

STATE OF NEW YORK

1463

2025-2026 Regular Sessions

IN SENATE

January 10, 2025

Introduced by Sens. KAVANAGH, HARCKHAM, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing a mattress collection program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 27 of the environmental conservation law is amended
2 by adding a new title 34 to read as follows:

3 TITLE 34
4 MATTRESS COLLECTION PROGRAM

5 Section 27-3401. Definitions.
6 27-3403. Producer plan.
7 27-3405. Producer responsibilities.
8 27-3407. Retailer responsibilities.
9 27-3409. Department responsibilities.
10 27-3411. Mattress collection program advisory board.
11 27-3413. Enforcement and penalties.
12 27-3415. Rules and regulations.
13 § 27-3401. Definitions.
14 As used in this title:
15 1. "Brand" means a name, symbol, word, or mark that attributes the
16 product to the owner or licensee of the brand as the producer.
17 2. "Collection site" means a permanent location in the state at which
18 a consumer may discard mattresses.
19 3. "Consumer" means a person located in the state who purchases, owns,
20 leases, or uses mattresses, including but not limited to an individual,
21 a business, corporation, limited partnership, not-for-profit corpo-
22 ration, the state, a public corporation, public school, school district,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 private or parochial school or board of cooperative educational services
2 or governmental entity, but does not include a retailer or person that
3 acquires a mattress solely for purposes of recycling.

4 4. "Discarded mattress" means a mattress that a consumer has used and
5 discarded in the state.

6 5. "Energy recovery" means the process by which all or a portion of
7 solid waste materials are processed or combusted in order to utilize the
8 heat content or other forms of energy derived from such solid waste
9 materials.

10 6. (a) "Mattress" means any resilient material, or combination of
11 materials that is enclosed by ticking, used alone or in combination with
12 other products, and that is intended for or promoted for sleeping upon.
13 Mattress includes any foundation and any used mattress. For the purposes
14 of this title, a "foundation" means a ticking-covered structure used to
15 support a mattress or sleep surface. A foundation may include
16 constructed frames, foam, box springs, or other materials, used alone or
17 in combination.

18 (b) Mattress shall not include:

19 (i) an unattached mattress pad or mattress topper that is intended to
20 be used with, or on top of a mattress;

21 (ii) a crib or bassinet mattress or car bed;

22 (iii) juvenile products, including: a carriage, basket, dressing
23 table, stroller, playpen, infant carrier, lounge pad, crib bumper, and
24 the pads for those juvenile products;

25 (iv) a product containing liquid- and gaseous-filled ticking, includ-
26 ing a waterbed and air mattress that does not contain upholstery materi-
27 al between the ticking and the mattress core; or

28 (v) a fold-out sofa bed or futon.

29 7. "Producer" means any person who manufactures or renovates mattress-
30 es that are sold, offered for sale, or distributed to a consumer in this
31 state. "Producer" includes:

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

35 (b) any person who imports a mattresses into the United States that is
36 sold or offered for sale in the state and that is manufactured by a
37 person who does not have a presence in the United States.

38 8. "Recycle" means to separate, dismantle or process the materials,
39 components or commodities contained in mattresses for the purpose of
40 preparing the materials, components or commodities for use or reuse in
41 new products or components. "Recycle" does not include:

42 (a) energy recovery or energy generation by any means, including but
43 not limited to, combustion, incineration, pyrolysis, gasification,
44 solvolysis, or waste to fuel;

45 (b) any chemical conversion process; or

46 (c) landfill disposal.

47 9. "Recycler" means a person that engages in recycling.

48 10. "Recycling rate" means the percentage of discarded mattresses that
49 is managed through recycling or reuse, as defined by subdivisions eight
50 and thirteen of this section, and is computed by dividing the amount of
51 discarded mattresses collected and recycled or reused by the estimated
52 total amount of discarded mattresses generated over a program year.

53 11. "Representative organization" means a not-for-profit organization
54 established by a producer or group of producers to implement the
55 mattress collection program.

1 12. "Retailer" means any person who sells or offers for sale a
2 mattress to a consumer in the state.

3 13. "Reuse" means donating or selling a discarded mattress back into
4 the market for its original intended use, when the discarded mattress
5 retains its original performance characteristics and can be used for its
6 original purpose.

