

STATE OF NEW YORK

5663

2025-2026 Regular Sessions

IN SENATE

February 26, 2025

Introduced by Sen. KAVANAGH -- 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 and the state finance law, in relation to establishing extended producer responsibility for electric and hybrid vehicle batteries

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 34 to read as follows:

3 TITLE 34

4 EXTENDED PRODUCER RESPONSIBILITY FOR ELECTRIC AND HYBRID VEHICLE
5 BATTERIES

6 Section 27-3401. Definitions.

7 27-3403. Disposal ban.

8 27-3405. Producer plan.

9 27-3407. Producer responsibilities.

10 27-3409. Retailer requirements.

11 27-3411. Department responsibilities.

12 27-3413. Electric and hybrid vehicle batteries stewardship advisory board.

13 27-3415. Post-consumer content requirements.

14 27-3417. Penalties.

15 27-3419. Rules and regulations.

16 § 27-3401. Definitions.

17 For the purpose of this title, the following terms shall have the
18 following meanings:

19 1. "Brand" means a name, symbol, word, or mark that attributes the
20 product to the owner or licensee of the brand as the producer.

21 2. "Closed-loop recycling" means recycling in which materials that are
22 reclaimed are returned to the original process or processes in which
23 they were generated and they are reused in the production process.
24

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

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1 3. "Collection program" or "program" means a program financed and
2 implemented by producers, either individually, or through a represen-
3 tative organization, that provides for, but is not limited to, the
4 collection, transportation, reuse, recycling, proper end-of-life manage-
5 ment, or an appropriate combination thereof, of discarded covered prod-
6 uct.

7 4. "Collection site" means a permanent location in the state at which
8 discarded covered product may be returned by a consumer. Collection
9 sites shall accept all types of covered product as defined by this title
10 regardless of brand.

11 5. "Consumer" means a person located in the state who purchases, owns,
12 leases, or uses the covered product, including but not limited to an
13 individual, a business, corporation, limited partnership, not-for-profit
14 corporation, the state, a public corporation, public school, school
15 district, private or parochial school, or board of cooperative educa-
16 tional services or government entity.

17 6. "Covered product" means a battery with the primary intended purpose
18 to supply power to propel an electric or hybrid vehicle.

19 7. "Discarded covered product" means covered product that a consumer
20 has used and disposed of in the state and is no longer used for its
21 manufactured purpose.

22 8. "End-of-life" means the stage at which a covered product is no
23 longer suitable for its primary intended purpose, such as powering a
24 vehicle, and may be evaluated for potential repurposing or recycling.

25 9. "Energy recovery" means the process by which all or a portion of
26 solid waste materials are processed or combusted in order to utilize the
27 heat content or other forms of energy derived from such solid waste
28 materials.

29 10. "Producer" means any person who manufactures a covered product
30 that is sold, offered for sale, or distributed in the state under the
31 manufacturer's own name or brand. "Producer" includes:

32 (a) the owner of a trademark or brand under which a covered product is
33 sold, offered for sale, or distributed in this state, whether or not
34 such trademark or brand is registered in the state; and

35 (b) any person who imports a covered product into the United States
36 that is sold or offered for sale in the state and that is manufactured
37 by a person who does not have a presence in the United States.

38 11. "Recycling" means to separate, dismantle or process the materials,
39 components or commodities contained in discarded covered products for
40 the purpose of preparing the materials, components, or commodities for
41 use or reuse in new products or components. "Recycling" does not
42 include:

43 (a) energy recovery or energy generation by any means, including but
44 not limited to, combustion, incineration, pyrolysis, gasification,
45 solvolysis, or waste-to-fuel;

46 (b) any chemical conversion process; or

47 (c) landfill disposal.

48 12. "Recycling rate" means the percentage of discarded covered product
49 that is managed through recycling or reuse, as defined by this title,
50 and is calculated by dividing the amount of recycled output derived from
51 collected covered products, plus any amount sent for reuse, by the esti-
52 imated total amount of discarded covered product generated during a
53 program year.

54 13. "Representative organization" means a not-for-profit organization
55 established by a producer or group of producers to implement a
56 collection program.

