

A-Engrossed
Senate Bill 276

Ordered by the Senate April 15
Including Senate Amendments dated April 15

Sponsored by Senators MANNING JR, PROZANSKI, Representative FAHEY; Senators DEMBROW, FREDERICK, TAYLOR, Representatives NOSSE, POWER, SANCHEZ, WILDE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes product stewardship program for mattresses.

Establishes Mattress Stewardship Fund.

Establishes mattress stewardship program advisory committee.

Becomes operative January 1, 2020.

Requires **stewardship organizations to submit** *[initial]* plans for mattress stewardship programs *[to be submitted]* to Department of Environmental Quality *[no later than April 1, 2021. Provides that mattress stewardship program developed pursuant to approved plan may first be implemented no earlier than January 1, 2022]*.

Imposes civil *[penalty]* **penalties** for violation of program provisions not to exceed *[\$25,000]*, per day for each day of violation, **\$100 for violation by retailer, \$1,000 for violation by producer or renovator and \$1,000 for violation by stewardship organization.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to mattresses; creating new provisions; amending ORS 459.995; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

MATTRESS STEWARDSHIP

SECTION 1. The Legislative Assembly finds and declares that:

(1) It is in the best interests of the State of Oregon for producers, renovators and retailers of mattresses to take responsibility for developing, implementing and administering a statewide system for the financing, collection and environmentally sound management of discarded mattresses; and

(2) It is the State of Oregon's policy that a statewide system for the financing, collection and environmentally sound management of discarded mattresses:

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

(b) Be technologically feasible and economically practical; and

(c) Be consistent with the policies for solid waste management set forth in ORS 459.015

(2).

SECTION 2. As used in sections 1 to 13 of this 2019 Act:

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

(2) "Consumer" means a person who is the end user of a mattress purchased in this

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 state.

2 (3) "Discarded mattress" means a mattress that has been abandoned or discarded by a
3 consumer in this state.

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

7 (a) Adequate record keeping;

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

9 (A) Manage discarded mattresses; and

10 (B) Track and document the fate of discarded mattresses from collection through final
11 disposition within this state and outside this state;

12 (c) Performance audits and inspections of recyclers, haulers, and other parties as deter-
13 mined by a stewardship organization;

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

15 (e) Maintenance of adequate liability insurance for a stewardship organization and con-
16 tractors working for the stewardship organization.

17 (5) "Final disposition" means the point beyond which no further processing takes place
18 and the discarded mattress has been recycled, renovated or disposed of.

19 (6) "Foundation" means a ticking-covered structure that is used to support a mattress
20 or sleep surface and that may be constructed of frames, foam, box springs or other materi-
21 als, used alone or in combination.

22 (7)(a) "Mattress" means:

23 (A) A resilient material or combination of materials that is enclosed by a ticking, is used
24 alone or in combination with other products and is intended for or promoted for sleeping
25 upon;

26 (B) A foundation and a renovated mattress; or

27 (C) A renovated foundation.

28 (b) "Mattress" does not mean:

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

31 (B) A sleeping bag;

32 (C) A pillow;

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

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

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

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

41 (8) "Mattress core" means the principal support system that is present in a mattress and
42 that may be constructed of materials such as springs, foam, air or water bladders or resilient
43 filling.

44 (9) "Mattress stewardship assessment" means the amount added to the purchase price
45 of a mattress sold in this state that is necessary to cover the cost of establishing and ad-

1 ministering a program to collect, transport and process the discarded mattresses managed
2 through a mattress stewardship program.

3 (10) “Mattress stewardship program” means a statewide program for the collection and
4 environmentally sound management of discarded mattresses that is operated by a
5 stewardship organization pursuant to a plan approved by the Department of Environmental
6 Quality under section 5 of this 2019 Act.

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

9 (12) “Nonprofit organization” means an organization or group of organizations described
10 in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under
11 section 501(a) of the Internal Revenue Code.