7 14. "Sale" or "sell" means a transfer of title to a mattress for
8 consideration, including a remote sale conducted through a sale outlet,
9 catalog, website, by telephone or through similar electronic means.
10 "Sale" or "sell" includes a lease through which a mattress is provided
11 to a consumer in the state by a producer or retailer.

12 15. "Ticking" means the outermost layer of fabric or materials of a
13 mattress. Ticking does not include any layer of fabric or material
14 quilted together with, or otherwise attached to the outermost layer of
15 fabric or material of a mattress.

16 16. "Upholstery material" means all material loose or attached between
17 the ticking and the core of the mattress.

18 § 27-3403. Producer plan.

19 1. No later than December thirty-first, two thousand twenty-eight, a
20 producer, either individually or cooperatively with one or more produc-
21 ers, or a representative organization shall submit to the department for
22 the department's approval a plan for the establishment of a mattress
23 collection program that meets the collection requirements described in
24 this section.

25 2. A producer may satisfy the mattress collection program requirement
26 of this section by agreeing to participate collectively with other
27 producers. Any such collective mattress collection program shall notify
28 the department.

29 3. A producer or representative organization shall update the plan, as
30 needed, when there are changes proposed to the current program. A new
31 plan or amendment will be required to be submitted to the department for
32 approval when:

33 (a) there is a revision of the program's goals; or

34 (b) every three years from the date of approval of a previous plan.

35 4. The plan submitted by the producer or representative organization
36 to the department under this section shall, at a minimum, provide:

37 (a) A list of each participating provider and brands covered by the
38 program;

39 (b) Information on the products covered by the program;

40 (c) A description of how the producer or representative organization
41 will collect, transport, recycle, and process discarded mattresses;

42 (d) (1) i. A description of how the producer or representative organ-
43 ization shall provide for a convenient and cost-effective collection of
44 discarded mattresses, which may include, using existing public and
45 private waste collection channels and collection sites in the state
46 pursuant to voluntary agreements. Such description shall also include a
47 description of how the program will achieve within a reasonable period
48 of time a minimum convenience goal which ensures that all counties of
49 the state shall have at least one collection site, and within two years
50 after the program approval, not less than seventy percent of the state's
51 residents will live within a fifteen mile radius of a collection site,
52 and within three years after the program approval, not less than eighty
53 percent of the state's residents will live within a fifteen mile radius
54 of a collection site.

55 ii. Provided, however, that with respect to a city or county having a
56 population of one million or more, a convenience goal shall be estab-

lished for that city or county. In the case of a city, the convenience goal shall be proposed after consultation with the department of sanitation of such city. In the case of a county, the convenience goal shall be proposed after consultation with an agency designated by the county executive. Such proposed city and county convenience goals shall be submitted to the department, which may approve, modify, or otherwise establish alternative convenience goals.

(2) To meet these convenience goals, the producer or representative organization shall:

i. Enter into voluntary agreements to establish collection sites at public and private solid waste facilities; transfer stations; landfills; recyclables handling and recovery facilities that are permitted or registered with the department; or other suitable sites for the collection of discarded mattresses;

ii. Provide mattress storage containers at no cost to a participating collection site described in clause i of this subparagraph;

iii. Negotiate mutually agreed upon voluntary agreements with participating collection sites described in clause i of this subparagraph that provide for reasonable compensation for the actual costs these collection sites incur to handle, store, and transport discarded mattresses for recycling;

iv. For collection sites as described in clause i of this subparagraph, and other entities such as healthcare facilities, educational facilities, military facilities, junk haulers, hotels and motels that provide transient lodging, and other facilities that periodically replace mattresses that they own or use, and who have collected at least one hundred recyclable mattresses for recycling, provide at its expense an appropriate storage container, transportation from a collection point to a recycler, and services to recycle the mattresses; and

v. Enter into voluntary agreements with retailers that pick up or accept mattresses from consumers upon the purchase of a new mattress for recycling;

(e) The names and locations of collection sites, transporters, and recyclers who will manage discarded mattresses delivered to collection sites at the time of plan submission;

(f) A description of how the discarded mattresses will be safely and securely transported, tracked, and handled from collection sites through final recycling and processing;

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

(h) A description of the methods to be used to manage or dispose of discarded mattresses that cannot be recycled or reused;

(i) A detailed description of the outreach and educational materials that must be provided to consumers, retailers, collection sites, and transporters of discarded mattresses, and how such outreach will be evaluated for effectiveness;

