

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO
SENATE BILL 1564**

1 On page 1 of the printed bill, line 2, delete “declaring an emergency” and
2 insert “prescribing an effective date”.

3 Delete lines 4 through 25 and delete pages 2 through 13 and insert:
4

5 **“MATTRESS STEWARDSHIP**

6
7 **“SECTION 1. The Legislative Assembly finds and declares that:**

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

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

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

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

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

21 **“SECTION 2. As used in sections 1 to 14 of this 2020 Act:**

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

3 “(2) ‘Consumer’ means a person who is the purchaser, by retail sale,
4 of a mattress for final delivery and use in this state.

5 “(3) ‘Discarded mattress’ means a mattress or foundation that has
6 been used, and abandoned or discarded, in this state.

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

11 “(a) Adequate record keeping;

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

13 “(A) Manage discarded mattresses; and

14 “(B) Track and document the fate of discarded mattresses from
15 collection through final disposition within this state and outside this
16 state;

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

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

20 “(e) Maintenance of adequate liability insurance for a stewardship
21 organization and contractors working for the stewardship organiza-
22 tion.

23 “(5) ‘Final disposition’ means the point beyond which no further
24 processing takes place and a discarded mattress and its components
25 have been recycled, renovated or disposed of.

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

30 “(7)(a) ‘Mattress’ means a resilient material or combination of ma-

1 **terials that is enclosed by a ticking, is used alone or in combination**
2 **with other products and is intended for or promoted for sleeping upon.**

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;**

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

19 **“(H) A foundation.**

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

23 **“(9) ‘Mattress stewardship assessment’ means the amount added at**
24 **retail sale to the purchase price of a mattress to cover the costs of a**
25 **mattress stewardship program.**

26 **“(10) ‘Mattress stewardship program’ means a statewide program**
27 **for the collection of discarded mattresses and environmentally sound**
28 **management of program mattresses that is operated by a stewardship**
29 **organization pursuant to a plan approved by the Department of Envi-**
30 **ronmental Quality under section 6 of this 2020 Act.**

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

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

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

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

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

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

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

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

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

25 “(b) ‘Program mattress’ does not mean a mattress or foundation
26 transported from outside this state to be discarded in this state.

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

1 **“(b) ‘Renovate’ does not mean:**

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

4 **“(B) The sanitization or sterilization of a discarded mattress with-**
5 **out other alteration to the discarded mattress.**

6 **“(18) ‘Renovator’ means a person that renovates discarded**
7 **mattresses.**

8 **“(19) ‘Retailer’ means a person that offers new, used or renovated**
9 **mattresses or foundations for retail sale.**

10 **“(20) ‘Retail sale’ means sale to a consumer in this state by any**
11 **means and for any purpose other than resale, including but not limited**
12 **to sale by remote offerings such as sales outlets, catalogs or the**
13 **Internet.**

14 **“(21) ‘Sanitization’ means the direct application of chemicals to a**
15 **mattress or foundation to kill pathogens that cause human disease.**

16 **“(22) ‘Sterilization’ means the mitigation of any deleterious sub-**
17 **stances or organisms, including pathogens that cause human disease,**
18 **fungi and insects, from a mattress or foundation or filling material**
19 **using a chemical or heat process.**

20 **“(23) ‘Stewardship organization’ means a nonprofit organization**
21 **designated by a producer or group of producers to implement a**
22 **mattress stewardship program.**

23 **“(24)(a) ‘Ticking’ means the outermost layer of fabric or related**
24 **material of a mattress or foundation.**

25 **“(b) ‘Ticking’ does not mean any layer of fabric or material quilted**
26 **together with, or otherwise attached to, the outermost layer of fabric**
27 **or material of a mattress or foundation.**

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

1 or retailer is registered with a stewardship organization.

