S T A T E O F N E W Y O R K

8492--B

2011-2012 Regular Sessions

I N A S S E M B L Y

June 17, 2011

Introduced by M. of A. KAVANAGH, ROBINSON -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing a carpet stewardship program

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

Section 1. Declaration of legislative intent and findings. (a) It is the policy of the state of New York to promote and support a system of sustainable solid waste management that minimizes waste and maximizes recycling and the use of recyclable materials, and to develop new markets for recycled products and materials.

(b) The legislature finds and declares all of the following:

(i) Carpet waste is heavy and bulky and imposes significant solid waste management cost on municipalities because it is expensive to dispose. Very little discarded carpet is recycled in the state.

(ii) The New York state department of environmental conservation adopted on December 27, 2010 a new solid waste management plan entitled "Beyond Waste, A Sustainable Materials Management Strategy for New York State", in which product stewardship is a centerpiece of the new solid waste management plan of the state.

(iii) Carpet was one of the few products listed by the New York state department of environmental conservation as most suited to a stewardship approach based on research and feedback from stakeholders.

S 2. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

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

LBD13014-05-2

TITLE 28
CARPET STEWARDSHIP

SECTION 27-2801. SHORT TITLE AND DEFINITIONS.
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27-2805. MANUFACTURER REGISTRATION AND RESPONSIBILITIES.
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S 27-2801. SHORT TITLE AND DEFINITIONS.

1. THIS TITLE MAY BE KNOWN AS AND MAY BE CITED AS THE "NEW YORK STATE CARPET STEWARDSHIP LAW".

2. THE DEFINITIONS IN THIS SECTION APPLY THROUGHOUT THIS TITLE UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE.

(A) "BRAND" MEANS A NAME, SYMBOL, WORD, OR MARK THAT IDENTIFIES THE CARPET, RATHER THAN ITS COMPONENTS, AND ATTRIBUTES THE CARPET TO THE OWNER OR LICENSEE OF THE BRAND AS THE MANUFACTURER.

(B) "CARPET" MEANS A MANUFACTURED ARTICLE THAT IS USED IN COMMERCIAL, INSTITUTIONAL OR RESIDENTIAL BUILDINGS AFFIXED OR PLACED ON THE FLOOR OR BUILDING WALKING SURFACE AS A DECORATIVE OR FUNCTIONAL BUILDING INTERIOR OR EXTERIOR FEATURE AND THAT IS PRIMARILY CONSTRUCTED OF A TOP VISIBLE SURFACE OF SYNTHETIC FACE FIBERS OR YARNS OR TUFTS ATTACHED TO A BACKING SYSTEM DERIVED FROM SYNTHETIC OR NATURAL MATERIALS. "CARPET" INCLUDES, BUT IS NOT LIMITED TO, A COMMERCIAL OR A RESIDENTIAL BROADLOOM CARPET, MODULAR CARPET TILES, AND A PAD OR UNDERLAYMENT USED IN CONJUNCTION WITH A CARPET. "CARPET" DOES NOT INCLUDE RUGS, DEFINED AS A FLOOR COVERING THAT DOES NOT EXTEND OVER THE ENTIRE FLOOR AND IS AREA SPECIFIC; MOVABLE FLOOR COVERING; OR MATS, DEFINED AS A PIECE OF FABRIC MADE OF PLAITED OR WOVEN RUSHES, STRAW, HEMP, OR SIMILAR FIBER, OR OF SOME OTHER PLIANT MATERIAL, USED AS A MOVABLE PROTECTIVE COVERING ON A FLOOR OR OTHER SURFACE.

(C) "CARPET STEWARDSHIP" MEANS THAT ALL PARTIES INVOLVED IN DESIGNING, MANUFACTURING, SELLING, INSTALLING AND USING CARPET TAKE RESPONSIBILITY FOR MANAGING AND REDUCING THE LIFE-CYCLE IMPACTS OF THE CARPET, FROM PRODUCT DESIGN TO END-OF-LIFE MANAGEMENT. LIFE-CYCLE IMPACTS INCLUDE, BUT ARE NOT LIMITED TO, ENERGY AND MATERIALS CONSUMPTION, AIR AND WATER EMISSIONS, THE AMOUNT OF HAZARDOUS SUBSTANCES IN THE PRODUCT, WORKER AND CONSUMER EXPOSURE AND REUSE, RECYCLING AND WASTE DISPOSAL.

