

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO
SENATE BILL 276**

1 On page 1 of the printed bill, delete lines 7 through 27 and delete pages
2 2 through 10 and insert:

3 **“SECTION 1. The Legislative Assembly finds and declares that:**

4 **“(1) It is in the best interests of the State of Oregon for producers,
5 renovators and retailers of mattresses to take responsibility for de-
6 veloping, implementing and administering a statewide system for the
7 financing, collection and environmentally sound management of dis-
8 carded mattresses; and**

9 **“(2) It is the State of Oregon’s policy that a statewide system for
10 the financing, collection and environmentally sound management of
11 discarded mattresses:**

12 **“(a) Provide free, convenient and accessible opportunities for col-
13 lection of mattresses discarded in this state from any person, in both
14 the urban and rural areas of this state;**

15 **“(b) Be technologically feasible and economically practical; and**

16 **“(c) Be consistent with the policies for solid waste management set
17 forth in ORS 459.015 (2).**

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

19 **“(1) ‘Brand’ means a name, symbol, word or mark that attributes
20 a mattress to the producer of the mattress.**

21 **“(2) ‘Consumer’ means a person who is the end user of a mattress**

1 purchased in this state.

2 “(3) ‘Discarded mattress’ means a mattress that has been aban-
3 doned or discarded by a consumer in this state.

4 “(4) ‘Environmentally sound management’ includes, but is not lim-
5 ited to, the following management practices, implemented in a manner
6 that is designed to protect public health and safety and the environ-
7 ment:

8 “(a) Adequate record keeping;

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

10 “(A) Manage discarded mattresses; and

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

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

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

17 “(e) Maintenance of adequate liability insurance for a stewardship
18 organization and contractors working for the stewardship organiza-
19 tion.

20 “(5) ‘Final disposition’ means the point beyond which no further
21 processing takes place and the discarded mattress has been recycled,
22 renovated or disposed of.

23 “(6) ‘Foundation’ means a ticking-covered structure that is used to
24 support a mattress or sleep surface and that may be constructed of
25 frames, foam, box springs or other materials, used alone or in combi-
26 nation.

27 “(7)(a) ‘Mattress’ means:

28 “(A) A resilient material or combination of materials that is en-
29 closed by a ticking, is used alone or in combination with other pro-
30 ducts and is intended for or promoted for sleeping upon;

1 **“(B) A foundation and a renovated mattress; or**

2 **“(C) A renovated foundation.**

3 **“(b) ‘Mattress’ does not mean:**

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

7 **“(B) A sleeping bag;**

8 **“(C) A pillow;**

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

10 **“(E) A carriage, basket, dressing table, stroller, playpen, infant**
11 **carrier, lounge pad, crib bumper or other product manufactured for**
12 **young children or the pad for a product described in this subpara-**
13 **graph;**

14 **“(F) A water bed, an air mattress or another product that contains**
15 **liquid- or gas-filled ticking and that does not contain upholstery ma-**
16 **terial between the ticking and the mattress core; or**

17 **“(G) A foldout sofa bed, futon, futon mattress or upholstered fur-**
18 **niture.**

19 **“(8) ‘Mattress core’ means the principal support system that is**
20 **present in a mattress and that may be constructed of materials such**
21 **as springs, foam, air or water bladders or resilient filling.**

22 **“(9) ‘Mattress stewardship assessment’ means the amount added to**
23 **the purchase price of a mattress sold in this state that is necessary**
24 **to cover the cost of establishing and administering a program to col-**
25 **lect, transport and process the discarded mattresses managed through**
26 **a mattress stewardship program.**

27 **“(10) ‘Mattress stewardship program’ means a statewide program**
28 **for the collection and environmentally sound management of discarded**
29 **mattresses that is operated by a stewardship organization pursuant to**
30 **a plan approved by the Department of Environmental Quality under**

1 section 5 of this 2019 Act.

2 “(11) ‘Mattress topper’ means any item that contains resilient fill-
3 ing, with or without ticking, that is intended to be used with or on top
4 of a mattress.

5 “(12) ‘Nonprofit organization’ means an organization or group of
6 organizations described in section 501(c)(3) of the Internal Revenue
7 Code that is exempt from income tax under section 501(a) of the
8 Internal Revenue Code.