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

15 (14) “Premium service” means a service such as at-home pickup service, including
16 curbside pickup service.

17 (15) “Producer” means any person, irrespective of the selling technique used, including
18 that of remote sale, who:

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

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

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

24 (16) “Program mattress” means a discarded mattress that a stewardship organization
25 will provide environmentally sound management for under a mattress stewardship program.

26 (17)(a) “Renovate” means to alter a discarded mattress for resale to consumers through
27 replacing the ticking or filling, adding additional filling or replacing components of the
28 mattress with new or recycled materials.

29 (b) “Renovate” does not mean:

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

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

33 (18) “Renovator” means a person who renovates discarded mattresses.

34 (19) “Retailer” means a person that offers new, used or renovated mattresses for sale
35 at retail to consumers through any means, including but not limited to remote offerings such
36 as sales outlets, catalogs or the Internet.

37 (20) “Sanitization” means the direct application of chemicals to a mattress to kill
38 pathogens that cause human disease.

39 (21) “Sterilization” means the mitigation of any deleterious substances or organisms, in-
40 cluding pathogens that cause human disease, fungi and insects, from a mattress or filling
41 material using a chemical or heat process.

42 (22) “Stewardship organization” means a nonprofit organization designated by a producer
43 or group of producers to implement a mattress stewardship program.

44 (23)(a) “Ticking” means the outermost layer of fabric or related material of a mattress.

45 (b) “Ticking” does not mean any layer of fabric or material quilted together with, or

1 otherwise attached to, the outermost layer of fabric or material of a mattress.

2 (24) "Used mattress" means a discarded mattress or foundation that has undergone
3 sanitization or sterilizaion for the purposes of resale but that has not been renovated.

4 **SECTION 3.** (1) Except as provided in subsection (3) this subsection, a producer,
5 renovator or retailer may not sell or offer for sale any mattress to any person in this state
6 unless the producer, renovator or retailer is registered with a stewardship organization.

7 (2) On and after the date that an approved mattress stewardship program becomes op-
8 erative, a retailer:

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

12 (b) Shall collect, at the point of sale to a consumer, the mattress stewardship assessment
13 established pursuant to a plan approved by the Department of Environmental Quality under
14 section 5 of this 2019 Act and remit the mattress stewardship assessment to the stewardship
15 organization that implements the mattress stewardship program; and

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

18 (3) A retailer registered with a stewardship organization that purchased a mattress from
19 a producer or renovator in compliance with subsection (2)(a) of this section is not in violation
20 of subsection (1) of this section even if, at the time the retailer sells the mattress to a con-
21 sumer, the producer or renovator that the retailer purchased the mattress from is no longer
22 registered with a stewardship organization.

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

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

27 (b) Information on available collection opportunities; and

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

30 (5) A retailer shall identify the mattress stewardship assessment as a separate line item
31 on the receipt for a mattress provided to a consumer at the point of sale. The mattress
32 stewardship assessment may not be described on the receipt as an Oregon recycling fee.

33 (6)(a) Subject to paragraph (b) of this subsection, a stewardship organization may use a
34 mattress stewardship assessment collected in this state only to pay the costs necessary to
35 plan, implement, administer and operate a mattress stewardship program in this state.

36 (b) A stewardship organization may not use any moneys collected through a mattress
37 stewardship assessment to pay any civil penalties assessed against the stewardship organ-
38 ization under ORS 459.995.

39 (7) Nothing in this section prevents a mattress stewardship organization from, with no-
40 tice to the department, coordinating efforts for carrying out a mattress stewardship program
41 in this state with programs for the collection and environmentally sound management of
42 discarded mattresses in other states.

43 (8) The department shall maintain on its website a list of all producers, renovators and
44 retailers that are in compliance with sections 1 to 13 of this 2019 Act.

