
2.21 sold to a consumer or to an ultimate end user in this state that is necessary to cover the cost
2.22 of collecting, transporting, and processing discarded mattresses by the council according
2.23 to the mattress stewardship program.

2.24 (k) "Mattress stewardship program" or "program" means the statewide program described
2.25 in subdivision 2 and implemented according to the mattress stewardship plan developed
2.26 under subdivision 2.

2.27 (l) "Mattress topper" means an item that contains resilient filling, with or without ticking,
2.28 that is intended to be used with or on top of a mattress.

2.29 (m) "Performance goal" means a metric proposed by the council to annually measure
2.30 the performance of the mattress stewardship program, taking into consideration technical
2.31 and economic feasibilities, in achieving continuous, meaningful improvement in the rate
2.32 of mattress recycling in the state and any other specified goal of the program.

(n) "Producer" means a person who manufactures or renovates a mattress that is sold, offered for sale, or distributed in the state under the producer's own name or brand. Producer includes:

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

(2) a person who imports a mattress into the United States that is sold or offered for sale in this state and that is manufactured or renovated by a person who does not have a presence in the United States.

(o) "Recycling" means a process in which discarded mattresses, components, and by-products may lose their original identity or form as they are transformed into new, usable, or marketable materials. Recycling does not include using destructive incineration.

(p) "Renovate" or "renovation" means altering a mattress for resale, including any one or a combination of the following: replacing the ticking or filling, adding additional filling, or replacing components with new or recycled materials. Renovate or renovation does not include:

(1) stripping a mattress of its ticking or filling without adding new material;

(2) sanitizing or sterilizing a mattress without otherwise altering the mattress; or

(3) a renovator altering a mattress for a person who retains the altered mattress for personal use, in accordance with chapter 325F.

(q) "Renovator" means a person who renovates discarded mattresses to resell the mattresses to consumers.

(r) "Retailer" means a person who sells mattresses to a consumer or to an ultimate end user in this state or offers mattresses to a consumer in this state.

(s) "Sale" means transfer of title of a mattress for consideration to a consumer or an ultimate end user in the state, including but not limited to by means of a sales outlet, catalog, website, or similar electronic means.

(t) "Sanitizing" means directly applying chemicals to a mattress to kill human disease-causing pathogens.

(u) "Sterilizing" means mitigating deleterious substances or organisms, including human disease-causing pathogens, fungi, and insects, from a mattress or filling material using a chemical or heat process.

4.1 (v) "Ticking" means the outermost layer of fabric or material of a mattress. Ticking does
4.2 not include any layer of fabric or material quilted together with, or otherwise attached to,
4.3 the outermost layer of fabric or material of a mattress.

4.4 (w) "Upholstery material" means all material, loose or attached, between the ticking and
4.5 the core of a mattress.

4.6 Subd. 2. **Mattress recycling council; required plan.** (a) Within 180 days after the
4.7 effective date of this section, each producer or the producer's designee must join the mattress
4.8 recycling council. Within 180 days after the effective date of this section, the council must
4.9 submit a plan for approval by the commissioner to establish a statewide mattress stewardship
4.10 program, as described in this paragraph. Retailers may participate in the council. The mattress
4.11 stewardship program must, to the extent technologically feasible and economically practical:

4.12 (1) provide for free, convenient, and accessible statewide opportunities for receiving
4.13 discarded mattresses from any person in the state with a discarded mattress that was used
4.14 and discarded in the state, including but not limited to participating covered entities that
4.15 accumulate and segregate a minimum of 100 discarded mattresses for collection at one time;

4.16 (2) provide for free collection of discarded mattresses from transfer stations that
4.17 accumulate and segregate fewer than 50 mattresses, provided the transfer stations require
4.18 the collection due to space or permit requirements;

4.19 (3) provide for council-financed end-of-life management for discarded mattresses
4.20 collected according to clauses (1) and (2);

4.21 (4) provide suitable storage containers at or make other mutually agreeable storage and
4.22 transport arrangements for permitted transfer stations for segregated, discarded mattresses,
4.23 at no cost to the municipality, provided the transfer station makes space available for the
4.24 purpose and imposes no fee for placement of the storage container on the transfer station's
4.25 premises;

4.26 (5) provide that the council will conduct research as needed related to improving used
4.27 mattress collection, dismantling, and recycling operations, including pilot programs to test
4.28 new processes, methods, or equipment on a local, regional, or otherwise limited basis; and

4.29 (6) include a mattress stewardship fee that is sufficient to cover the costs of operating
4.30 and administering the program.