(j) A description of how the program will meet annual performance goals, including collection, recycling, and reuse rates, as determined by the department through rules and regulations, provided that at a minimum, the program shall achieve the following recycling rates:

(i) a forty percent recycling rate of mattresses by three years after the plan is approved by the department pursuant to section 27-3409 of this title;

1 (ii) a fifty-five percent recycling rate of mattresses by seven years
2 after the plan is approved by the department pursuant to section 27-3409
3 of this title;

4 (iii) a seventy percent recycling rate of mattresses by ten years
5 after the plan is approved by the department pursuant to section 27-3409
6 of this title;

7 (k) A description of what, if any, incentives will be used to encour-
8 age retailer participation;

9 (l) A description of the outreach and education methods that will be
10 used to encourage municipal landfill and transfer station participation;
11 and

12 (m) any other information required by the department to implement the
13 program.

14 § 27-3405. Producer responsibilities.

15 1. Beginning six months after the plan is approved under subdivision
16 four of section 27-3409 of this title, the producer or representative
17 organization shall implement the mattress collection program utilizing
18 collection sites pursuant to paragraph (d) of subdivision four of
19 section 27-3403 of this title.

20 2. A producer shall not sell, or offer for sale, a mattress to any
21 person in the state unless the producer is implementing or participating
22 under an approved plan.

23 3. The program shall be free to the consumer, convenient and adequate
24 to serve the needs of consumers in all areas of the state on an ongoing
25 basis.

26 4. A producer or representative organization shall maintain records
27 demonstrating compliance with the provisions of this title and make them
28 available for audit and inspection by the department for a period of
29 three years. The department shall make such audit records available to
30 the public upon request in accordance with the provisions of the state
31 freedom of information law and the regulations promulgated thereunder,
32 provided that confidential or business proprietary records shall be
33 exempt from this provision. Record holders shall submit the records
34 required to comply with the request within sixty working days of written
35 notification by the department of receipt of the request.

36 5. A producer or representative organization shall be responsible for
37 all costs associated with the implementation of the mattress collection
38 program. A producer or representative organization shall pay costs
39 incurred by the state in the administration and enforcement of this
40 title. Exclusive of fines and penalties, the state shall only recover
41 its actual direct cost of administration and enforcement.

42 6. Any person who becomes a producer on or after December thirty-
43 first, two thousand twenty-eight shall submit a plan to the department,
44 or notify the department that it has joined an existing plan, prior to
45 selling or offering for sale in the state any mattress, and shall comply
46 with the requirements of this title.

47 7. Within eighteen months following approval of the producer plan, and
48 annually thereafter, a producer or representative organization shall
49 submit a report to the department that includes, for the previous
50 program calendar year, a description of the program including, but not
51 limited to the following:

52 (a) a detailed description of the methods used to collect, transport,
53 and process discarded mattresses in the state, including detailing
54 collection methods made available to consumers and an evaluation of the
55 program's collection convenience;

56 (b) identification of all collection sites in the state;