9 “(13) ‘Person’ means the United States, the state or a public or
10 private corporation, local government unit, public agency, individual,
11 partnership, association, firm, trust, estate or other legal entity.

12 “(14) ‘Premium service’ means a service such as at-home pickup
13 service, including curbside pickup service.

14 “(15) ‘Producer’ means any person, irrespective of the selling tech-
15 nique used, including that of remote sale, who:

16 “(a) Manufactures a mattress that is sold, offered for sale or dis-
17 tributed in this state;

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

21 “(c) Imports a mattress into the United States that is sold or of-
22 fered for sale in this state.

23 “(16) ‘Program mattress’ means a discarded mattress that a
24 stewardship organization will provide environmentally sound manage-
25 ment for under a mattress stewardship program.

26 “(17)(a) ‘Renovate’ means to alter a discarded mattress for resale
27 to consumers through replacing the ticking or filling, adding addi-
28 tional filling or replacing components of the mattress with new or re-
29 cycled materials.

30 “(b) ‘Renovate’ does not mean:

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

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

5 “(18) ‘Renovator’ means a person who renovates discarded
6 mattresses.

7 “(19) ‘Retailer’ means a person that offers new, used or renovated
8 mattresses for sale at retail to consumers through any means, in-
9 cluding but not limited to remote offerings such as sales outlets, cat-
10 alogs or the Internet.

11 “(20) ‘Sanitization’ means the direct application of chemicals to a
12 mattress to kill pathogens that cause human disease.

13 “(21) ‘Sterilization’ means the mitigation of any deleterious sub-
14 stances or organisms, including pathogens that cause human disease,
15 fungi and insects, from a mattress or filling material using a chemical
16 or heat process.

17 “(22) ‘Stewardship organization’ means a nonprofit organization
18 designated by a producer or group of producers to implement a
19 mattress stewardship program.

20 “(23)(a) ‘Ticking’ means the outermost layer of fabric or related
21 material of a mattress.

22 “(b) ‘Ticking’ does not mean any layer of fabric or material quilted
23 together with, or otherwise attached to, the outermost layer of fabric
24 or material of a mattress.

25 “(24) ‘Used mattress’ means a discarded mattress or foundation that
26 has undergone sanitization or sterilizaion for the purposes of resale
27 but that has not been renovated.

28 “SECTION 3. (1) Except as provided in subsection (3) this sub-
29 section, a producer, renovator or retailer may not sell or offer for sale
30 any mattress to any person in this state unless the producer,

1 renovator or retailer is registered with a stewardship organization.

2 “(2) On and after the date that an approved mattress stewardship
3 program becomes operative, a retailer:

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

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

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

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

22 “(4) A stewardship organization shall make available on the
23 stewardship organization’s website and on request:

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

26 “(b) Information on available collection opportunities; and

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

29 “(5) A retailer shall identify the mattress stewardship assessment
30 as a separate line item on the receipt for a mattress provided to a

1 consumer at the point of sale. The mattress stewardship assessment
2 may not be described on the receipt as an Oregon recycling fee.

3 “(6)(a) Subject to paragraph (b) of this subsection, a stewardship
4 organization may use a mattress stewardship assessment collected in
5 this state only to pay the costs necessary to plan, implement, admin-
6 ister and operate a mattress stewardship program in this state.

7 “(b) A stewardship organization may not use any moneys collected
8 through a mattress stewardship assessment to pay any civil penalties
9 assessed against the stewardship organization under ORS 459.995.

10 “(7) Nothing in this section prevents a mattress stewardship or-
11 ganization from, with notice to the department, coordinating efforts
12 for carrying out a mattress stewardship program in this state with
13 programs for the collection and environmentally sound management
14 of discarded mattresses in other states.

15 “(8) The department shall maintain on its website a list of all pro-
16 ducers, renovators and retailers that are in compliance with sections
17 1 to 13 of this 2019 Act.