4.31 (b) The plan submitted according to paragraph (a) must:

4.32 (1) identify each producer participating in the program;

- 5.1 (2) describe the fee structure for the program;
- 5.2 (3) establish performance goals for the first two years of the program;
- 5.3 (4) identify proposed facilities to be used by the program;
- 5.4 (5) set convenience goals and a timeline for implementing and achieving convenient
- 5.5 access to the program;
- 5.6 (6) detail how the program will promote recycling discarded mattresses consistent with
- 5.7 the state's solid waste management hierarchy; and
- 5.8 (7) include a description of public education regarding the program.
- 5.9 (c) The council must set the amount of the mattress stewardship fee that is added to the
- 5.10 purchase price of a mattress at the point of sale. The council must establish and implement
- 5.11 a fee structure that covers but does not exceed the costs of developing the plan described
- 5.12 in paragraph (b), operating and administering the program described in paragraph (a), and
- 5.13 maintaining a financial reserve sufficient to operate the program over multiple years in a
- 5.14 fiscally prudent and responsible manner. The council must set the fee as a flat rate and not
- 5.15 as a percentage of the purchase price. The council must maintain all records relating to the
- 5.16 program for not less than three years.
- 5.17 (d) Under the program, recycling is preferred over any other disposal method for
- 5.18 mattresses, to the extent that recycling is technologically feasible and economically practical.
- 5.19 (e) The commissioner must approve the plan for establishing the mattress stewardship
- 5.20 program if the plan meets the requirements of paragraphs (a) to (d). No later than 90 days
- 5.21 after the council submits the plan according to this section, the commissioner must make a
- 5.22 determination whether to approve the plan. Before making the determination, the
- 5.23 commissioner must post the plan on the agency's website and solicit public comments on
- 5.24 the plan. If the commissioner disapproves the plan because the plan does not meet the
- 5.25 requirements of paragraphs (a) to (d), the commissioner must describe the reasons for the
- 5.26 disapproval in a notice of determination that the commissioner provides to the council. The
- 5.27 council must revise and resubmit the plan to the commissioner no later than 45 days after
- 5.28 receiving notice of the commissioner's disapproval. No later than 45 days after receiving
- 5.29 the revised plan, the commissioner must review and approve or disapprove the revised plan
- 5.30 and provide a notice of determination to the council. The council may resubmit a revised
- 5.31 plan to the commissioner for approval no more than twice. If the council fails to submit a
- 5.32 plan that is acceptable to the commissioner because it does not meet the requirements of
- 5.33 paragraphs (a) to (d), the commissioner must modify a submitted plan to make it conform

6.1 to the requirements of paragraphs (a) to (d) and approve it. No later than 180 days after
6.2 approval of a plan according to this paragraph, the council must implement the mattress
6.3 stewardship program. Regardless of when the program begins, the program's fiscal year
6.4 begins January 1.

6.5 (f) The council must submit any proposed substantial change to the program to the
6.6 commissioner for approval. If the commissioner does not disapprove a proposed substantial
6.7 change within 90 days of receiving notice of the proposed substantial change, the proposed
6.8 substantial change is deemed approved. For purposes of this paragraph, "substantial change"
6.9 means:

6.10 (1) a change in the processing facilities to be used for discarded mattresses collected
6.11 under the program; or

6.12 (2) a material change to the system for collecting mattresses.

6.13 (g) Within 90 days after the end of the program's second fiscal year, the council must
6.14 submit updated performance goals to the commissioner that are based on the experience of
6.15 the program during the first two years of the program.