2 “(2) On and after the date that a mattress stewardship program is
3 implemented, 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 retail sale, the mattress
9 stewardship assessment established pursuant to a plan approved by the
10 Department of Environmental Quality under section 6 of this 2020 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 retail sale, infor-
14 mation on available collection opportunities for discarded mattresses
15 through 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 if, at the time the retailer sells the mattress to a con-
20 sumer, 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 penalties assessed
9 against the stewardship organization under ORS 459.995 or pay legal
10 fees associated with legal action taken by the state.

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

16 “(8) The department shall maintain on its website a list of all pro-
17 ducers, renovators and retailers that are in compliance with sections
18 1 to 14 of this 2020 Act.

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

23 “(a) Describe how the stewardship organization will manage and
24 administer a mattress stewardship program.

25 “(b) Identify program mattresses.

26 “(c) Describe how discarded mattresses that are received through
27 collection sites or collection events and that are not program
28 mattresses will be handled.

29 “(d) Identify each producer, renovator and retailer that is registered
30 with the stewardship organization as of 30 days before the plan is

1 submitted to the department.

2 “(e) Include a description of how the stewardship organization will
3 provide for the environmentally sound management of program
4 mattresses, regardless of the producer, with no charge at the point of
5 collection of discarded mattresses, except that the stewardship organ-
6 ization may allow for a person that provides a premium service under
7 the mattress stewardship program to charge for the additional cost of
8 that premium service. The description shall include, at a minimum:

9 “(A) Identification of the proposed transporters and recyclers that
10 the stewardship organization will contract with to transport and pro-
11 cess program mattresses and the recycling methods that the recyclers
12 will use;

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

18 “(C) A description of the processes that will be used to ensure that
19 the recyclers contracted with by the stewardship organization to pro-
20 cess program mattresses will comply with environmentally sound
21 management practices.

22 “(f) Provide service as described in section 5 of this 2020 Act.

23 “(g) Establish performance goals for:

24 “(A) The collection target and recycling rates of program
25 mattresses; and

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

27 “(h) Include an anticipated annual operating budget, as described
28 in subsection (2) of this section, for the mattress stewardship program
29 for two years of operation of the program, beginning with the year in
30 which the plan is submitted to the department.

1 “(i) Include a proposed mattress stewardship assessment method for
2 collecting the mattress stewardship assessment from retailers and a
3 method for ensuring the assessment is remitted to the stewardship
4 organization. The mattress stewardship assessment must be a flat
5 amount that applies equally to each mattress sold to a consumer in
6 this state and must be sufficient to recover, but not exceed, the costs
7 of establishing and administering the mattress stewardship program,
8 including but not limited to all costs incurred for the environmentally
9 sound management of program mattresses during each stage of man-
10 agement, from collection of the program mattresses through final
11 disposition of the program mattresses.

12 “(j) Provide a mechanism to mitigate the costs associated with
13 collection and management of discarded mattresses that are illegally
14 dumped. The mechanism must include an incentive for collectors of
15 discarded mattresses that are illegally dumped and may include but
16 need not be limited to proposals for funding of cleanup activities, for
17 education and outreach or for studies to evaluate the causes of illegal
18 dumping.

19 “(k) Provide for public education, advertising and promotion of
20 discarded mattress collection opportunities statewide and on a regular
21 basis.

22 “(L) Include a closure plan that addresses how the stewardship or-
23 ganization will settle the affairs of the mattress stewardship program
24 in the event of dissolution of the stewardship organization or cessation
25 of operations of the mattress stewardship program by the stewardship
26 organization in this state.

27 “(m) Describe methods that will be used by the stewardship organ-
28 ization to coordinate activities with existing recycling programs, in-
29 cluding existing nonprofit organizations that are mattress recyclers,
30 to further the environmentally sound management of discarded

1 **mattresses.**

2 **“(n) Address procedures for identifying substantial or material**
3 **changes to the system for collecting discarded mattresses for which a**
4 **plan amendment will be required under section 7 of this 2020 Act.**

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

8 **“(a) The collection, transportation and processing of program**
9 **mattresses;**

10 **“(b) The administrative costs of the mattress stewardship program**
11 **to the stewardship organization;**