1 14. "Retailer" means any person who sells or offers for sale covered
2 products to a consumer in the state.

3 15. "Reuse" means the return of a product into the economic stream for
4 use in the same kind of application as the product was originally
5 intended to be used, without a change in the product's identity.

6 16. "Sell" or "sale" means any transfer for consideration of title or
7 the right to use, from a manufacturer or retailer to a person, includ-
8 ing, but not limited to, transactions conducted through retail sales
9 outlets, catalogs, mail, the telephone, the internet or any electronic
10 means; this does not include samples, donations, or reuse.

11 § 27-3403. Disposal ban.

12 1. No person shall knowingly dispose of any covered product as solid
13 waste in the state at any time on or after January first, two thousand
14 twenty-seven.

15 2. Beginning six months from the effective date of this title, no
16 retailer, distributor, wholesaler, manufacturer, or owner or operator of
17 a covered product collection site, consolidation facility, or waste
18 recycling facility in the state shall dispose of covered product waste
19 at a solid waste management facility or hazardous waste management
20 facility, or place covered product waste for collection which is
21 intended for disposal at a solid waste management facility or hazardous
22 waste management facility.

23 3. Beginning two years from the effective date of this title, no
24 person, except for an individual or household shall place or dispose of
25 any covered product waste in any solid waste management facility, or
26 place covered product waste for collection which is intended for
27 disposal at a solid waste management facility or hazardous waste manage-
28 ment facility in this state. Persons engaged in the collection of solid
29 waste for delivery to a solid waste management facility shall provide
30 written information to users of such facility on the proper methods for
31 the recycling of covered product.

32 4. Beginning three years from the effective date of this title, no
33 individual or household shall place or dispose of any covered product
34 waste, that exceeds an amount as determined by the department, shall
35 place or dispose of any covered product waste in any solid waste manage-
36 ment facility, or place covered product waste for collection which is
37 intended for disposal at a solid waste management facility or hazardous
38 waste management facility in this state.

39 5. Beginning two years from the effective date of this title, an owner
40 or operator of a solid waste management facility or hazardous waste
41 management facility shall educate users of such facility on the proper
42 methods for the management of covered product waste. Such education
43 shall include:

44 (a) providing written information to users of such facility on the
45 proper methods for recycling of covered product waste; and

46 (b) posting, in conspicuous locations at such facility, signs stating
47 that covered product waste may not be disposed of at the facility.

48 § 27-3405. Producer plan.

49 1. No later than June thirtieth, two thousand twenty-six, a producer,
50 either individually or cooperatively with one or more producers, or a
51 representative organization shall submit to the department for the
52 department's approval a plan for the establishment of a collection
53 program that meets the collection requirements described in this
54 section.

1 2. A producer may satisfy the collection program requirement of this
2 section by agreeing to participate collectively with other producers.
3 Any such collective program shall notify the department.

4 3. A producer or representative organization shall update the plan, as
5 needed, when there are changes proposed to the current program. A new
6 plan or amendment shall be required to be submitted to the department
7 for approval when:

8 (a) there is a revision of the program's goals; or

9 (b) every three years from the date of approval of a previous plan.

10 4. The plan submitted by the producer or representative organization
11 to the department under this section shall, at a minimum:

12 (a) provide a list of each participating producer and brands covered
13 by the program;

14 (b) provide information on the products covered by the program;

15 (c) describe how the producer or representative organization will
16 collect, transport, recycle and process covered product;

17 (d) describe how the program will provide for collection of covered
18 product in the state, free of cost and in a manner convenient to consum-
19 ers, including how the program will achieve, at a minimum, a convenience
20 standard which ensures that all counties in the state and all municipi-
21 palities which have a population of ten thousand or greater have at
22 least one permanent collection site and one additional permanent
23 collection site for every thirty thousand people located in those areas,
24 that accepts covered product from consumers during normal business
25 hours; however with respect to a city having a population of one million
26 or more, after consultation with the department of sanitation of such
27 city, the department may otherwise establish an alternative convenience
28 standard. The producer or representative organization may coordinate the
29 program with existing municipal waste collection infrastructure as is
30 mutually agreeable. Convenience standards shall be evaluated by the
31 department periodically and the department may require additional
32 collection locations to ensure adequate consumer convenience;