(D) "CARPET STEWARDSHIP ORGANIZATION" MEANS A PERSON APPOINTED BY ONE OR MORE MANUFACTURERS TO ACT ON BEHALF OF THE MANUFACTURER TO DESIGN, SUBMIT, AND ADMINISTER A CARPET STEWARDSHIP PLAN UNDER THIS TITLE.

(E) "CARPET STEWARDSHIP PLAN" MEANS A PLAN WRITTEN BY AN INDIVIDUAL MANUFACTURER OR A CARPET STEWARDSHIP ORGANIZATION, ON BEHALF OF ONE OR MORE MANUFACTURERS, WHICH DESCRIBES THE MANNER IN WHICH THE CARPET STEWARDSHIP PROGRAM WILL BE IMPLEMENTED IN THE STATE THROUGH METHODS, PROCESSES, TECHNIQUES, SYSTEMS, AND SERVICES FINANCED AND PROVIDED BY MANUFACTURERS OF CARPET. THE CARPET STEWARDSHIP PLAN SHALL INCLUDE ALL OF THE INFORMATION REQUIRED BY SECTION 27-2809 OF THIS TITLE.

(F) "CONSUMER" MEANS ANY PERSON WHO PURCHASES, OWNS, OR LEASES CARPET FOR USE.

(G) "DISCARDED CARPET" MEANS CARPET THAT IS NO LONGER USED FOR ITS MANUFACTURED PURPOSE, OR IS NO LONGER WANTED BY A CONSUMER. HOWEVER, THE TERM DOES NOT INCLUDE CARPET SCRAP GENERATED DURING CARPET PRODUCTION.

(H) "FLOORING AND FLOOR COVERING" MEANS MATERIAL USED TO MAKE THE SURFACE OF A FLOOR ABOVE THE SUB-FLOOR INCLUDING, BUT NOT LIMITED TO, CARPET, LINOLEUM, VINYL, OR RUBBER ROLLS AND TILE; NATURAL AND SYNTHETIC STONE TILES; OR PLANKS, SECTIONS, OR SQUARES CUT OR ASSEMBLED FROM WOOD, BARK, OR OTHER PLANT OR SYNTHETIC MATERIALS.

(I) "FLOORING AND FLOOR COVERING CONTRACTOR" MEANS ANY PERSON OR ENTITY WHICH OPERATES A BUSINESS THAT INSTALLS, REPLACES, OR REMOVES FLOORING OR FLOOR COVERING, OR THAT UNDERTAKES, OFFERS TO UNDERTAKE OR AGREES TO INSTALL, REPLACE, OR REMOVE FLOORING OR FLOOR COVERING FOR A FEE; AND FOR WHICH THE TOTAL COST OF ALL OF HIS OR HER FLOORING OR FLOOR COVERING CONTRACTS WITH ALL ITS CUSTOMERS EXCEEDS ONE THOUSAND FIVE HUNDRED DOLLARS DURING ANY PERIOD OF TWELVE CONSECUTIVE MONTHS. SUCH TERM SHALL NOT INCLUDE A PERSON, FIRM, LANDLORD, COOPERATIVE CORPORATION, CONDOMINIUM BOARD OF MANAGERS, JOINT TENANT OR CO-TENANT THAT OWNS, IN WHOLE OR IN PART, THE REAL PROPERTY TO BE IMPROVED.

(J) "MANUFACTURER" MEANS: (1) THE PERSON WHO MANUFACTURES AND SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE CARPET IN THE STATE UNDER THAT PERSON'S OWN NAME OR BRAND; (2) IF THERE IS NO PERSON WHO MANUFACTURES AND SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE CARPET IN THE STATE UNDER THE PERSON'S OWN NAME OR BRAND, THE MANUFACTURER IS THE OWNER OR LICENSEE OF A TRADEMARK OR BRAND UNDER WHICH THE CARPET IS SOLD OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED; AND (3) IF THERE IS NO PERSON WHO IS A MANUFACTURER OF THE CARPET UNDER SUBPARAGRAPHS (1) OR (2) OF THIS PARAGRAPH, THE MANUFACTURER OF THAT CARPET IS THE PERSON WHO IMPORTS THE CARPET INTO THE STATE FOR SALE OR DISTRIBUTION.