45 **SECTION 4.** (1) In a form and manner prescribed by the Department of Environmental

1 **Quality, a stewardship organization shall submit to the department a plan for the develop-**
2 **ment and implementation of a mattress stewardship program. The plan must:**

3 **(a) Describe how the stewardship organization will:**

4 **(A) Manage and conduct a mattress stewardship program.**

5 **(B) Identify program mattresses and identify and address discarded mattresses that are**
6 **received through collection sites or collection events and that are not program mattresses.**

7 **(b) Identify each producer, renovator and retailer that is registered with the stewardship**
8 **organization as of 30 days before the plan is submitted to the department.**

9 **(c) Include a description of how the stewardship organization will provide for the envi-**
10 **ronmentally sound management of program mattresses that includes, at a minimum:**

11 **(A) A description of the proposed recyclers that the stewardship organization will con-**
12 **tract with to process discarded mattresses and the recycling methods that the recyclers will**
13 **use;**

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

18 **(C) Processes for notifying the department when recyclers have been added to or re-**
19 **moved from the mattress stewardship program.**

20 **(d) Provide for convenient service as described in subsection (2) of this section.**

21 **(e) Establish performance goals for:**

22 **(A) The collection rates and recycling rates for program mattresses; and**

23 **(B) Public awareness of the mattress stewardship program.**

24 **(f) Include a proposed mattress stewardship assessment and method for collecting the**
25 **mattress stewardship assessment from retailers. The mattress stewardship assessment must**
26 **be a flat amount that applies equally to each mattress sold in this state and must be suffi-**
27 **cient to recover, but not exceed, the costs of the mattress stewardship program, including**
28 **but not limited to all costs incurred for the environmentally sound management of discarded**
29 **mattresses during each stage of management, from collection of the discarded mattresses**
30 **from the public through final disposition of the discarded mattresses.**

31 **(g) Propose a mechanism to mitigate the costs associated with collection of discarded**
32 **mattresses that are illegally dumped, which may include but need not be limited to proposals**
33 **for funding of clean-up activities, for education and outreach or for studies to evaluate the**
34 **causes of illegal dumping.**

35 **(h) Provide for public education, advertising and promotion of discarded mattress col-**
36 **lection opportunities statewide and on a regular basis.**

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

41 **(j) Describe methods that will be used by the stewardship organization to coordinate ac-**
42 **tivities with existing recycling programs, including existing nonprofit organizations that are**
43 **mattress recyclers, to further the environmentally sound management of discarded**
44 **mattresses.**

45 **(k) Address procedures for identifying substantial or material changes to the system for**

1 collecting discarded mattresses for which a plan amendment will be required under section
2 6 of this 2019 Act.

3 (2)(a) A plan must provide for convenient service through, at a minimum:

4 (A) Providing for at least one permanent collection site in every county with a population
5 of 10,000 people or more and an additional 25 collections sites distributed throughout the
6 state in a manner to extend convenient service to residents;

7 (B) Holding at least one collection event per year in counties that have a population of
8 less than 10,000 people and that do not have a permanent collection site;

9 (C) Providing for permanent collection sites to be staffed and open to the public at least
10 one day per week; and

11 (D) Providing a convenient method for the public to access a list of collection opportu-
12 nities.

13 (b) A plan may provide for methods for providing convenient service that are alternative
14 methods to those provided for in paragraph (a) of this subsection if, based on a geographic
15 information systems analysis, the alternative methods will result in providing service to
16 residents throughout this state that meets or exceeds the convenience of service provided
17 for under paragraph (a) of this subsection.

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

19 (a) Meet the requirements of the plan required by this section, as approved by the de-
20 partment pursuant to section 5 of this 2019 Act.

21 (b) Meet or exceed the requirements for providing convenient service as described in
22 subsection (2) of this section.

23 (c) Provide for the environmentally sound management of discarded mattresses, regard-
24 less of the producer, with no charge at the point of collection of the discarded mattresses,
25 except that the stewardship organization may allow for a person that provides a premium
26 service under the mattress stewardship program to charge for the additional cost of that
27 premium service.