18 “SECTION 4. (1) In a form and manner prescribed by the Depart-
19 ment of Environmental Quality, a stewardship organization shall sub-
20 mit to the department a plan for the development and implementation
21 of a mattress stewardship program. The plan must:

22 “(a) Describe how the stewardship organization will:

23 “(A) Manage and conduct a mattress stewardship program.

24 “(B) Identify program mattresses and identify and address discarded
25 mattresses that are received through collection sites or collection
26 events and that are not program mattresses.

27 “(b) Identify each producer, renovator and retailer that is registered
28 with the stewardship organization as of 30 days before the plan is
29 submitted to the department.

30 “(c) Include a description of how the stewardship organization will

1 provide for the environmentally sound management of program
2 mattresses that includes, at a minimum:

3 “(A) A description of the proposed recyclers that the stewardship
4 organization will contract with to process discarded mattresses and
5 the recycling methods that the recyclers will use;

6 “(B) The auditing, inspection and other procedures that will be used
7 by the stewardship organization and the frequency at which the pro-
8 cedures will be implemented to ensure that all entities the stewardship
9 organization contracts with to implement the mattress stewardship
10 program engage in environmentally sound management practices; and

11 “(C) Processes for notifying the department when recyclers have
12 been added to or removed from the mattress stewardship program.

13 “(d) Provide for convenient service as described in subsection (2)
14 of this section.

15 “(e) Establish performance goals for:

16 “(A) The collection rates and recycling rates for program
17 mattresses; and

18 “(B) Public awareness of the mattress stewardship program.

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

29 “(g) Propose a mechanism to mitigate the costs associated with
30 collection of discarded mattresses that are illegally dumped, which

1 may include but need not be limited to proposals for funding of
2 clean-up activities, for education and outreach or for studies to eval-
3 uate the causes of illegal dumping.

4 “(h) Provide for public education, advertising and promotion of
5 discarded mattress collection opportunities statewide and on a regular
6 basis.

7 “(i) Include a closure plan that addresses how the stewardship or-
8 ganization will settle the affairs of the mattress stewardship program
9 in the event of dissolution of the stewardship organization or cessation
10 of operations of the mattress stewardship program by the stewardship
11 organization in this state.

12 “(j) Describe methods that will be used by the stewardship organ-
13 ization to coordinate activities with existing recycling programs, in-
14 cluding existing nonprofit organizations that are mattress recyclers,
15 to further the environmentally sound management of discarded
16 mattresses.

17 “(k) Address procedures for identifying substantial or material
18 changes to the system for collecting discarded mattresses for which a
19 plan amendment will be required under section 6 of this 2019 Act.

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

22 “(A) Providing for at least one permanent collection site in every
23 county with a population of 10,000 people or more and an additional
24 25 collections sites distributed throughout the state in a manner to
25 extend convenient service to residents;

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

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

1 **“(D) Providing a convenient method for the public to access a list**
2 **of collection opportunities.**

3 **“(b) A plan may provide for methods for providing convenient ser-**
4 **vice that are alternative methods to those provided for in paragraph**
5 **(a) of this subsection if, based on a geographic information systems**
6 **analysis, the alternative methods will result in providing service to**
7 **residents throughout this state that meets or exceeds the convenience**
8 **of service provided for under paragraph (a) of this subsection.**

9 **“(3) In operating a mattress stewardship program, a stewardship**
10 **organization shall:**

11 **“(a) Meet the requirements of the plan required by this section, as**
12 **approved by the department pursuant to section 5 of this 2019 Act.**

13 **“(b) Meet or exceed the requirements for providing convenient ser-**
14 **vice as described in subsection (2) of this section.**

15 **“(c) Provide for the environmentally sound management of dis-**
16 **carded mattresses, regardless of the producer, with no charge at the**
17 **point of collection of the discarded mattresses, except that the**
18 **stewardship organization may allow for a person that provides a pre-**
19 **mium service under the mattress stewardship program to charge for**
20 **the additional cost of that premium service.**

21 **“(d) Establish and maintain collection sites at:**

22 **“(A) Permitted solid waste facilities; or**

23 **“(B) Other suitable sites for the collection of discarded mattresses**
24 **from consumers, if the sites do not impose a fee for making space**
25 **available for the storage containers.**

26 **“(e) Provide for storage containers at no charge and transportation**
27 **and recycling of discarded mattresses from collection sites described**
28 **in paragraph (d) of this subsection.**

29 **“(f) Provide financial compensation to collection sites described in**
30 **paragraph (d) of this subsection for their reasonable costs to collect**

1 and manage discarded mattresses.