(K) "MUNICIPALITY" MEANS A COUNTY, CITY, TOWN OR VILLAGE.

(L) "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, COMPANY, CORPORATION, LIMITED LIABILITY COMPANY, NON-PROFIT ORGANIZATION, ASSOCIATION, GOVERNMENTAL ENTITY, EDUCATIONAL OR CULTURAL INSTITUTIONS, PUBLIC BENEFIT CORPORATION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR EMPLOYEE OR AGENT THEREOF.

(M) "RECYCLING" MEANS THE TRANSFORMING OR REMANUFACTURING OF A DISCARDED CARPET OR THE DISCARDED CARPET'S COMPONENTS AND BY-PRODUCTS, OR CARPET SCRAPS GENERATED DURING CARPET PRODUCTION, INTO USABLE OR MARKETABLE MATERIALS WHICH SHALL BE RESPECTFUL OF THE ENVIRONMENT AND PUBLIC HEALTH. "RECYCLING" DOES NOT INCLUDE LANDFILL DISPOSAL, INCINERATION OR ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF COMBUSTING DISCARDED CARPETS.

(N) "REASONABLE CONDITION" MEANS FIFTY PERCENT OR LESS OF A CARPET HAS DAMAGE DUE TO FIRE, FLOOD, SMOKE, OR MOLD.

(O) "RETAILER" MEANS A PERSON WHO SELLS OR OFFERS FOR SALE CARPET IN THIS STATE TO A CONSUMER.

(P) "REUSE" MEANS A CHANGE IN OWNERSHIP OF A CARPET OR COMPONENT IN A CARPET FOR USE IN THE SAME MANNER AND PURPOSE FOR WHICH IT WAS ORIGINALLY PRODUCED.

(Q) "SELL" OR "SALES" MEANS A TRANSFER OF TITLE OF CARPET FOR CONSIDERATION, INCLUDING A REMOTE SALE CONDUCTED THROUGH A SALES OUTLET, CATALOG, INTERNET WEB SITE, OR SIMILAR ELECTRONIC MEANS. FOR PURPOSES OF THIS TITLE, "SELL" OR "SALES" INCLUDES A LEASE THROUGH WHICH A CARPET IS PROVIDED TO A CONSUMER BY A MANUFACTURER, WHOLESALER, OR RETAILER.

(R) "WHOLESALER" MEANS EVERY PERSON WHO SELLS OR DISTRIBUTES CARPET IN THE STATE IN A SALE THAT IS NOT A RETAIL SALE, AND IN WHICH THE CARPET IS INTENDED TO BE RESOLD.

S 27-2803. MANUFACTURER REMOVAL, ACCEPTANCE AND RECYCLING.

1. BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN, A MANUFACTURER OF CARPET OR A CARPET STEWARDSHIP ORGANIZATION WORKING ON BEHALF OF SUCH MANUFACTURER SHALL REMOVE, ACCEPT, TRANSPORT AND RECYCLE OR REUSE ANY DISCARDED CARPET INCLUDING DISCARDED CARPET REMOVED AND ACCEPTED FROM CONSUMERS OR THROUGH WHOLESALERS, RETAILERS, AND FLOORING AND FLOOR COVERING CONTRACTORS PURSUANT TO THIS TITLE.

2. THE REMOVAL AND ACCEPTANCE OF DISCARDED CARPET SHALL BE DONE PRIMARILY, BUT NOT EXCLUSIVELY, THROUGH THE MANUFACTURER'S WHOLESALERS, RETAILERS AND ANY FLOORING AND FLOOR COVERING CONTRACTORS.