28 (d) Establish and maintain collection sites at:

29 (A) Permitted solid waste facilities; or

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

32 (e) Provide for storage containers at no charge and transportation and recycling of dis-
33 carded mattresses from collection sites described in paragraph (d) of this subsection.

34 (f) Provide financial compensation to collection sites described in paragraph (d) of this
35 subsection for their reasonable costs to collect and manage discarded mattresses.

36 (g) Provide for bulk pickup service at no cost to collect a minimum of 100 properly source
37 separated discarded mattresses at one time from persons including, but not limited to:

38 (A) Public bodies as that term is defined in ORS 174.109;

39 (B) Retailers;

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

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

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

43 (h) Offer organizations that recycle or renovate discarded mattresses the opportunity to
44 participate as collection sites.

45 (i) Prioritize renovation or recycling over disposal in providing for the environmentally

1 sound management and final disposition of discarded mattresses under the mattress
2 stewardship program.

3 (j) Notify retailers that sell or offer for sale mattresses made or sold by producers or
4 renovators registered with the stewardship organization about the mattress stewardship
5 program and provide retailers with information necessary to comply with sections 1 to 13
6 of this 2019 Act.

7 **SECTION 5.** (1) The Department of Environmental Quality shall approve, reject or re-
8 quest additional information for a plan submitted under section 4 of this 2019 Act or an
9 amendment to a plan submitted under section 6 of this 2019 Act no later than 90 days after
10 the date the department receives the plan or amendment from the stewardship organization.
11 The department shall post a plan or plan amendment on its website, hold a hearing and
12 provide for a public comment period of no less than 30 days before approving, rejecting or
13 requesting additional information on the plan or plan amendment.

14 (2)(a) If the department rejects, or requests additional information for, the plan or plan
15 amendment, the department must provide the stewardship organization with the reasons, in
16 writing, that the plan or plan amendment does not meet the plan requirements of sections
17 1 to 13 of this 2019 Act. The stewardship organization shall have 60 days from the date that
18 the rejection or request for additional information is received to submit to the department
19 any additional information necessary for the approval of the plan or plan amendment. The
20 department shall review and approve or disapprove the revised plan or plan amendment no
21 later than 45 days after the date the department receives the revised plan or plan amend-
22 ment.

23 (b) A stewardship organization may resubmit a revised plan or plan amendment to the
24 department on not more than two consecutive occasions. If, after the second consecutive
25 resubmittal, the department determines that the revised plan or plan amendment does not
26 meet the plan requirements of sections 1 to 13 of this 2019 Act, the department shall modify
27 the plan or plan amendment as necessary for the plan or plan amendment to meet the re-
28 quirements of sections 1 to 13 of this 2019 Act and approve the plan or amended plan.

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

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

36 (5) Upon a written finding that a stewardship organization has violated any provision of
37 sections 1 to 13 of this 2019 Act, and after providing the stewardship organization an oppor-
38 tunity to respond to the finding, the department may, in addition to any other penalty pro-
39 vided by law:

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

42 (b) Require a stewardship organization to meet reporting requirements in addition to
43 those required under section 8 of this 2019 Act as the Environmental Quality Commission
44 determines by rule or order may be appropriate to avoid future violations.

45 **SECTION 6.** (1) A stewardship organization shall submit to the Department of Environ-

1 mental Quality for approval an amendment to a plan that has been approved by the depart-
2 ment under section 5 of this 2019 Act if, at any time:

3 (a) There is a substantial or material change, as provided for under section 4 (1)(k) of
4 this 2019 Act, to the system for collecting discarded mattresses;

5 (b) The stewardship organization proposes a change to the mattress stewardship assess-
6 ment; or

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

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

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

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

18 (3) If a stewardship organization makes a change to a plan approved by the department
19 under section 5 of this act or a change to a mattress stewardship program, and the change
20 is not one for which an amendment is required under subsection (1) of this section, the
21 stewardship organization shall provide written notice of the change to the department, no
22 later than 30 days after the date that the stewardship organization implements the change.
23 Changes subject to this subsection include, but are not limited to:

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

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

28 (c) A change in the recyclers or renovators that manage the discarded mattresses col-
29 lected by the stewardship organization under the program.

