

STATE OF NEW YORK

7339--C

2023-2024 Regular Sessions

IN ASSEMBLY

May 17, 2023

Introduced by M. of A. GLICK, COLTON, OTIS, DURSO, GANDOLFO, SIMONE, L. ROSENTHAL, DE LOS SANTOS, REYES, DINOWITZ, SIMON, STERN, THIELE, JACOBSON, BORES, ROZIC, RAJKUMAR, STECK, McMAHON, ANDERSON, KIM, GUNTHER, O'DONNELL, SHIMSKY, LUNSFORD, SANTABARBARA, EPSTEIN, BARRETT, FORREST, TAYLOR, CLARK, BICHOTTE HERMELYN, CARROLL, PAULIN, SEAWRIGHT, SHRESTHA, LAVINE, BURGOS, SLATER, CUNNINGHAM, SAYEGH, MAGNARELLI, LEVENBERG, K. BROWN, WOERNER, ARDILA, SILLITTI, RAGA, SOLAGES, VANEL, GONZALEZ-ROJAS, BENEDETTO, JACKSON, PRETLOW, RIVERA, FAHY, TAPIA, JONES, STIRPE, LUPARDO, MEEKS, McDONALD, CONRAD, LEE, BRONSON, WALLACE, BUTTENSCHON, PHEFFER AMATO, DAVILA, BURKE, FALL, AUBRY, HUNTER, WILLIAMS, EACHUS, RAMOS, BENDETT, BURDICK, MAMDANI, ALVAREZ, DARLING, KELLES, DeSTEFANO, MCGOWAN -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- reported and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to rechargeable battery recycling

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

1 Section 1. The article heading of article 27 of the environmental
2 conservation law is amended to read as follows:

3 REDUCTION, COLLECTION, REUSE, RECYCLING,
4 TREATMENT AND DISPOSAL OF [~~REFUSE AND OTHER~~] SOLID WASTE

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

LBD02434-20-4

§ 2. The title heading of title 18 of article 27 of the environmental conservation law, as added by chapter 562 of the laws of 2010, is amended to read as follows:

EXTENDED PRODUCER RESPONSIBILITY FOR
RECHARGEABLE [~~BATTERY-RECYCLING~~] BATTERIES

§ 3. Section 27-1801 of the environmental conservation law, as added by chapter 562 of the laws of 2010, is amended to read as follows:

§ 27-1801. Short title.

This title shall be known as and may be cited as the "[~~New York State~~] Extended Producer Responsibility Law for Rechargeable [~~Battery Law~~] Batteries".

§ 4. Subdivision 4 of section 27-1803 of the environmental conservation law, as added by chapter 562 of the laws of 2010, is amended and a new subdivision 7 is added to read as follows:

4. "rechargeable battery" means any rechargeable: (i) nickel-cadmium, sealed lead, lithium ion, nickel metal hydride battery^[7]; (ii) battery used as the principal electric power source for an electric scooter or bicycle with electric assist; or (iii) any other such dry cell battery capable of being recharged weighing less than [~~twenty-five~~] fifty pounds, or battery packs containing such batteries; (iv) but shall not include a battery used as the principal electric power source for a vehicle, such as, but not limited to, an automobile, boat, truck, tractor, golf cart or wheelchair; for storage of electricity generated by an alternative power source, such as solar or wind-driven generators; or for memory backup that is an integral component of an electronic device;

7. "sell" or "sale" means any transfer for consideration of title or the right to use, from a manufacturer or retailer to a person, including, but not limited to, transactions conducted through retail sales outlets, catalogs, mail, the telephone, the internet, or any electronic means; "sell" or "sale" shall not include samples, donations, and reuse.

§ 5. Paragraphs a and d of subdivision 1 of section 27-1807 of the environmental conservation law, as added by chapter 562 of the laws of 2010, are amended to read as follows:

a. Retailers having a place of business in the state shall accept from consumers at any time during normal business hours rechargeable batteries of a similar shape, size [~~and—shape~~], and function as the retailer offers for sale. Retailers shall take up to ten such batteries per day from any person regardless of whether such person purchases replacement batteries, and retailers shall also accept as many such batteries as a consumer purchases from the retailer. Retailers shall conspicuously post and maintain, at or near the point of entry to the place of business, a legible sign, not less than eight and one-half inches by eleven inches in size, stating that used rechargeable batteries of the size and shape sold or offered for sale by the retailer may not enter the solid waste stream, and that the retail establishment is a collection site for recycling such batteries. Such sign shall state the following in letters at least one inch in height: "It is illegal to dispose of rechargeable batteries in the state of New York as solid waste. We accept used rechargeable batteries for return to the manufacturer."

d. Retailers may not sell or offer for sale to consumers in the state rechargeable batteries unless the battery manufacturer is operating in accordance with a collection, transportation, and recycling plan approved by the commissioner. The commissioner shall maintain on the department's website a list of manufacturers operating in accordance

1 with approved plans, and the brands covered by such manufacturer's
2 plans.