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

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

6 “(B) Retailers;

7 “(C) Public or private disposal, transfer or material or energy re-
8 covery sites or facilities;

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

10 “(E) Hotels, motels, inns and other establishments that provide
11 transient lodging.

12 “(h) Offer organizations that recycle or renovate discarded
13 mattresses the opportunity to participate as collection sites.

14 “(i) Prioritize renovation or recycling over disposal in providing for
15 the environmentally sound management and final disposition of dis-
16 carded mattresses under the mattress stewardship program.

17 “(j) Notify retailers that sell or offer for sale mattresses made or
18 sold by producers or renovators registered with the stewardship or-
19 ganization about the mattress stewardship program and provide
20 retailers with information necessary to comply with sections 1 to 13
21 of this 2019 Act.

22 **“SECTION 5. (1) The Department of Environmental Quality shall**
23 **approve, reject or request additional information for a plan submitted**
24 **under section 4 of this 2019 Act or an amendment to a plan submitted**
25 **under section 6 of this 2019 Act no later than 90 days after the date the**
26 **department receives the plan or amendment from the stewardship or-**
27 **ganization. The department shall post a plan or plan amendment on**
28 **its website, hold a hearing and provide for a public comment period**
29 **of no less than 30 days before approving, rejecting or requesting addi-**
30 **tional information on the plan or plan amendment.**

1 **“(2)(a) If the department rejects, or requests additional information**
2 **for, the plan or plan amendment, the department must provide the**
3 **stewardship organization with the reasons, in writing, that the plan**
4 **or plan amendment does not meet the plan requirements of sections**
5 **1 to 13 of this 2019 Act. The stewardship organization shall have 60**
6 **days from the date that the rejection or request for additional infor-**
7 **mation is received to submit to the department any additional infor-**
8 **mation necessary for the approval of the plan or plan amendment. The**
9 **department shall review and approve or disapprove the revised plan**
10 **or plan amendment no later than 45 days after the date the depart-**
11 **ment receives the revised plan or plan amendment.**

12 **“(b) A stewardship organization may resubmit a revised plan or**
13 **plan amendment to the department on not more than two consecutive**
14 **occasions. If, after the second consecutive resubmittal, the department**
15 **determines that the revised plan or plan amendment does not meet the**
16 **plan requirements of sections 1 to 13 of this 2019 Act, the department**
17 **shall modify the plan or plan amendment as necessary for the plan or**
18 **plan amendment to meet the requirements of sections 1 to 13 of this**
19 **2019 Act and approve the plan or amended plan.**

20 **“(3) The department’s rejection of, or request for additional infor-**
21 **mation for, an amendment to a plan does not relieve a stewardship**
22 **organization from continuing to implement a mattress stewardship**
23 **program in compliance with a previously approved plan pending a final**
24 **action by the department on the amendment.**

25 **“(4) Beginning no later than 90 days after a plan or amended plan**
26 **is approved under this section, a stewardship organization must im-**
27 **plement a mattress stewardship program as described in the plan or**
28 **amended plan.**

29 **“(5) Upon a written finding that a stewardship organization has vi-**
30 **olated any provision of sections 1 to 13 of this 2019 Act, and after**

1 providing the stewardship organization an opportunity to respond to
2 the finding, the department may, in addition to any other penalty
3 provided by law:

4 “(a) Revoke approval of a plan or plan amendment under this sec-
5 tion or require a stewardship organization to resubmit a plan; or

6 “(b) Require a stewardship organization to meet reporting require-
7 ments in addition to those required under section 8 of this 2019 Act
8 as the Environmental Quality Commission determines by rule or order
9 may be appropriate to avoid future violations.