3. THE MANUFACTURER, AT THE MANUFACTURER'S COST, SHALL MAKE ARRANGEMENTS WITH ITS WHOLESALERS, RETAILERS, AND ANY FLOORING AND FLOOR COVERING CONTRACTORS FOR THE REMOVAL, ACCEPTANCE, TRANSPORT, RECYCLING AND REUSE OF DISCARDED CARPET ACCEPTED PURSUANT TO THE PROVISIONS OF THIS TITLE AND SHALL PROVIDE FOR A LOCATION FOR SUCH WHOLESALER, RETAILER, AND FLOORING AND FLOOR COVERING CONTRACTOR TO SEND REMOVED DISCARDED CARPET. SUCH ARRANGEMENTS MAY INCLUDE, BUT ARE NOT LIMITED TO, CONTRACTS OR OTHER AGREEMENTS WITH THIRD PARTIES SUCH AS RECYCLING FACILITIES. IN ORDER TO FACILITATE CARPET RECYCLING, THE REMOVAL AND ACCEPTANCE PROCESS SHALL REQUIRE SOURCE SEPARATION AND ENSURE THE CARPET IS IN A CONDITION ALLOWING ITS RECYCLING OR REUSE. THE MANUFACTURER, WHOLESALER, RETAILER, AND FLOORING AND FLOOR COVERING CONTRACTORS SHALL NOT REFUSE TO REMOVE OR ACCEPT ANY CARPET IN REASONABLE CONDITION.

4. BEGINNING IN CALENDAR YEAR TWO THOUSAND FOURTEEN, THE MANUFACTURER SHALL COMPLY WITH THE RECYCLING AND REUSE GOALS ESTABLISHED IN ITS CARPET STEWARDSHIP PLAN REQUIRED BY SECTION 27-2805 OF THIS TITLE. THE RECYCLING AND REUSE GOAL FOR A GIVEN YEAR ESTABLISHED IN THE CARPET STEWARDSHIP PLAN SHALL AT A MINIMUM BE EQUAL TO THE TOTAL WEIGHT OF CARPET SOLD BY A MANUFACTURER IN THE STATE DURING SUCH YEAR MULTIPLIED BY THE STATEWIDE RECYCLING AND REUSE PERCENTAGE RATE ESTABLISHED IN SUBDIVISION FIVE OF THIS SECTION.

5. THE STATEWIDE RECYCLING AND REUSE PERCENTAGE RATE SHALL BE AS FOLLOWS:

(A) FOR CALENDAR YEARS TWO THOUSAND FOURTEEN AND TWO THOUSAND FIFTEEN: TWENTY-FIVE PERCENT.

(B) FOR CALENDAR YEARS TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN: FORTY PERCENT.

(C) FOR CALENDAR YEARS TWO THOUSAND EIGHTEEN AND TWO THOUSAND NINETEEN: SIXTY PERCENT.

(D) FOR CALENDAR YEARS TWO THOUSAND TWENTY AND TWO THOUSAND TWENTY-ONE: SEVENTY-FIVE PERCENT.

(E) FOR CALENDAR YEAR TWO THOUSAND TWENTY-TWO AND THEREAFTER: NINETY-FIVE PERCENT OR MORE.

THE TOTAL WEIGHT OF CARPET RECYCLED OR REUSED BY THE MANUFACTURER INCLUDES CARPET OF ANY BRAND ACCEPTED BY THE MANUFACTURER FOR RECYCLING OR REUSE, AND IS NOT LIMITED TO THE MANUFACTURER'S BRAND.

6. A MANUFACTURER OR THE CARPET STEWARDSHIP ORGANIZATION ON BEHALF OF THE MANUFACTURER MAY PETITION THE DEPARTMENT FOR AN ADJUSTMENT TO THE STATEWIDE RECYCLING AND REUSE PERCENTAGE RATE. THE DEPARTMENT MAY GRANT AN ADJUSTMENT TO THE STATEWIDE RECYCLING AND REUSE PERCENTAGE RATE FOR THE MANUFACTURER ONLY IF THE DEPARTMENT DETERMINES THERE ARE DOCUMENTED EXIGENT CIRCUMSTANCES THAT ARE BEYOND THE CONTROL OF THE MANUFACTURER.