3 e. Retailers must be in compliance with the provisions of this subdivi-
4 sion no later than one hundred eighty days after the effective date of
5 this title or, with respect to a rechargeable battery defined in para-
6 graph (ii) of subdivision four of section 27-1803 of this title, and
7 with respect to the requirements of paragraph (d) of this subdivision
8 one year after the effective date of the chapter of the laws of two
9 thousand twenty-four which amended this title, or when the commissioner
10 has approved a new or updated plan in compliance with such chapter,
11 whichever is later.

12 § 6. Paragraphs a and b of subdivision 2 of section 27-1807 of the
13 environmental conservation law, as added by chapter 562 of the laws of
14 2010, are amended to read as follows:

15 a. Within ninety days of the effective date of this title or, with
16 respect to rechargeable batteries defined in paragraph (ii) of subdivi-
17 sion four of section 27-1803 of this title, within one hundred eighty
18 days of the effective date of the chapter of the laws of two thousand
19 twenty-four that amended such paragraph, submittance to the commissioner
20 of a new or updated plan that identifies the methods by which battery
21 manufacturers will safely collect, transport, and recycle rechargeable
22 batteries collected by retailers at the expense of the battery manufac-
23 turer and provide retailers with information on the safe handling and
24 storage of rechargeable batteries.

25 b. Submittance to the department of annual reports, on a form
26 prescribed by the department, concerning the amount of rechargeable
27 batteries received within the state and recycled either by number or by
28 weight, including the weight of rechargeable batteries defined in para-
29 graph (ii) of subdivision four of section 27-1803 of this title received
30 within the state as well as within a city with a population of one
31 million or more; the costs of such efforts; and any other relevant
32 information as required by the department.

33 § 7. Subdivision 2 of section 27-1807 of the environmental conserva-
34 tion law is amended by adding a new paragraph d and a new subdivision
35 2-a is added to read as follows:

36 d. Providing for the safe and prompt collection and disposal of
37 batteries from electric scooters or bicycles with electric assist
38 collected by retailers and by government agencies.

39 2-a. A battery manufacturer may not sell, offer for sale, or distrib-
40 ute rechargeable batteries in the state unless the battery manufacturer
41 is implementing or participating under an approved plan in accordance
42 with this section.

43 § 8. Section 27-1807 of the environmental conservation law is amended
44 by adding a new subdivision 6 to read as follows:

45 6. The department shall, within one hundred eighty days of the effec-
46 tive date of the chapter of the laws of two thousand twenty-four that
47 added this subdivision, promulgate rules and regulations to ensure the
48 safe storage of rechargeable batteries that minimizes the risk of fires.
49 Such rules and regulations shall also, at a minimum, require retailers
50 to:

51 a. coordinate with a battery manufacturer, or any combination of
52 battery manufacturers working together, to regularly remove batteries
53 from the retail location; and

54 b. inform all employees who handle or have responsibility for managing
55 batteries about proper handling and emergency procedures, including fire

1 related hazards, appropriate to the type or types of battery handled by
2 the retailer.

3 § 9. Section 27-1809 of the environmental conservation law is amended
4 by adding a new subdivision 5 to read as follows:

5 5. In a city with a population of one million or more, such city
6 shall, in addition to any authority otherwise conferred in this chapter,
7 have concurrent authority to enforce, by an agency or agencies
8 designated for such purpose by the mayor of such city, the provisions of
9 section 27-1805 and subdivision one of section 27-1807 of this title.
10 Any notice of violation issued by an agency designated by the mayor of
11 such city charging a violation of section 27-1805 and subdivision one of
12 section 27-1807 of this title shall be returnable to the environmental
13 control board of such city. Such environmental control board shall have
14 the power to impose the civil penalties set forth in subdivisions one,
15 two and three of this section. All civil penalties collected for any
16 violation of this title that have been imposed by the environmental
17 control board of such city shall be paid into the general fund of such
18 city.

19 § 10. Section 27-1811 of the environmental conservation law, as added
20 by chapter 562 of the laws of 2010, is amended to read as follows:

21 § 27-1811. State preemption.

22 Jurisdiction in all matters pertaining to rechargeable battery recycl-
23 ing is, by this title, vested exclusively in the state. Any provision of
24 any local law or ordinance, or any rule or regulation promulgated there-
25 to, governing rechargeable battery recycling shall, upon the effective
26 date of section 27-1805 of this title, be preempted; provided, however,
27 that nothing in this section shall preclude a person from coordinating,
28 for recycling or reuse, the collection of rechargeable batteries and
29 provided, further, however, that nothing in this section shall preclude
30 the enforcement of this title pursuant to subdivision five of section
31 27-1809 of this title.

32 § 11. This act shall take effect immediately.