33 (e) describe in detail education and outreach efforts to inform
34 consumers and others engaged in the management of discarded covered
35 product about the program including, at a minimum, an internet website
36 and a toll-free telephone number and written information included at the
37 time of sale of covered product that provides sufficient information to
38 allow a consumer to learn how to return such covered product for
39 disposal, recycling or reuse;

40 (f) describe the methods to be used to reuse or recycle discarded
41 covered product;

42 (g) describe the methods to be used to manage or dispose of discarded
43 covered product that cannot be recycled or reused;

44 (h) describe how the program will meet annual performance goals, as
45 determined by the department, provided that at a minimum, the program
46 shall achieve the following recycling rates:

47 (i) a thirty percent recycling rate for covered product of which ten
48 percent shall be closed-loop recycling by five years after the plan is
49 approved by the department pursuant to section 27-3411 of this title;

50 (ii) a fifty percent recycling rate for covered product of which twen-
51 ty percent shall be closed-loop recycling by ten years after the plan is
52 approved by the department pursuant to section 27-3411 of this title;
53 and

54 (iii) a seventy-five percent recycling rate for covered product, of
55 which forty percent shall be closed-loop recycling by fifteen years

1 after the plan is approved by the department pursuant to section 27-3411
2 of this title;

3 (i) describe what, if any, incentives will be used to encourage
4 retailer participation;

5 (j) describe the outreach and education methods that will be used to
6 encourage municipal landfill and transfer station participation;

7 (k) describe the sources of data and methodology for estimating the
8 amount of discarded product in the state annually; and

9 (l) any other information as specified by the department.

10 § 27-3407. Producer responsibilities.

11 1. Beginning no later than January thirty-first, two thousand twenty-
12 seven, the producer or representative organization shall implement the
13 collection program utilizing collection sites established pursuant to
14 paragraph (d) of subdivision 4 of section 27-3405 of this title.

15 2. A producer shall not sell, or offer for sale, covered product to
16 any person in the state unless the producer is implementing or partic-
17 ipating under an approved plan.

18 3. The program shall be free to the consumer, convenient and adequate
19 to serve the needs of consumers in all areas of the state on an ongoing
20 basis.

21 4. A producer or representative organization shall maintain records
22 demonstrating compliance with the provisions of this title and make them
23 available for audit and inspection by the department for a period of
24 three years. The department shall make such records available to the
25 public upon the request in accordance with the provisions of the state
26 freedom of information law and the regulations promulgated thereunder.
27 Record holders shall submit the records required to comply with the
28 request within sixty working days of written notification by the depart-
29 ment of receipt of the request.

30 5. A producer or representative organization shall be responsible for
31 all costs associated with the implementation of the collection program,
32 including but not limited to the cost of collection. A producer, produc-
33 ers or representative organization shall pay costs incurred by the
34 department in the administration and enforcement of this title. Exclu-
35 sive of fines and penalties, the department shall only be reimbursed its
36 actual cost of administration and enforcement.

37 6. Any person who becomes a producer on or after January thirty-first,
38 two thousand twenty-seven, shall submit a plan to the department, or
39 notify the department that it has joined an existing plan, prior to
40 selling or offering for sale in the state any covered product, and shall
41 comply with the requirements of this title.

42 7. On or before March thirty-first, two thousand twenty-nine, and
43 annually thereafter, a producer or representative organization shall
44 submit a report to the department that includes, for the previous calen-
45 dar year, a description of the program, including, but not limited to,
46 the following:

47 (a) a detailed description of the methods used to collect, transport,
48 and process covered product in the state, including detailing collection
49 methods made available to consumers and an evaluation of the program's
50 collection convenience;

51 (b) identification of all collection sites in the state;

52 (c) the weight of all of the producer's covered product in the state
53 by method of disposition, including reuse, recycling and other methods
54 of processing or disposal;

55 (d) an evaluation of whether the performance goals and recycling rates
56 have been achieved;

1 (e) the total cost of implementing the program;

2 (f) samples of all educational materials provided to consumers and
3 detailed list of efforts undertaken and an evaluation of the methods
4 used to disseminate such materials including recommendations, if any,
5 for how the educational component of the program can be improved; and

6 (g) any other information required by the department.