7. BEGINNING IN THE CALENDAR YEAR TWO THOUSAND FOURTEEN, A MANUFACTURER WHO DOES NOT COMPLY WITH ITS ANNUAL RECYCLING AND REUSE GOAL ESTABLISHED IN ITS CARPET STEWARDSHIP PLAN IN ANY YEAR SHALL PAY A RECYCLING SURCHARGE EQUAL TO THE AVERAGE COST OF RECYCLING THE TOTAL WEIGHT OF ADDITIONAL CARPET THAT THE MANUFACTURER WAS REQUIRED TO RECYCLE OR REUSE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION. THE AVERAGE COST OF RECYCLING SHALL BE FIFTEEN CENTS PER POUND; PROVIDED THAT THE DEPARTMENT MAY REVISE THE AVERAGE COST OF RECYCLING FROM TIME TO TIME ON ITS OWN INITIATIVE OR UPON A PETITION BY A MANUFACTURER OR A CARPET STEWARDSHIP ORGANIZATION. THE RECYCLING SURCHARGE FOR ANY YEAR SHALL BE PAID AT THE TIME OF SUBMISSION OF THE ANNUAL REPORT FOR THAT CALENDAR YEAR, AS REQUIRED IN SECTION 27-2813 OF THIS TITLE.

8. BEGINNING IN THE CALENDAR YEAR TWO THOUSAND FIFTEEN, IF A MANUFACTURER'S RATE OF RECYCLING AND REUSE OF CARPETS EXCEEDS THE GOAL PROVIDED IN PARAGRAPH (E) OF SUBDIVISION FIVE OF THIS SECTION, THE EXCESS MAY BE USED AS RECYCLED CARPET CREDITS AND MAY BE SOLD, TRADED, OR BANKED FOR A PERIOD NO LONGER THAN THREE CALENDAR YEARS SUCCEEDING THE YEAR IN WHICH THE CREDITS WERE EARNED; PROVIDED, HOWEVER, THAT NO MORE THAN TWENTY PERCENT OF A MANUFACTURER'S OBLIGATION FOR ANY CALENDAR YEAR MAY BE MET WITH RECYCLED CARPET CREDITS GENERATED IN A PRIOR CALENDAR YEAR OR PURCHASED.

S 27-2805. MANUFACTURER REGISTRATION AND RESPONSIBILITIES.

1. BY APRIL FIRST, TWO THOUSAND THIRTEEN, PRIOR TO SELLING OR OFFERING FOR SALE IN THE STATE ANY CARPET, A MANUFACTURER SHALL, EITHER DIRECTLY OR THROUGH A CARPET STEWARDSHIP ORGANIZATION: (A) REGISTER WITH THE DEPARTMENT USING THE CARPET STEWARDSHIP PROGRAM REGISTRATION FORM PRESCRIBED BY THE DEPARTMENT AND AVAILABLE ON THE DEPARTMENT'S WEBSITE AND PAY A REGISTRATION FEE OF TEN THOUSAND DOLLARS; AND (B) SUBMIT A CARPET STEWARDSHIP PLAN TO THE DEPARTMENT.

2. AT A MINIMUM, THE MANUFACTURER SHALL LIST ON THE CARPET STEWARDSHIP PROGRAM REGISTRATION FORM ITS WHOLESALERS AND RETAILERS AS WELL AS THE GROSS AMOUNT OF CARPET (IN TONS AND US DOLLARS) SOLD IN THE STATE DURING THE PREVIOUS THREE CALENDAR YEARS.

3. A MANUFACTURER'S REGISTRATION IS EFFECTIVE UPON FULFILLING THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION.

4. A MANUFACTURER SHALL UPDATE ITS REGISTRATION WITHIN THIRTY DAYS OF ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED IN THE CARPET STEWARDSHIP PROGRAM REGISTRATION FORM OR THE CARPET STEWARDSHIP PLAN.

5. THE MANUFACTURER SHALL POST ON ITS WEBSITE THE CARPET STEWARDSHIP PLAN SUBMITTED TO THE DEPARTMENT AND THE DATE OF REGISTRATION OF THE MANUFACTURER WITH THE DEPARTMENT.