30 **SECTION 7.** (1)(a) Except as provided in paragraph (b) of this subsection, a plan required
31 under section 4 of this 2019 Act and approved by the Department of Environmental Quality
32 under section 5 of this 2019 Act shall be valid for seven years.

33 (b) The initial plan submitted by a stewardship organization and approved by the depart-
34 ment shall be valid for five years.

35 (c) Upon expiration of a plan or initial plan, the stewardship organization shall submit
36 the plan to the department for reapproval.

37 (2) In addition to the requirements of section 4 of this 2019 Act, the initial plan submitted
38 by a stewardship organization must include an anticipated annual operating budget as de-
39 scribed in section 8 (3) of this 2019 Act for the mattress stewardship program for the first
40 two years of operation of the program.

41 (3) Notwithstanding section 4 of this 2019 Act, the initial plan submitted by a stewardship
42 organization is not required to include the information described in section 4 (1)(e) or (i) of
43 this 2019 Act. A stewardship organization operating a mattress stewardship program shall
44 first submit the information described in section 4 (1)(e) and (i) of this 2019 Act pursuant to
45 the notification procedures set forth in section 6 of this 2019 Act no later than two years

1 after implementation of the mattress stewardship program.

2 **SECTION 8.** (1) A stewardship organization that implements a mattress stewardship
3 program pursuant to a plan approved by the Department of Environmental Quality under
4 section 5 of this 2019 Act shall, no later than July 1 of each year, submit:

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

7 (b) The anticipated annual operating budget provided for under subsection (3) of this
8 section for the upcoming calendar year; and

9 (c) The annual fee required under subsection (4) of this section.

10 (2) The annual report submitted by a stewardship organization shall include, at a mini-
11 mum:

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

13 (b) The number and tonnage of discarded mattresses collected pursuant to the mattress
14 stewardship program during the previous year by type of collection site or collection event;

15 (c) The number and tonnage of discarded mattresses collected pursuant to the mattress
16 stewardship program for recycling and renovation;

17 (d) The weight of mattress materials recycled and the final disposition of mattress ma-
18 terials, by weight and by material, sold as commodities in secondary markets;

19 (e) The weight of mattress materials sent for disposal at each of the following:

20 (A) Waste-to-energy facilities;

21 (B) Landfills; and

22 (C) Any other facilities;

23 (f) An evaluation of why the mattress materials sent for disposal were not recycled and
24 a description of efforts that will be taken to increase the recycling rate of mattress materials
25 under the mattress stewardship program;

26 (g) The number of discarded mattresses received through collection that were not pro-
27 gram mattresses, the number of illegally dumped discarded mattresses reported to the
28 mattress stewardship program, an analysis of how the data required by this paragraph has
29 changed over time and strategies the stewardship organization will take to address discarded
30 mattresses that are not program mattresses and illegally dumped discarded mattresses;

31 (h) The total sales of mattresses sold in this state in the previous year by producers,
32 renovators and retailers registered with the stewardship organization;

33 (i) A summary of the public education offered in the previous year that supports the
34 mattress stewardship program and examples of public education materials;

35 (j) An evaluation of the effectiveness of methods and processes used to achieve the goals
36 of the mattress stewardship program, information on progress made towards achieving the
37 goals, an explanation of why any goals were not met during the previous year and any efforts
38 that will be taken to improve progress toward meeting the goals in the future, if applicable;

39 (k) An independent financial audit of the mattress stewardship program; and

40 (L) Recommendations for any changes to the mattress stewardship program, including
41 the potential utility of a ban on disposal of mattresses and information relevant to compli-
42 ance with the plan.