12 **“(c) The costs of compensating collection sites for their reasonable**
13 **actual costs to collect and manage discarded mattresses;**

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

17 **“(e) The annual fee to be paid to the department pursuant to sec-**
18 **tion 9 (3) of this 2020 Act.**

19 **“(3) In operating a mattress stewardship program, a stewardship**
20 **organization shall:**

21 **“(a) Meet the requirements of the plan submitted under this sec-**
22 **tion, as approved by the department pursuant to section 6 of this 2020**
23 **Act.**

24 **“(b) Meet or exceed the service requirements described in section 5**
25 **of this 2020 Act.**

26 **“SECTION 5. (1)(a) A plan submitted under section 4 of this 2020**
27 **Act must provide for convenient service through, at a minimum:**

28 **“(A) Providing for at least one permanent collection site in every**
29 **county with a population of 10,000 people or more and an additional**
30 **25 collection sites distributed throughout this state in a manner to**

1 extend convenient service to residents;

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

5 “(C) Providing for permanent collection sites that are in a county
6 with a population of 10,000 people or more, to be staffed and open to
7 the public at least six days per week;

8 “(D) Providing for permanent collection sites that are in a county
9 with a population of less than 10,000 people, to be staffed and open to
10 the public at least one day per week; and

11 “(E) Providing a convenient method for the public to access a list
12 of collection opportunities.

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

19 “(2) A stewardship organization shall:

20 “(a) Establish and maintain collection sites at:

21 “(A) Permitted solid waste facilities; or

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

25 “(b) Provide for storage containers at no charge at, and transpor-
26 tation and recycling of program mattresses from, collection sites de-
27 scribed in paragraph (a) of this subsection.

28 “(c) Provide financial compensation to collection sites described in
29 paragraph (a) of this subsection for their reasonable actual costs to
30 collect and manage discarded mattresses.

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

4 “(A) Public bodies as defined in ORS 174.109;

5 “(B) Retailers;

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

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

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

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

13 “(f) Prioritize renovation or recycling over disposal in providing for
14 the environmentally sound management and final disposition of pro-
15 gram mattresses under the mattress stewardship program.

16 “(g) Notify retailers that sell or offer for sale mattresses made or
17 sold by producers or renovators registered with the stewardship or-
18 ganization about the mattress stewardship program and provide
19 retailers with information necessary to comply with sections 1 to 14
20 of this 2020 Act.

21 “SECTION 6. (1) The Department of Environmental Quality shall
22 approve, reject or request additional information for a plan submitted
23 under section 4 of this 2020 Act or an amendment to a plan submitted
24 under section 7 of this 2020 Act no later than 90 days after the date the
25 department receives the plan or amendment from the stewardship or-
26 ganization. The department shall post a plan or plan amendment on
27 its website and provide for a public comment period of no less than
28 30 days before approving, rejecting or requesting additional informa-
29 tion on the plan or plan amendment.

30 “(2)(a) If the department rejects, or requests additional information

1 for, the plan or plan amendment, the department must provide the
2 stewardship organization with the reasons, in writing, that the plan
3 or plan amendment does not meet the plan requirements of section 4
4 of this 2020 Act. The stewardship organization shall have 60 days from
5 the date that the rejection or request for additional information is
6 received to submit to the department any additional information nec-
7 essary for the approval of the plan or plan amendment. The depart-
8 ment shall review and approve or disapprove the revised plan or plan
9 amendment no later than 45 days after the date the department re-
10 ceives the revised plan or plan amendment.

11 “(b) A stewardship organization may resubmit a revised plan or
12 plan amendment to the department on not more than two consecutive
13 occasions. If, after the second consecutive resubmission, the depart-
14 ment determines that the revised plan or plan amendment does not
15 meet the plan requirements of section 4 of this 2020 Act, the depart-
16 ment shall modify the plan or plan amendment as necessary for the
17 plan or plan amendment to meet the requirements of section 4 of this
18 2020 Act and approve the plan or amended plan.