6. THE MANUFACTURER SHALL DEVELOP EDUCATIONAL MATERIALS TO ENCOURAGE THE REMOVAL AND ACCEPTANCE, RECYCLING AND REUSE OF DISCARDED CARPET AND SHALL MAKE THOSE MATERIALS AVAILABLE TO WHOLESALERS, RETAILERS, FLOORING AND FLOOR COVERING CONTRACTORS AND CONSUMERS. SUCH EDUCATIONAL MATERIALS SHALL INCLUDE STATEWIDE INFORMATION CAMPAIGNS REGARDING THE MANDATORY REMOVAL, ACCEPTANCE, TRANSPORT AND RECYCLING OR REUSE OF DISCARDED CARPET IN THE STATE. THE CONTENT OF SUCH CAMPAIGNS SHALL BE COORDINATED WITH THE DEPARTMENT, THE ENVIRONMENTAL SERVICES UNIT OF EMPIRE STATE DEVELOPMENT, THE CARPET STEWARDSHIP ORGANIZATION AND OTHER MANUFACTURERS.

7. BEGINNING WITH CALENDAR YEAR TWO THOUSAND SIXTEEN, AND EVERY THREE YEARS THEREAFTER, A MANUFACTURER OR THE CARPET STEWARDSHIP ORGANIZATION ON BEHALF OF THE MANUFACTURER SHALL RETAIN A THIRD-PARTY TO AUDIT THE MANUFACTURER'S RECYCLING AND REUSE PROGRAM TO DEMONSTRATE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE. A MANUFACTURER OR THE CARPET STEWARD-

SHIP ORGANIZATION ON BEHALF OF THE MANUFACTURER SHALL MAINTAIN THE RESULT OF THIS AUDIT FOR A PERIOD OF THREE YEARS. RESULTS OF THIS AUDIT SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

S 27-2807. WHOLESALER, RETAILER, FLOORING AND FLOOR COVERING CONTRACTOR AND CONSUMER REQUIREMENTS.

1. A WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR SHALL NOT DISTRIBUTE, SELL OR INSTALL CARPET OF A MANUFACTURER (A) WHO IS NOT REGISTERED WITH THE DEPARTMENT, OR (B) IS REGISTERED WITH THE DEPARTMENT BUT IS NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS TITLE. IN THE EVENT THE REGISTRATION OF THE MANUFACTURER WAS REVOKED BY THE DEPARTMENT OR WITHDRAWN BY THE MANUFACTURER, A WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR MAY CONTINUE TO DISTRIBUTE, SELL OR INSTALL THE CARPET OF SUCH MANUFACTURER FOR A PERIOD OF ONE HUNDRED EIGHTY DAYS FROM THE DATE THE REGISTRATION WAS REVOKED OR WITHDRAWN.

2. AT THE POINT OF SALE OF CARPET, A WHOLESALER OR RETAILER SHALL PROVIDE CONSUMERS WITH INFORMATION ABOUT REMOVAL, ACCEPTANCE, TRANSPORT AND RECYCLING AND REUSE OF DISCARDED CARPET.

3. A WHOLESALER OR RETAILER SHALL PROMPTLY AND SAFELY REMOVE, ACCEPT AND TRANSPORT, OR ARRANGE FOR REMOVAL, ACCEPTANCE AND TRANSPORTATION OF DISCARDED CARPET UPON SUBMISSION OF A WRITTEN REQUEST BY A CONSUMER IN PERSON OR BY MAIL, EMAIL, OR ONLINE FORM.

(A) THE REQUIREMENTS OF THIS SUBDIVISION SHALL APPLY WHETHER OR NOT THE CONSUMER PURCHASED CARPET FROM SUCH WHOLESALER OR RETAILER.

