

3834

2013-2014 Regular Sessions

I N   S E N A T E

February 21, 2013

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Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to recycling of ionization smoke detectors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Article 27 of the environmental conservation law is amended  
2 by adding a new title 29 to read as follows:

3                                    TITLE 29

4                                    RECYCLING OF IONIZATION SMOKE DETECTORS

5     SECTION 27-2901. DEFINITIONS.

6                    27-2903. SPECIAL PROVISIONS FOR RECYCLING OF IONIZATION SMOKE  
7                                    DETECTORS.

8                    27-2905. WASTE ACCEPTANCE PROGRAM FOR IONIZATION SMOKE DETEC-  
9                                    TORS.

10    S 27-2901. DEFINITIONS.

11     AS USED IN THIS SECTION:

12     1. "CONSUMER" MEANS A PERSON LOCATED IN THE STATE WHO OWNS OR USES  
13 IONIZATION SMOKE DETECTORS, BUT DOES NOT INCLUDE A MANUFACTURER, AN  
14 ENTITY THAT SELLS SUCH DETECTORS TO CONSUMERS AT RETAIL, OR AN ENTITY  
15 INVOLVED IN A WHOLESALE TRANSACTION BETWEEN A MANUFACTURER AND RETAILER.

16     2. "IONIZATION SMOKE DETECTOR" SHALL MEAN A SMOKE DETECTING ALARM  
17 DEVICE THAT CONTAINS A RADIOACTIVE MATERIAL PURSUANT TO A LICENSE FROM  
18 THE UNITED STATES NUCLEAR REGULATORY COMMISSION.

19     3. "MANUFACTURER" MEANS A PERSON WHO ASSEMBLES OR SUBSTANTIALLY ASSEM-  
20 BLES IONIZATION SMOKE DETECTORS FOR SALE IN THE STATE UNDER LICENSE FROM  
21 THE UNITED STATES NUCLEAR REGULATORY COMMISSION.

22     4. "RETAILER" MEANS A PERSON WHO SELLS IONIZATION SMOKE DETECTORS TO A  
23 PERSON IN THE STATE THROUGH ANY MEANS, INCLUDING, BUT NOT LIMITED TO,  
24 TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, MAIL, CATALOGS, THE  
25 TELEPHONE OR THE INTERNET, OR ANY ELECTRONIC MEANS.

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

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1 5. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR  
2 THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUD-  
3 ING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES  
4 OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC  
5 MEANS, BUT DOES NOT INCLUDE CONSUMER-TO-CONSUMER SECOND-HAND TRANSFER.  
6 "SELL OR SALE" ALSO DOES NOT INCLUDE: (A) THE LEASE OF IONIZATION SMOKE  
7 DETECTORS; OR (B) WHOLESALE TRANSACTIONS AMONG MANUFACTURERS, WHOLE-  
8 SALERS AND RETAILERS.  
9 S 27-2903. SPECIAL PROVISIONS FOR RECYCLING OF IONIZATION SMOKE DETEC-  
10 TORS.

11 1. ON AND AFTER JULY FIRST, TWO THOUSAND FOURTEEN A MANUFACTURER OF  
12 IONIZATION SMOKE DETECTORS SHALL NOT SELL OR OFFER FOR SALE ANY IONIZA-  
13 TION SMOKE DETECTOR INTENDED FOR USE BY INDIVIDUAL HOUSEHOLDS, OFFICES  
14 OR COMMERCIAL ESTABLISHMENTS UNLESS THE MANUFACTURER HAS REGISTERED WITH  
15 THE DEPARTMENT AND MAINTAINS A WASTE ACCEPTANCE PROGRAM CONSISTENT WITH  
16 THE PROVISIONS OF SECTION 27-2905 OF THIS TITLE PROVIDING FOR THE  
17 COLLECTION, HANDLING AND RECYCLING OR REUSE OF SUCH DETECTOR.

18 2. A MANUFACTURER SHALL SUBMIT A REGISTRATION ON A FORM PRESCRIBED BY  
19 THE DEPARTMENT BY JANUARY FIRST, TWO THOUSAND FOURTEEN, ALONG WITH A  
20 REGISTRATION FEE OF ONE THOUSAND DOLLARS. THE REGISTRATION SHALL  
21 INCLUDE:

- 22 (A) THE MANUFACTURER'S NAME, ADDRESS, AND TELEPHONE NUMBER;
- 23 (B) THE NAME AND TITLE OF AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL
- 24 DESIGNATED AS THE MANUFACTURER'S CONTACT FOR PURPOSES OF THIS TITLE;
- 25 (C) THE LICENSE NUMBER OF THE SPECIFIC LICENSEE AUTHORIZED TO INITIAL-  
26 LY TRANSFER DETECTORS FOR USE BY EXEMPT PERSONS;
- 27 (D) A LIST IDENTIFYING THE MANUFACTURER'S BRANDS;
- 28 (E) SPECIFIC INFORMATION ON THE MANNER IN WHICH THE MANUFACTURER WILL  
29 COMPLY WITH SECTION 27-2905 OF THIS TITLE; AND
- 30 (F) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE.

31 3. A MANUFACTURER'S REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE  
32 DEPARTMENT AND MUST BE UPDATED WITHIN THIRTY DAYS OF ANY MATERIAL CHANGE  
33 IN THE INFORMATION REQUIRED BY SUBDIVISION TWO OF THIS SECTION.