1 (c) the estimated weight of all discarded mattresses collected, recycled, or reused pursuant to the mattress collection program;
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3 (d) an evaluation of whether the performance goals and recycling rates have been achieved;
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5 (e) the estimated weight of discarded mattresses and any component materials that were collected pursuant to the collection program, but not recycled;
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7 (f) the total cost of implementing the program;
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9 (g) samples of all educational materials provided to consumers and a detailed list of efforts undertaken and an evaluation of the methods used to disseminate such materials including recommendations, if any, for how the educational component of the program can be improved; and
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11 (h) any other information required by the department that is relevant to the requirements of this title.
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13 8. Each producer or representative organization shall submit an annual report to the department as provided for in subdivision seven of this section that assesses compliance with performance goals and describes any modifications necessary to achieve such goals.
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15 9. (a) A producer or representative organization shall not be liable for any claim of a violation of antitrust, restraint of trade, or unfair trade practice arising from an action undertaken, in accordance with a mattress collection program approved by the department, solely to increase the collection and recycling of mattresses, which affects the types and quantities being collected and recycled or the cost and structure of such collection program that the producer or representative organization is participating in pursuant to this title.
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17 (b) Provided, however, paragraph (a) of this subdivision shall not apply to any agreement establishing or affecting the price or output of mattresses or restricting the geographic area or customers to which mattresses will be sold.
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19 § 27-3407. Retailer responsibilities.
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21 1. Beginning December thirty-first, two thousand twenty-nine, no retailer may sell or offer for sale mattresses in this state unless the producer of such mattresses is participating in a mattress collection program. A retailer shall be in compliance with this section if, on the date the mattresses were ordered from the producer or its agent, the producer was listed on the department's website as implementing or participating in an approved program.
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23 2. Any retailer may participate, on a voluntary basis, as a designated collection site pursuant to a mattress collection program and in accordance with all applicable laws and regulations.
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25 § 27-3409. Department responsibilities.
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27 1. The department shall maintain a list of producers, including a list of such producers' brands, who are participating under a department approved plan and post such list on the department's website.
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29 2. The department shall post on its website the location of all collection sites identified to the department by the producer in its annual reports.
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31 3. The department shall post on its website each producer plan approved by the department.
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33 4. Within ninety days after receipt of a proposed plan or plan amendment, the department shall approve or reject such plan or plan amendment based on whether such proposed plan or plan amendment satisfactorily meets the requirements of subdivision four of section 27-3403 of this title. If the plan or plan amendment is approved, the department shall notify the producer or representative organization in writing. If the
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department rejects the plan or plan amendment, the department shall notify the producer or representative organization in writing stating the reason for rejecting the plan or plan amendment. A producer or representative organization whose plan is rejected shall submit a revised plan to the department within thirty days of receiving a notice of rejection. If the producer or representative organization fails to submit a plan that is acceptable to the department because it does not meet the requirements of subdivision four of section 27-3403 of this title, the department shall modify a submitted plan to make it conform to the requirements of such subdivision and approve it.

5. The department shall submit a report regarding the implementation of this title in this state to the governor and legislature by April first, two thousand thirty and every two years thereafter. The report shall include, at a minimum, an evaluation of:

- (a) The stream of mattresses in the state;
- (b) Disposal, recycling, and reuse rates in the state of mattresses;
- (c) A discussion of compliance and enforcement related to the requirements of this title; and
- (d) Recommendations for any changes to this title.

§ 27-3411. Mattress collection program advisory board.

1. There is hereby established within the department a mattress collection program advisory board to make recommendations to the commissioner regarding producer plans required by this title.

2. The board shall be composed of twelve voting members. Such members shall include:

- (a) One representative of mattress producers;
- (b) Two representatives of mattress retailers;
- (c) One representative of mattress recyclers;
- (d) Two representatives of mattress collectors;
- (e) One representative of a company that utilizes discarded mattresses to manufacture a new product;
- (f) One representative from a statewide environmental organization;
- (g) One representative from a statewide waste disposal association;
- (h) One representative from the New York product stewardship council;
- (i) One representative from a consumer organization; and
- (j) One representative from a statewide recycling organization.

3. The members shall be appointed as follows:

- (a) Two members to be appointed by the temporary president of the senate;
 - (b) Two members to be appointed by the speaker of the assembly;
 - (c) One member to be appointed by the minority leader of the senate;
 - (d) One member to be appointed by the minority leader of the assembly;
- and
- (e) Six members to be appointed by the governor.

4. Such appointments shall be made no later than sixty days following the date on which this title takes effect. The members shall designate a chair from among the members by majority vote. Board members shall receive no compensation but shall be entitled to their necessary and actual expenses incurred in the performance of their board duties.

5. The board shall meet at least annually by call of the chair.

§ 27-3413. Enforcement and penalties.

Any producer, representative organization, or retailer who violates any provision of or who fails to perform any duty imposed pursuant to this title shall be liable for a civil penalty not to exceed five hundred dollars for each violation and an additional penalty of not more than five hundred dollars for each day during which such violation

1 continues. Civil penalties under this section shall be assessed by the
2 department after a hearing or opportunity to be heard pursuant to the
3 provisions of section 71-1709 of this chapter.

4 § 27-3415. Rules and regulations.

5 The department is hereby authorized to promulgate any rules and regu-
6 lations necessary to implement this title.

7 § 2. Section 71-1701 of the environmental conservation law, as amended
8 by chapter 795 of the laws of 2022, is amended to read as follows:

9 § 71-1701. Applicability of this title.

10 This title shall be applicable to the enforcement of titles 1 through
11 11 and titles 15 through 19 of article 17; article 19; and titles 1
12 [~~and~~], 33 and 34 of article 27 of this chapter.

13 § 3. This act shall take effect immediately.