10 **“SECTION 6. (1) A stewardship organization shall submit to the**
11 **Department of Environmental Quality for approval an amendment to**
12 **a plan that has been approved by the department under section 5 of**
13 **this 2019 Act if, at any time:**

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

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

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

21 “(A) The administrative costs of the stewardship organization for
22 the mattress stewardship program equaled 20 percent or more of the
23 organization’s total annual budget for the program during the prior
24 calendar year; or

25 “(B) The unallocated reserve funds held by the stewardship organ-
26 ization for the mattress stewardship program during the prior calendar
27 year equaled 75 percent or more of the total annual budget for the
28 program during the year.

29 “(2) The department may not request an amendment under section
30 (1)(c) of this section until two years after the implementation of a

1 **mattress stewardship program by the stewardship organization.**

2 **“(3) If a stewardship organization makes a change to a plan ap-**
3 **proved by the department under section 5 of this act or a change to a**
4 **mattress stewardship program, and the change is not one for which**
5 **an amendment is required under subsection (1) of this section, the**
6 **stewardship organization shall provide written notice of the change to**
7 **the department, no later than 30 days after the date that the**
8 **stewardship organization implements the change. Changes subject to**
9 **this subsection include, but are not limited to:**

10 **“(a) A change in the location or the number of permanent col-**
11 **lection sites identified in the plan;**

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

14 **“(c) A change in the recyclers or renovators that manage the dis-**
15 **carded mattresses collected by the stewardship organization under the**
16 **program.**

17 **“SECTION 7. (1)(a) Except as provided in paragraph (b) of this**
18 **subsection, a plan required under section 4 of this 2019 Act and ap-**
19 **proved by the Department of Environmental Quality under section 5**
20 **of this 2019 Act shall be valid for seven years.**

21 **“(b) The initial plan submitted by a stewardship organization and**
22 **approved by the department shall be valid for five years.**

23 **“(c) Upon expiration of a plan or initial plan, the stewardship or-**
24 **ganization shall submit the plan to the department for reapproval.**

25 **“(2) In addition to the requirements of section 4 of this 2019 Act,**
26 **the initial plan submitted by a stewardship organization must include**
27 **an anticipated annual operating budget as described in section 8 (3)**
28 **of this 2019 Act for the mattress stewardship program for the first two**
29 **years of operation of the program.**

30 **“(3) Notwithstanding section 4 of this 2019 Act, the initial plan**

1 submitted by a stewardship organization is not required to include the
2 information described in section 4 (1)(e) or (i) of this 2019 Act. A
3 stewardship organization operating a mattress stewardship program
4 shall first submit the information described in section 4 (1)(e) and (i)
5 of this 2019 Act pursuant to the notification procedures set forth in
6 section 6 of this 2019 Act no later than two years after implementation
7 of the mattress stewardship program.

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

12 “(a) The annual report provided for under subsection (2) of this
13 section for the preceding calendar year;

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

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

17 “(2) The annual report submitted by a stewardship organization
18 shall include, at a minimum:

19 “(a) The mattress stewardship program’s costs and revenues for the
20 previous year;

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

24 “(c) The number and tonnage of discarded mattresses collected
25 pursuant to the mattress stewardship program for recycling and ren-
26 ovation;

27 “(d) The weight of mattress materials recycled and the final dispo-
28 sition of mattress materials, by weight and by material, sold as com-
29 modities in secondary markets;

30 “(e) The weight of mattress materials sent for disposal at each of

1 **the following:**

2 **“(A) Waste-to-energy facilities;**

3 **“(B) Landfills; and**

4 **“(C) Any other facilities;**

5 **“(f) An evaluation of why the mattress materials sent for disposal**
6 **were not recycled and a description of efforts that will be taken to**
7 **increase the recycling rate of mattress materials under the mattress**
8 **stewardship program;**

9 **“(g) The number of discarded mattresses received through col-**
10 **lection that were not program mattresses, the number of illegally**
11 **dumped discarded mattresses reported to the mattress stewardship**
12 **program, an analysis of how the data required by this paragraph has**
13 **changed over time and strategies the stewardship organization will**
14 **take to address discarded mattresses that are not program mattresses**
15 **and illegally dumped discarded mattresses;**

16 **“(h) The total sales of mattresses sold in this state in the previous**
17 **year by producers, renovators and retailers registered with the**
18 **stewardship organization;**