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

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

28 “(5)(a) Upon a written finding described in paragraph (b) of this
29 subsection, and after providing the stewardship organization an op-
30 portunity to respond to the finding, the department may, in addition

1 to any other penalty provided by law:

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

5 “(B) Require a stewardship organization to meet reporting require-
6 ments in addition to those required under section 9 of this 2020 Act,
7 as the Environmental Quality Commission determines by rule or order
8 may be appropriate to avoid future violations.

9 “(b) Paragraph (a) of this subsection applies only if the department
10 finds:

11 “(A) That a stewardship organization has violated a provision of
12 sections 1 to 14 of this 2020 Act; and

13 “(B) That the violation has a material impact on the implementa-
14 tion and administration of a plan previously approved by the depart-
15 ment under this section.

16 **“SECTION 7. (1) A stewardship organization shall submit to the**
17 **Department of Environmental Quality for approval an amendment to**
18 **a plan that has been approved by the department under section 6 of**
19 **this 2020 Act if, at any time:**

20 “(a) There is a substantial or material change, as provided for under
21 section 4 (1)(n) of this 2020 Act, to the system for collecting discarded
22 mattresses;

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

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

27 “(A) The administrative costs of the stewardship organization for
28 the mattress stewardship program equaled 20 percent or more of the
29 organization’s total annual operating budget for the program during
30 the prior calendar year; or

1 **“(B) The unallocated reserve funds held by the stewardship organ-**
2 **ization for the mattress stewardship program during the prior calendar**
3 **year equaled 75 percent or more of the organization’s total annual**
4 **operating budget for the program during the year.**

5 **“(2) The department may not request an amendment under sub-**
6 **section (1)(c) of this section until two years after the implementation**
7 **of a mattress stewardship program by the stewardship organization.**

8 **“(3) Not less than once per month, a stewardship organization shall**
9 **provide written notice to the department of any changes made during**
10 **the previous month to a plan approved by the department under sec-**
11 **tion 6 of this 2020 Act that are changes for which an amendment is**
12 **not required under subsection (1) of this section. Changes subject to**
13 **notice under this subsection include, but are not limited to:**

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

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

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

21 **“(4) The department shall approve any change for which notice is**
22 **given under subsection (3) of this section if the department determines**
23 **that the change has a material impact on the implementation and**
24 **administration of a plan that has been previously approved by the de-**
25 **partment under section 6 of this 2020 Act.**

26 **“SECTION 8. (1)(a) A plan submitted under section 4 of this 2020**
27 **Act and approved by the Department of Environmental Quality under**
28 **section 6 of this 2020 Act is valid for four years.**

29 **“(b) At least 180 days before the expiration of a plan approved under**
30 **section 6 of this 2020 Act, the stewardship organization shall submit**

1 the plan to the department to be reapproved for an additional four
2 years. A plan submitted under this paragraph must include proposed
3 improvements based on the results of the study conducted under sec-
4 tion 9 (4)(a) of this 2020 Act.

5 “(2) Notwithstanding section 4 of this 2020 Act, the initial plan
6 submitted by a stewardship organization is not required to include the
7 information described in section 4 (1)(g) or (L) of this 2020 Act. A
8 stewardship organization operating a mattress stewardship program
9 shall first submit the information described in section 4 (1)(g) and (L)
10 of this 2020 Act pursuant to the notification procedures set forth in
11 section 7 (3) of this 2020 Act no later than two years after implemen-
12 tation of the mattress stewardship program.

13 **“SECTION 9. (1) A stewardship organization that implements a**
14 **mattress stewardship program pursuant to a plan approved by the**
15 **Department of Environmental Quality under section 6 of this 2020 Act**
16 **shall, no later than July 1 of each year, submit for review and approval**
17 **to the department:**

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

20 “(b) An updated budget for the upcoming calendar year that follows
21 the budget requirements provided for in section 4 of this 2020 Act; and

22 “(c) The annual fee required under subsection (3) of this section.