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

45 (a) The collection, transportation and processing of discarded mattresses;

1 (b) The administrative costs of the mattress stewardship program to the stewardship
2 organization;

3 (c) The costs of compensating collection sites for their reasonable costs to collect and
4 manage discarded mattresses;

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

7 (e) The administrative fees to be paid to the department pursuant to subsection (4) of
8 this section; and

9 (f) Any additional budgetary information requested by the department.

10 (4) The Environmental Quality Commission shall adopt by rule an annual fee to be paid
11 by the stewardship organization to cover the costs to the department to administer, imple-
12 ment and enforce sections 1 to 13 of this 2019 Act. The department shall provide notice to a
13 stewardship organization no later than April 1 of each year of the annual fee for the up-
14 coming calendar year. Fees collected by the department under this section shall be deposited
15 in the State Treasury to the credit of the Mattress Stewardship Fund established under
16 section 11 of this 2019 Act.

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

19 (a) Conduct during the third year of implementing a mattress stewardship program, and
20 in consultation with community organizations, a study evaluating the most effective methods
21 of providing discarded mattress collection services to low-income individuals and multifamily
22 housing structures.

23 (b) Include in the annual report required for the third year of implementing a mattress
24 stewardship program:

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

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

30 (6) Beginning no earlier than after the third year that a stewardship organization has
31 implemented a mattress stewardship program, the department may request a performance
32 audit of the program to be conducted.

33 (7) The department may not disclose any confidential proprietary information obtained
34 by the department under this section or sections 4, 5 or 6 of this 2019 Act.

35 **SECTION 9.** (1)(a) The Director of the Department of Environmental Quality shall ap-
36 point a mattress stewardship program advisory committee of not more than ten members
37 representing the interests of the following entities in the stewardship of discarded
38 mattresses:

39 (A) Local governments;

40 (B) The solid waste industry;

41 (C) The environmental community; and

42 (D) The public.

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

1 (2) The advisory committee shall meet not less than once annually and shall consult with
2 stewardship organizations operating mattress stewardship programs and advise the Depart-
3 ment of Environmental Quality regarding:

4 (a) The review and approval of any plan for the development and implementation of a
5 mattress stewardship program submitted to the department under section 4 of this 2019 Act;

6 (b) The review and approval of any amendment to a plan submitted under section 6 of
7 this 2019 Act; and

8 (c) The review of annual reports submitted by a stewardship organization under section
9 8 of this 2019 Act.

10 **SECTION 10.** (1) The Department of Environmental Quality shall have the power to enter
11 upon and inspect, at any reasonable time, any public or private property, premises or place
12 for the purpose of investigating either an actual or suspected violation of sections 1 to 13
13 of this 2019 Act.

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

17 **SECTION 11.** The Mattress Stewardship Fund is established, separate and distinct from
18 the General Fund. All moneys in the Mattress Stewardship Fund are continuously appropri-
19 ated to the Department of Environmental Quality and may be used only to pay the costs of
20 administering, implementing and enforcing sections 1 to 13 of this 2019 Act.

21 **SECTION 12.** (1) The Legislative Assembly declares that the collaboration of producers
22 and stewardship organizations to develop and implement mattress stewardship programs is
23 in the best interests of the public. Therefore, the Legislative Assembly declares its intent
24 that the development, implementation and operation of mattress stewardship programs as
25 required by sections 1 to 13 of this 2019 Act shall be exempt from state antitrust laws. The
26 Legislative Assembly further declares its intent to provide immunity for the development,
27 implementation and operation of mattress stewardship programs as required by sections 1
28 to 13 of this 2019 Act from federal antitrust laws. This section does not authorize any person
29 to engage in activities or to conspire to engage in activities that constitute per se violations
30 of state or federal antitrust laws that are not authorized under sections 1 to 13 of this 2019
31 Act.