34 4. ANY PERSON WHO BECOMES A MANUFACTURER OF IONIZATION SMOKE DETECTORS  
35 ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL REGISTER WITH THE  
36 DEPARTMENT PRIOR TO SELLING OR OFFERING FOR SALE SUCH PRODUCTS IN THE  
37 STATE, AND MUST COMPLY WITH THE REQUIREMENTS OF THIS TITLE.

38 5. A MANUFACTURER SHALL REPORT SUCH INFORMATION AS THE DEPARTMENT  
39 SHALL FROM TIME TO TIME REQUIRE.

40 6. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS  
41 NECESSARY TO IMPLEMENT AND ADMINISTER THIS TITLE.

42 7. ALL FEES AND CHARGES COLLECTED PURSUANT TO THIS TITLE SHALL BE  
43 DEPOSITED INTO THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO  
44 SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

45 S 27-2905. WASTE ACCEPTANCE PROGRAM FOR IONIZATION SMOKE DETECTORS.

46 1. A WASTE ACCEPTANCE PROGRAM SHALL BE SUBJECT TO THE DEPARTMENT'S  
47 APPROVAL AND SHALL AT A MINIMUM INCLUDE (A) A MAIL OR SHIP BACK RETURN  
48 PROGRAM; (B) A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE  
49 WASTE ACCEPTANCE PROGRAM, INCLUDING BUT NOT LIMITED TO AN INTERNET  
50 WEBSITE, A TOLL-FREE TELEPHONE NUMBER AND WRITTEN INFORMATION INCLUDED  
51 IN THE PRODUCT MANUAL FOR, OR AT THE TIME OF SALE OF, THE IONIZATION  
52 SMOKE DETECTOR THAT INFORMS THE CONSUMER OF THE ENVIRONMENTAL BENEFITS  
53 OF RECYCLING RADIOACTIVE MATERIAL, BATTERIES AND OTHER COMPONENTS OF THE  
54 DETECTOR AND HOW TO RETURN OR OTHERWISE ARRANGE FOR RECYCLING OF THE  
55 DETECTOR, INCLUDING INSTRUCTIONS ON SAFE HANDLING AND PREPARATION OF THE  
56 DETECTOR FOR RECYCLING; AND (C) ANY ADDITIONAL PROVISIONS DETERMINED BY

1 THE DEPARTMENT TO CONTRIBUTE TO ENSURING CONVENIENT COLLECTION FROM  
2 CONSUMERS AND EFFECTIVENESS OF THE WASTE ACCEPTANCE PROGRAM. NOTHING IN  
3 THIS SECTION SHALL PRECLUDE THE OPERATION, WITH THE APPROVAL OF THE  
4 DEPARTMENT, OF COOPERATIVE OR COLLECTIVE WASTE ACCEPTANCE PROGRAMS BY  
5 MORE THAN ONE MANUFACTURER.

6 2. A MANUFACTURER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH  
7 THE IMPLEMENTATION OF THE WASTE ACCEPTANCE PROGRAM. THE MANUFACTURER  
8 SHALL NOT CHARGE CONSUMERS FOR THE COLLECTION, HANDLING AND RECYCLING OF  
9 USED OR UNWANTED IONIZATION SMOKE DETECTORS, PROVIDED THAT SUCH PROHIBI-  
10 TION SHALL NOT APPLY TO A CHARGE ON BUSINESS CONSUMERS. FOR PURPOSES OF  
11 THIS SUBDIVISION, "BUSINESS CONSUMER" MEANS A FOR-PROFIT ENTITY WHICH  
12 HAS FIFTY OR MORE FULL TIME EMPLOYEES OR A NOT-FOR-PROFIT CORPORATION  
13 WITH SEVENTY-FIVE OR MORE FULL TIME EMPLOYEES, BUT NOT A NOT-FOR-PROFIT  
14 CORPORATION DESIGNATED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE  
15 CODE.

16 S 2. The environmental conservation law is amended by adding a new  
17 section 71-2730 to read as follows:

18 S 71-2730. ENFORCEMENT OF TITLE 29 OF ARTICLE 27 OF THIS CHAPTER.

19 1. ANY MANUFACTURER WHO:

20 A. FAILS TO SUBMIT ANY REPORT, REGISTRATION OR FEE TO THE DEPARTMENT  
21 AS REQUIRED BY TITLE TWENTY-NINE OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER  
22 SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS  
23 FOR EACH DAY SUCH REPORT, REGISTRATION OR FEE IS NOT SUBMITTED; AND

24 B. VIOLATES ANY OTHER PROVISION OF TITLE TWENTY-NINE OF ARTICLE TWEN-  
25 TY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH  
26 TITLE SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO  
27 EXCEED FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION, ONE THOUSAND  
28 DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD  
29 AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE-MONTH PERIOD.

30 2. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMIS-  
31 SIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE  
32 PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR BY THE COURT IN ANY  
33 ACTION OR PROCEEDING PURSUANT TO THIS SECTION, AND, IN ADDITION THERETO,  
34 SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH  
35 VIOLATION.

36 3. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER  
37 TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL PROTECTION FUND  
38 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

39 S 3. This act shall take effect immediately.