19 **“(i) A summary of the public education offered in the previous year**
20 **that supports the mattress stewardship program and examples of**
21 **public education materials;**

22 **“(j) An evaluation of the effectiveness of methods and processes**
23 **used to achieve the goals of the mattress stewardship program, infor-**
24 **mation on progress made towards achieving the goals, an explanation**
25 **of why any goals were not met during the previous year and any ef-**
26 **forts that will be taken to improve progress toward meeting the goals**
27 **in the future, if applicable;**

28 **“(k) An independent financial audit of the mattress stewardship**
29 **program; and**

30 **“(L) Recommendations for any changes to the mattress stewardship**

1 program, including the potential utility of a ban on disposal of
2 mattresses and information relevant to compliance with the plan.

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

6 “(a) The collection, transportation and processing of discarded
7 mattresses;

8 “(b) The administrative costs of the mattress stewardship program
9 to the stewardship organization;

10 “(c) The costs of compensating collection sites for their reasonable
11 costs to collect and manage discarded mattresses;

12 “(d) The anticipated amount of moneys that the stewardship or-
13 ganization will hold in unallocated reserve funds for the mattress
14 stewardship program;

15 “(e) The administrative fees to be paid to the department pursuant
16 to subsection (4) of this section; and

17 “(f) Any additional budgetary information requested by the depart-
18 ment.

19 “(4) The Environmental Quality Commission shall adopt by rule an
20 annual fee to be paid by the stewardship organization to cover the
21 costs to the department to administer, implement and enforce sections
22 1 to 13 of this 2019 Act. The department shall provide notice to a
23 stewardship organization no later than April 1 of each year of the an-
24 nual fee for the upcoming calendar year. Fees collected by the de-
25 partment under this section shall be deposited in the State Treasury
26 to the credit of the Mattress Stewardship Fund established under sec-
27 tion 11 of this 2019 Act.

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

30 “(a) Conduct during the third year of implementing a mattress

1 **stewardship program, and in consultation with community organiza-**
2 **tions, a study evaluating the most effective methods of providing dis-**
3 **carded mattress collection services to low-income individuals and**
4 **multifamily housing structures.**

5 **“(b) Include in the annual report required for the third year of im-**
6 **plementing a mattress stewardship program:**

7 **“(A) A report to the department on the scope of discarded**
8 **mattresses in this state that are not being collected as part of the**
9 **stewardship organization’s mattress stewardship program and recom-**
10 **mendations on how to direct the discarded mattress to, and include**
11 **them, in the stewardship organization’s program; and**

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

13 **“(6) Beginning no earlier than after the third year that a**
14 **stewardship organization has implemented a mattress stewardship**
15 **program, the department may request a performance audit of the**
16 **program to be conducted.**

17 **“(7) The department may not disclose any confidential proprietary**
18 **information obtained by the department under this section or sections**
19 **4, 5 or 6 of this 2019 Act.**

20 **“SECTION 9. (1)(a) The Director of the Department of Environ-**
21 **mental Quality shall appoint a mattress stewardship program advisory**
22 **committee of not more than ten members representing the interests**
23 **of the following entities in the stewardship of discarded mattresses:**

24 **“(A) Local governments;**

25 **“(B) The solid waste industry;**

26 **“(C) The environmental community; and**

27 **“(D) The public.**

28 **“(b) The director may not appoint to the advisory committee any**
29 **person who has or who may have a pecuniary interest in any contract**
30 **awarded by a stewardship organization as part of the implementation**

1 of a mattress stewardship program.

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

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

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

11 “(c) The review of annual reports submitted by a stewardship or-
12 ganization under section 8 of this 2019 Act.

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

18 “(2) A stewardship organization shall retain all records related to
19 implementation of a mattress stewardship program for not less than
20 three years and make the records available for inspection by the de-
21 partment upon request.