32 (2)(a) Subsection (1) of this section applies to actions taken by stewardship organizations
33 to:

34 (A) Develop, implement and administer a mattress stewardship program pursuant to a
35 plan approved by the Department of Environmental Quality under section 5 of this 2019 Act;
36 and

37 (B) Establish, administer, collect or disburse the mattress stewardship assessment.

38 (b) Subsection (1) of this section does not apply to any activities related to:

39 (A) Pricing agreements for mattresses unrelated to the mattress stewardship assess-
40 ment;

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

42 (C) Activities restricting the geographic area in which, or the consumers to whom,
43 mattresses will be sold.

44 (3) The department shall actively supervise the conduct of a stewardship organization.
45 The department may require the stewardship organization to take whatever action the de-

1 **partment considers necessary to:**

2 (a) **Ensure that the stewardship organization is engaging in conduct authorized under**
3 **sections 1 to 13 of this 2019 Act;**

4 (b) **Ensure that the policies of the state are being fulfilled by a mattress stewardship**
5 **program; and**

6 (c) **Enjoin conduct that is not authorized by the department or conduct that the depart-**
7 **ment finds does not advance the interests of this state in carrying out the mattress**
8 **stewardship program.**

9 **SECTION 13. The Environmental Quality Commission may adopt rules as necessary to**
10 **implement sections 1 to 13 of this 2019 Act.**

11 **SECTION 14.** ORS 459.995 is amended to read:

12 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
13 provided by law:

14 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
15 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.675 to 459A.685 or 646A.080, or any rule or order
16 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or
17 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,
18 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining
19 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to
20 exceed \$25,000 per day for each day of the violation.

21 (b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not
22 to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation.
23 Each day an establishment fails to post the notice required under ORS 459.426 is a separate vio-
24 lation.

25 (c) For each day a city, county or metropolitan service district fails to provide the opportunity
26 to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs
27 a civil penalty not to exceed \$500 for each violation.

28 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to
29 exceed \$500 for each violation. Each covered electronic device that is disposed of improperly is a
30 separate violation.

31 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) **or section 3 of this**
32 **2019 Act** incurs a civil penalty not to exceed \$100 per day for each day of the violation.

33 (f) Any producer **or renovator** that violates the provisions of ORS 459A.825 (1) **or section 3**
34 **of this 2019 Act** incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.

35 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
36 459A.830 to 459A.837 or 459A.842 **or sections 1 to 13 of this 2019 Act** incurs a civil penalty not
37 to exceed \$1,000 per day for each day of the violation.

38 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665
39 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed \$1,000 per
40 day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to addi-
41 tional penalties under subsection (1) of this section.

42 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the
43 manner provided by ORS 468.135.

44 **SECTION 15. Sections 1 to 13 of this 2019 Act and the amendments to ORS 459.995 by**
45 **section 14 of this 2019 Act apply to all producers, renovators and retailers engaging in the**

1 activities set forth in section 3 (1) of this 2019 Act on or after January 1, 2020.

2
3 MISCELLANEOUS

4
5 **SECTION 16.** (1) Sections 1 to 13 of this 2019 Act and the amendments to ORS 459.995
6 by section 14 of this 2019 Act become operative on January 1, 2020.

7 (2) The Environmental Quality Commission and the Department of Environmental Qual-
8 ity may take any action before the operative date specified in subsection (1) of this section
9 that is necessary for the commission and the department to exercise, on and after the op-
10 erative date specified in subsection (1) of this section, all of the duties, functions and powers
11 conferred on the commission and the department by sections 1 to 13 of this 2019 Act and the
12 amendments to ORS 459.995 by section 14 of this 2019 Act.

13
14 CAPTIONS

15
16 **SECTION 17.** The unit captions used in this 2019 Act are provided only for the conven-
17 ience of the reader and do not become part of the statutory law of this state or express any
18 legislative intent in the enactment of this 2019 Act.

19
20 EMERGENCY CLAUSE

21
22 **SECTION 18.** This 2019 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
24 on its passage.

25