23 “(2) The annual report submitted by a stewardship organization
24 shall include, at a minimum, with respect to mattresses collected in
25 this state:

26 “(a) The mattress stewardship program’s costs and revenues for the
27 previous calendar year;

28 “(b) The number and tonnage of discarded mattresses collected
29 pursuant to the mattress stewardship program during the previous
30 calendar year, sorted by type of collection site or collection event;

1 “(c) The number and tonnage of program mattresses collected pur-
2 suant to the mattress stewardship program for recycling during the
3 previous calendar year, sorted by type of collection site or collection
4 event;

5 “(d) The number and tonnage of program mattresses collected pur-
6 suant to the mattress stewardship program for renovation during the
7 previous calendar year, sorted by type of collection site or collection
8 event;

9 “(e) The weight of mattress materials recycled and the final dispo-
10 sition of mattress materials, by weight and by material, sold as com-
11 modities in secondary markets;

12 “(f) The weight of mattress materials sent for disposal at each of
13 the following:

14 “(A) Waste-to-energy facilities;

15 “(B) Landfills; and

16 “(C) Any other facilities;

17 “(g) An evaluation of why the mattress materials sent for disposal
18 were not recycled and a description of efforts that will be taken to
19 increase the recycling rate of mattress materials under the mattress
20 stewardship program;

21 “(h) The number of discarded mattresses received through col-
22 lection that were not program mattresses, the number of discarded
23 mattresses that were illegally dumped reported to the mattress
24 stewardship program, an analysis of how the data required by this
25 paragraph has changed over time and strategies the stewardship or-
26 ganization will take to address discarded mattresses that are not pro-
27 gram mattresses and discarded mattresses that are illegally dumped;

28 “(i) The total sales of mattresses sold to consumers in this state in
29 the previous calendar year by producers, renovators and retailers
30 registered with the stewardship organization;

1 “(j) A summary of the public education offered in the previous cal-
2 endar year that supports the mattress stewardship program and ex-
3 amples of public education materials;

4 “(k) An evaluation of the effectiveness of methods and processes
5 used to achieve the goals of the mattress stewardship program, infor-
6 mation on progress made toward achieving the goals, an explanation
7 of why any goals were not met during the previous calendar year and
8 any efforts that will be taken to improve progress toward meeting the
9 goals in the future, if applicable;

10 “(L) A report by an independent certified public accountant, re-
11 tained by the stewardship organization at the stewardship
12 organization’s expense, on the accountant’s audit of the stewardship
13 organization’s financial statements;

14 “(m) A report on the outcome of audits of entities the stewardship
15 organization contracts with, as provided in section 4 (1)(e)(B) and (C)
16 of this 2020 Act; and

17 “(n) Recommendations for any changes to the mattress stewardship
18 program, including the potential utility of a ban on disposal of
19 mattresses and foundations and information relevant to compliance
20 with the plan.

21 “(3) The department shall establish an annual fee to be paid by the
22 stewardship organization that is reasonably calculated to cover the
23 costs to the department to administer, implement and enforce sections
24 1 to 14 of this 2020 Act. The department shall provide notice to a
25 stewardship organization no later than April 1 of each year of the an-
26 nual fee for the upcoming calendar year. Fees collected by the de-
27 partment under this section shall be deposited in the State Treasury
28 to the credit of the Mattress Stewardship Fund established under sec-
29 tion 12 of this 2020 Act.

30 “(4) In addition to meeting the requirements of subsection (1) of

1 **this section, a stewardship organization shall:**

2 **“(a) Conduct during the third year of implementing a mattress**
3 **stewardship program, and in consultation with community organiza-**
4 **tions, a study evaluating the most effective methods of providing dis-**
5 **carded mattress collection services to low-income individuals and**
6 **multifamily housing structures.**

7 **“(b) Include in the annual report required for the third year of im-**
8 **plementing a mattress stewardship program under a plan or initial**
9 **plan approved under section 6 of this 2020 Act:**