22 **“SECTION 11. The Mattress Stewardship Fund is established, sepa-**
23 **rate and distinct from the General Fund. All moneys in the Mattress**
24 **Stewardship Fund are continuously appropriated to the Department**
25 **of Environmental Quality and may be used only to pay the costs of**
26 **administering, implementing and enforcing sections 1 to 13 of this 2019**
27 **Act.**

28 **“SECTION 12. (1) The Legislative Assembly declares that the col-**
29 **laboration of producers and stewardship organizations to develop and**
30 **implement mattress stewardship programs is in the best interests of**

1 the public. Therefore, the Legislative Assembly declares its intent that
2 the development, implementation and operation of mattress
3 stewardship programs as required by sections 1 to 13 of this 2019 Act
4 shall be exempt from state antitrust laws. The Legislative Assembly
5 further declares its intent to provide immunity for the development,
6 implementation and operation of mattress stewardship programs as
7 required by sections 1 to 13 of this 2019 Act from federal antitrust laws.
8 This section does not authorize any person to engage in activities or
9 to conspire to engage in activities that constitute per se violations of
10 state or federal antitrust laws that are not authorized under sections
11 1 to 13 of this 2019 Act.

12 “(2)(a) Subsection (1) of this section applies to actions taken by
13 stewardship organizations to:

14 “(A) Develop, implement and administer a mattress stewardship
15 program pursuant to a plan approved by the Department of Environ-
16 mental Quality under section 5 of this 2019 Act; and

17 “(B) Establish, administer, collect or disburse the mattress
18 stewardship assessment.

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

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

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

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

27 “(3) The department shall actively supervise the conduct of a
28 stewardship organization. The department may require the
29 stewardship organization to take whatever action the department
30 considers necessary to:

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

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

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

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

10 **“SECTION 14. ORS 459.995 is amended to read:**

11 **“459.995. (1) Except as provided in subsection (2) of this section, in addi-**
12 **tion to any other penalty provided by law:**

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

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

26 **“(c) For each day a city, county or metropolitan service district fails to**
27 **provide the opportunity to recycle as required under ORS 459A.005, the city,**
28 **county or metropolitan service district incurs a civil penalty not to exceed**
29 **\$500 for each violation.**

30 **“(d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs**

1 a civil penalty not to exceed \$500 for each violation. Each covered electronic
2 device that is disposed of improperly is a separate violation.

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

6 “(f) Any producer **or renovator** that violates the provisions of ORS
7 459A.825 (1) **or section 3 of this 2019 Act** incurs a civil penalty not to ex-
8 ceed \$1,000 per day for each day of the violation.

9 “(g) Any stewardship organization that violates the provisions of ORS
10 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 **or sections 1 to**
11 **13 of this 2019 Act** incurs a civil penalty not to exceed \$1,000 per day for
12 each day of the violation.

13 “(2) Any product manufacturer or package manufacturer who violates
14 ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to
15 459A.665 incurs a civil penalty not to exceed \$1,000 per day for each day of
16 the violation. A violation of ORS 459A.650 to 459A.665 is not subject to ad-
17 ditional penalties under subsection (1) of this section.

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

20 **“SECTION 15. Sections 1 to 13 of this 2019 Act and the amendments**
21 **to ORS 459.995 by section 14 of this 2019 Act apply to all producers,**
22 **renovators and retailers engaging in the activities set forth in section**
23 **3 (1) of this 2019 Act on or after January 1, 2020.**

24

25 **“MISCELLANEOUS**

26

27 **“SECTION 16. (1) Sections 1 to 13 of this 2019 Act and the amend-**
28 **ments to ORS 459.995 by section 14 of this 2019 Act become operative**
29 **on January 1, 2020.**

30 **“(2) The Environmental Quality Commission and the Department**

1 of Environmental Quality may take any action before the operative
2 date specified in subsection (1) of this section that is necessary for the
3 commission and the department to exercise, on and after the operative
4 date specified in subsection (1) of this section, all of the duties, func-
5 tions and powers conferred on the commission and the department by
6 sections 1 to 13 of this 2019 Act and the amendments to ORS 459.995
7 by section 14 of this 2019 Act.

8

9

“CAPTIONS

10

11 **“SECTION 17. The unit captions used in this 2019 Act are provided**
12 **only for the convenience of the reader and do not become part of the**
13 **statutory law of this state or express any legislative intent in the**
14 **enactment of this 2019 Act.**

15

16

“EMERGENCY CLAUSE

17

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

21