6.16 (h) The council must notify the commissioner of other material changes to the program
6.17 on an ongoing basis, without resubmitting the plan to the commissioner for approval. Material
6.18 changes include but are not limited to a change in the composition, officers, or contact
6.19 information of the council.

6.20 (i) Within 90 days after the end of the program's second fiscal year and every two years
6.21 thereafter, the council must propose a mattress stewardship fee for all mattresses sold in
6.22 this state. The council may propose a change to the mattress stewardship fee more frequently
6.23 than once every two years if the council determines the change is needed to avoid funding
6.24 shortfalls or excesses for the mattress stewardship program. Any proposed mattress
6.25 stewardship fee must be reviewed by an auditor to ensure that the assessment does not
6.26 exceed the cost to fund the mattress stewardship program described in paragraph (a) and to
6.27 maintain financial reserves sufficient to operate the program over multiple years in a fiscally
6.28 prudent and responsible manner. Not later than 60 days after the council proposes a mattress
6.29 stewardship fee, the auditor must render an opinion to the commissioner as to whether the
6.30 proposed mattress stewardship fee is reasonable to achieve the goals set forth in this section.
6.31 If the auditor concludes that the mattress stewardship fee is reasonable, then the proposed
6.32 fee goes into effect. If the auditor concludes that the mattress stewardship fee is not
6.33 reasonable, the auditor must provide the council with written notice explaining the auditor's
6.34 opinion. No later than 60 days after the council receives the auditor's opinion, the council

may either propose a new mattress stewardship fee or provide written comments on the auditor's opinion. If the auditor concludes that the fee is not reasonable, the commissioner must decide, based on the auditor's opinion and any comments provided by the council, whether to approve the proposed mattress stewardship fee. The council must select the auditor. The cost of any work performed by the auditor under this paragraph and paragraph (k) must be paid by the mattress stewardship fee.

(j) Not later than October 15 each year, the council must submit an annual report to the commissioner for the most recently completed fiscal year. The commissioner must post the annual report on the agency's website. The report must include:

(1) the tonnage of mattresses collected under the program from:

(i) transfer stations;

(ii) retailers; and

(iii) all other covered entities;

(2) the tonnage of mattresses diverted for recycling;

(3) the weight of mattress materials recycled, as indicated by the weight of each of the commodities sold to secondary markets;

(4) the weight of mattress materials sent for disposal at:

(i) waste-to-energy facilities;

(ii) landfills; and

(iii) any other facilities;

(5) a summary of the public education that supports the program;

(6) an evaluation of the effectiveness of methods and processes used to achieve performance goals of the program; and

(7) recommendations for any changes to the program.

(k) Two years after the program is implemented according to paragraph (e) and every three years thereafter or upon the request of the commissioner, but not more frequently than once a year, the council must cause an audit of the program to be conducted by an auditor as described in paragraph (i). The audit must review the accuracy of the council's data concerning the program and provide any other information requested by the commissioner, consistent with the requirements of this section, provided the request does not require the disclosure of proprietary information or trade or business secrets. The council must pay for

8.1 the audit. The council must maintain all records relating to the program for at least three
8.2 years.

8.3 Subd. 3. **Charging fee; producer participation.** Upon implementation of the mattress
8.4 stewardship program, each manufacturer, renovator, retailer, or distributor that sells a
8.5 mattress to a consumer or to an ultimate end user in the state must add the mattress
8.6 stewardship fee to the purchase price for the mattress and must remit the fee collected to
8.7 the council. In each transaction, the fee must appear on the invoice and must be accompanied
8.8 by a brief description of the fee. The council must determine the rules and procedures
8.9 necessary to implement collection of the fee in a fair, efficient, and lawful manner. Any
8.10 producer who fails to participate in the program must not sell mattresses in this state.

8.11 Subd. 4. **Receipt of discarded mattresses.** Upon implementation of the mattress
8.12 stewardship program according to subdivision 2, paragraph (e), a covered entity that
8.13 participates in the program must not charge for the receipt of discarded mattresses that are
8.14 discarded in this state, except that covered entities may charge a fee for providing the service
8.15 of collecting mattresses and may restrict the acceptance of mattresses by number, source,
8.16 or physical condition.