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

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

16 **“(5)(a) The department may require a stewardship organization to**
17 **have a performance audit of the mattress stewardship program con-**
18 **ducted and to include a report on the performance audit in the next**
19 **required annual report. A performance audit required under this sub-**
20 **section must conform to audit standards established by nationally re-**
21 **cognized entities including, but not limited to, the United States**
22 **Government Accountability Office and the National Association of**
23 **State Auditors, Comptrollers and Treasurers.**

24 **“(b) Except as provided in paragraph (c) of this subsection, the de-**
25 **partment may require a performance audit to be conducted under**
26 **paragraph (a) of this subsection no more than once every four years.**
27 **The department may not first request a performance audit to be con-**
28 **ducted until the third year that a stewardship organization has im-**
29 **plemented a mattress stewardship program.**

30 **“(c) The department may require a performance audit to be con-**

1 ducted under paragraph (a) of this subsection less than four years af-
2 ter the last time that a performance audit was conducted, if the
3 department determines that the performance audit is warranted based
4 on information contained in a plan amendment submitted to the de-
5 partment under section 7 of this 2020 Act.

6 “(6) The department may not disclose any confidential proprietary
7 information obtained by the department under this section or section
8 4, 5, 6 or 7 of this 2020 Act.

9 **“SECTION 10. (1)(a) The Director of the Department of Environ-
10 mental Quality shall appoint a mattress stewardship program advisory
11 committee of not more than 10 members representing the interests of
12 the following entities in the stewardship of discarded mattresses:**

13 **“(A) Local governments;**

14 **“(B) The solid waste industry;**

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

16 **“(D) The public.**

17 **“(b) The director may not appoint to the advisory committee any
18 person that has or who may have a pecuniary interest in any contract
19 awarded by a stewardship organization as part of the implementation
20 of a mattress stewardship program.**

21 **“(2) The advisory committee shall meet not less than once annually
22 and shall consult with stewardship organizations operating mattress
23 stewardship programs and advise the Department of Environmental
24 Quality regarding:**

25 **“(a) The review and approval of any plan for the development and
26 implementation of a mattress stewardship program submitted to the
27 department under section 4 of this 2020 Act;**

28 **“(b) The review and approval of any amendment to a plan submitted
29 under section 7 of this 2020 Act; and**

30 **“(c) The review of annual reports submitted by a stewardship or-**

1 **ganization under section 9 of this 2020 Act.**

2 **“SECTION 11. (1) The Department of Environmental Quality shall**
3 **have the power to enter upon and inspect, at any reasonable time, any**
4 **public or private property, premises or place for the purpose of inves-**
5 **tigating either an actual or suspected violation of sections 1 to 14 of**
6 **this 2020 Act.**

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

11 **“SECTION 12. The Mattress Stewardship Fund is established, sepa-**
12 **rate and distinct from the General Fund. All moneys in the Mattress**
13 **Stewardship Fund are continuously appropriated to the Department**
14 **of Environmental Quality and may be used only to pay the costs of**
15 **administering, implementing and enforcing sections 1 to 14 of this 2020**
16 **Act.**

17 **“SECTION 13. (1) The Legislative Assembly declares that the col-**
18 **laboration of producers and stewardship organizations to develop and**
19 **implement mattress stewardship programs is in the best interests of**
20 **the public. Therefore, the Legislative Assembly declares its intent that**
21 **the establishment, administration, collection or disbursement of the**
22 **mattress stewardship assessment shall be exempt from state antitrust**
23 **laws. The Legislative Assembly further declares its intent to provide**
24 **immunity for the establishment, administration, collection or dis-**
25 **bursement of the mattress stewardship assessment from federal anti-**
26 **trust laws.**

27 **“(2)(a) This section does not authorize any person to engage in ac-**
28 **tivities or to conspire to engage in activities that constitute per se**
29 **violations of state or federal antitrust laws that are not authorized**
30 **under sections 1 to 14 of this 2020 Act.**

1 **“(b) This section does not apply to any activities related to:**

2 **“(A) Pricing agreements for mattresses unrelated to the mattress**
3 **stewardship assessment;**