7 8. On or before January first of each program year following implemen-
8 tation of the plan pursuant to section 27-3405 of this title, each
9 producer, group of producers or representative organization shall submit
10 a report to the department that assesses compliance with performance
11 goals and describes any modification necessary to achieve such goals.

12 § 27-3409. Retailer requirements.

13 1. Beginning July first, two thousand twenty-eight, no retailer may
14 sell or offer for sale covered product in the state unless the producer
15 of such covered product is participating in a collection program. A
16 retailer shall be in compliance with this section if, on the date the
17 covered product was offered for sale, the producer is listed on the
18 department's website as implementing or participating in an approved
19 program or if the covered product brand is listed on the department's
20 website as being included in the program.

21 2. Any retailer may participate, on a voluntary basis, as a designated
22 collection site pursuant to a collection program and in accordance with
23 all applicable laws and regulations.

24 § 27-3411. Department responsibilities.

25 1. The department shall (a) maintain a list of producers who are
26 implementing or participating pursuant to section 27-3405 of this title,
27 (b) maintain a list of each producer's brands, and (c) post such lists
28 on the department's website.

29 2. Beginning on January thirty-first, two thousand twenty-seven, the
30 department shall post on its website the location of all collection
31 sites identified to the department by the producer in its plans and
32 annual reports.

33 3. The department shall post on its website each producer plan
34 approved by the department.

35 4. Within ninety days after receipt of a proposed plan or plan amend-
36 ments, the department shall approve or reject the plan or the plan
37 amendment. If the plan or the plan amendment is approved, the department
38 shall notify the producer or representative organization in writing. If
39 the department rejects the plan or plan amendment, the department shall
40 notify the producer or representative organization in writing stating
41 the reason for rejecting the plan or plan amendment. A producer or
42 representative organization whose plan is rejected shall submit a
43 revised plan to the department within thirty days of receiving a notice
44 of rejection. If the department rejects the subsequent proposal, the
45 producer and producers at issue shall be out of compliance and subject
46 to enforcement provisions.

47 5. The department shall submit a report regarding the implementation
48 of this title in the state to the governor and legislature by April
49 first, two thousand twenty-seven and every two years thereafter. The
50 report shall include, at a minimum, an evaluation of:

51 (a) the stream of covered product in the state;

52 (b) disposal, recycling and reuse rates in the state for covered prod-
53 uct;

54 (c) a discussion of compliance and enforcement related to the require-
55 ments of this title; and

56 (d) recommendations for any changes to this title.

1 6. Starting four years after the plan is approved by the department
2 pursuant to this section, the department shall impose a penalty of twenty-
3 five cents per pound to be assessed on the producer or representative
4 organization for the number of additional pounds of covered product that
5 would have needed to be recycled through the program to achieve the
6 performance goals specified in the approved stewardship plan. All penal-
7 ties collected pursuant to this section shall be paid over to the
8 commissioner for deposit to the electric and hybrid vehicle batteries
9 extended producer responsibility fund established pursuant to section
10 97-uuuu of the state finance law.

11 § 27-3413. Electric and hybrid vehicle batteries stewardship advisory
12 board.

13 1. There is hereby established within the department the electric and
14 hybrid vehicle batteries stewardship advisory board to make recommenda-
15 tions to the commissioner regarding producer plans required by this
16 title.

17 2. The board shall be composed of thirteen voting members. Such
18 members shall include:

19 (a) one representative of covered product producers;

20 (b) two representatives of covered product retailers;

21 (c) one representative of covered product recyclers;

22 (d) two representatives of covered product collectors;

23 (e) one representative of a company that utilizes discarded covered
24 product to manufacture a new product;

25 (f) one representative of a covered product installer association;

26 (g) one representative from a statewide environmental organization;

27 (h) one representative from a statewide waste disposal association;

28 (i) one representative from the New York product stewardship council;

29 (j) one representative from a consumer organization; and

30 (k) one representative from a statewide recycling organization.