4 **“(B) Agreements regarding the output or production of mattresses;**
5 **or**

6 **“(C) Restrictions on the geographic area in which, or the consumers**
7 **to whom, mattresses will be sold.**

8 **“(3) The Department of Environmental Quality shall actively su-**
9 **pervise the conduct of a stewardship organization in establishing, ad-**
10 **ministering, collecting and disbursing the mattress stewardship**
11 **assessment.**

12 **“SECTION 14. The Environmental Quality Commission may adopt**
13 **rules as necessary to implement sections 1 to 14 of this 2020 Act.**

14 **“SECTION 15. ORS 459.995 is amended to read:**

15 **“459.995. (1) Except as provided in subsection (2) of this section, in addi-**
16 **tion to any other penalty provided by law:**

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

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

30 **“(c) For each day a city, county or metropolitan service district fails to**

1 provide the opportunity to recycle as required under ORS 459A.005, the city,
2 county or metropolitan service district incurs a civil penalty not to exceed
3 \$500 for each violation.

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

7 “(e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b)
8 **or section 3 of this 2020 Act** incurs a civil penalty not to exceed \$100 per
9 day for each day of the violation.

10 “(f) Any producer **or renovator** that violates the provisions of ORS
11 459A.825 (1) **or section 3 of this 2020 Act** incurs a civil penalty not to ex-
12 ceed [~~\$1,000~~] **\$10,000** per day for each day of the violation.

13 “(g) Any stewardship organization that violates the provisions of ORS
14 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 **or sections 1 to**
15 **14 of this 2020 Act** incurs a civil penalty not to exceed \$1,000 per day for
16 each day of the violation. **Civil penalties imposed under this paragraph**
17 **are joint and several obligations of the stewardship organization and**
18 **each producer registered with the stewardship organization.**

19 “(2) Any product manufacturer or package manufacturer who violates
20 ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to
21 459A.665 incurs a civil penalty not to exceed \$1,000 per day for each day of
22 the violation. A violation of ORS 459A.650 to 459A.665 is not subject to ad-
23 ditional penalties under subsection (1) of this section.

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

26

27

“MISCELLANEOUS

28

29 **“SECTION 16. Sections 1 to 14 of this 2020 Act and the amendments**
30 **to ORS 459.995 by section 15 of this 2020 Act apply to all producers,**

1 renovators and retailers engaging in the activities set forth in section
2 3 (1) of this 2020 Act on or after January 1, 2021.

3 **“SECTION 17.** (1) Sections 1 to 14 of this 2020 Act and the amend-
4 ments to ORS 459.995 by section 15 of this 2020 Act become operative
5 on January 1, 2021.

6 **“(2)** The Environmental Quality Commission and the Department
7 of Environmental Quality may take any action before the operative
8 date specified in subsection (1) of this section that is necessary for the
9 commission and the department to exercise, on and after the operative
10 date specified in subsection (1) of this section, all of the duties, func-
11 tions and powers conferred on the commission and the department by
12 sections 1 to 14 of this 2020 Act and the amendments to ORS 459.995
13 by section 15 of this 2020 Act.

14 **“SECTION 18.** (1) Initial plans for mattress stewardship programs
15 under sections 4 and 8 of this 2020 Act must be submitted to the Di-
16 rector of the Department of Environmental Quality no later than Oc-
17 tober 1, 2021.

18 **“(2)** Notwithstanding section 6 (4) of this 2020 Act, a stewardship
19 organization shall implement a mattress stewardship program as de-
20 scribed in an initial plan submitted pursuant to subsection (1) of this
21 section no later than seven months after the date that the initial plan
22 is approved by the department under section 6 of this 2020 Act.

23

24

“CAPTIONS

25

26 **“SECTION 19.** The unit captions used in this 2020 Act are provided
27 only for the convenience of the reader and do not become part of the
28 statutory law of this state or express any legislative intent in the
29 enactment of this 2020 Act.

30