31 3. The members of the board shall be appointed as follows:

32 (a) two members to be appointed by the temporary president of the
33 senate;

34 (b) two members to be appointed by the speaker of the assembly;

35 (c) one member to be appointed by the minority leader of the senate;

36 (d) one member to be appointed by the minority leader of the assembly;

37 and

38 (e) seven members to be appointed by the governor.

39 4. Such appointments shall be made no later than sixty days following
40 the effective date of this title. The members shall designate a chair
41 from among the members of the board by majority vote. Board members
42 shall receive no compensation but shall be entitled to their necessary
43 and actual expenses incurred in the performance of their board duties.

44 5. The board shall meet at least annually by call of the chair.

45 § 27-3415. Post-consumer content requirements.

46 All covered product in the state shall be manufactured with the
47 following minimum amounts from post-consumer sources:

48 1. within one year after the plan is approved by the department pursu-
49 ant to section 27-3411 of this title, a minimum of ten percent post-con-
50 sumer content;

51 2. within four years thereafter, a minimum of twenty percent post-con-
52 sumer content; and

53 3. five years thereafter, a minimum of thirty percent post-consumer
54 content.

55 § 27-3417. Penalties.

1 Any producer, representative organization, or retailer who violates
2 any provision of or fails to perform any duty imposed pursuant to this
3 title shall be liable for a civil penalty not to exceed five hundred
4 dollars for each violation and an additional penalty of not more than
5 five hundred dollars for each day during which such violations continue.
6 Civil penalties shall be assessed by the department after a hearing or
7 opportunity to be heard pursuant to the provisions of section 71-1709 of
8 this chapter.

9 § 27-3419. Rules and regulations.

10 The department is authorized to promulgate any rules and regulations
11 necessary to implement this title.

12 § 2. The state finance law is amended by adding a new section 97-uuuu
13 to read as follows:

14 § 97-uuuu. Electric and hybrid vehicle batteries extended producer
15 responsibility fund. 1. There is hereby established in the joint custo-
16 dy of the state comptroller and the commissioner of environmental
17 conservation a special fund to be known as the "electric and hybrid
18 vehicle batteries extended producer responsibility fund".

19 2. Such fund shall consist of all revenues received by the comptroller
20 pursuant to the provisions of section 27-3411 of the environmental
21 conservation law and all other moneys appropriated thereto from any
22 other fund or source pursuant to law. Nothing contained in this section
23 shall prevent the state from receiving grants, gifts, or bequests for
24 the purposes of the fund as defined in this section and depositing them
25 into the fund according to law.

26 3. The moneys of the electric and hybrid vehicle batteries extended
27 producer responsibility fund, following appropriation by the legisla-
28 ture, shall be allocated for the direct costs associated with extended
29 producer responsibility for electric and hybrid vehicle batteries pursu-
30 ant to title thirty-four of article twenty-seven of the environmental
31 conservation law.

32 4. The state comptroller may invest any moneys in the electric and
33 hybrid vehicle batteries extended producer responsibility fund not
34 expended for the purpose of this section as provided by law. The state
35 comptroller shall credit any interest and income derived from the depos-
36 it and investment of moneys in the electric and hybrid vehicle batteries
37 extended producer responsibility fund to the electric and hybrid vehicle
38 batteries extended producer responsibility fund.

39 5. Any unexpected and unencumbered moneys remaining in the electric
40 and hybrid vehicle batteries extended producer responsibility fund at
41 the end of the fiscal year shall remain in the electric and hybrid vehi-
42 cle batteries extended producer responsibility fund and shall not be
43 credited to any other fund.

44 § 3. Section 71-1701 of the environmental conservation law, as amended
45 by chapter 795 of the laws of 2022, is amended to read as follows:

46 § 71-1701. Applicability of this title.

47 This title shall be applicable to the enforcement of titles 1 through
48 11 and titles 15 through 19 of article 17; article 19; and titles 1
49 [~~and~~], 33 and 34 of article 27 of this chapter.

50 § 4. This act shall take effect immediately.