(B) A MANUFACTURER, WHOLESALER OR RETAILER SHALL MAKE AVAILABLE AT THE POINT OF SALE OR ONLINE A FORM FOR USE BY A CONSUMER TO SUBMIT SUCH A WRITTEN REQUEST. SUCH FORM SHALL CONTAIN THE NAME, ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS OF THE CONSUMER AND THE FOLLOWING INFORMATION ABOUT THE CARPET: APPROXIMATE SIZE, CONDITION AND LOCATION, AND IF KNOWN, COMPONENTS, MATERIALS AND BRAND.

(C) REMOVAL OR CAUSING REMOVAL OF DISCARDED CARPET PURSUANT TO THIS SUBDIVISION SHALL INCLUDE PULLING UP THE CARPET, WHETHER OR NOT THE CARPET IS REPLACED.

(D) UPON REMOVAL OF THE DISCARDED CARPET FROM ITS LOCATION, A WHOLESALER OR RETAILER SHALL, AS SOON AS PRACTICABLE, SEND THE DISCARDED CARPET TO THE LOCATION PROVIDED BY THE MANUFACTURER. THE MANUFACTURER SHALL BE RESPONSIBLE FOR THE COST OF TRANSPORTING THE DISCARDED CARPET FROM ITS REMOVAL LOCATION TO THE LOCATION PROVIDED BY THE MANUFACTURER.

4. A FLOORING AND FLOOR COVERING CONTRACTOR SHALL PROVIDE CONSUMERS WHO CONTRACT WITH SUCH FLOORING AND FLOOR COVERING CONTRACTOR TO INSTALL OR REPLACE FLOORING OR FLOOR COVERING WITH INFORMATION ABOUT REMOVAL, ACCEPTANCE, TRANSPORT, RECYCLING AND REUSE OF DISCARDED CARPET, INCLUDING A FORM FOR SUBMITTING A WRITTEN REQUEST TO REMOVE DISCARDED CARPET. SUCH FORM SHALL CONTAIN THE NAME, ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS OF THE CONSUMER AND THE FOLLOWING INFORMATION ABOUT THE CARPET: APPROXIMATE SIZE, CONDITION AND LOCATION, AND IF KNOWN, COMPONENTS, MATERIALS AND BRAND.

5. UPON RECEIPT OF A WRITTEN REQUEST FROM A CONSUMER WHO CONTRACTS WITH A FLOORING AND FLOOR COVERING CONTRACTOR TO INSTALL OR REPLACE FLOORING OR FLOOR COVERING, OR A RETAILER, A WHOLESALER OR A MANUFACTURER WHO RETAINS A FLOORING AND FLOOR COVERING CONTRACTOR, TO REMOVE DISCARDED CARPET, SUCH FLOORING AND FLOOR COVERING CONTRACTOR SHALL PROMPTLY AND SAFELY REMOVE OR CAUSE TO BE REMOVED THE DISCARDED CARPET. THE MANUFACTURER SHALL BE RESPONSIBLE FOR THE COST OF REMOVING THE DISCARDED CARPET.

6. EVERY FLOORING AND FLOOR COVERING CONTRACTOR WHO INSTALLS OR REPLACES FLOORING OR FLOOR COVERING FOR A CONSUMER SHALL REMOVE, ACCEPT,

AND TRANSPORT SUCH DISCARDED CARPET FROM THE PREMISES OF SUCH CONSUMER NO LATER THAN THE TIME THE CONTRACTED WORK IS COMPLETED. REMOVAL OR CAUSING REMOVAL OF DISCARDED CARPET PURSUANT TO THIS SUBDIVISION SHALL INCLUDE PULLING UP THE CARPET, WHETHER OR NOT THE CARPET IS REPLACED. UPON REMOVAL OF THE DISCARDED CARPET FROM ITS LOCATION, A FLOORING AND FLOOR COVERING CONTRACTOR SHALL, AS SOON AS PRACTICABLE, SEND THE DISCARDED CARPET TO THE LOCATION PROVIDED BY THE MANUFACTURER OR TO A WHOLESALER OR RETAILER TO SEND TO THE LOCATION PROVIDED BY THE MANUFACTURER. THE MANUFACTURER SHALL BE RESPONSIBLE FOR THE COST OF TRANSPORTING THE DISCARDED CARPET FROM ITS REMOVAL LOCATION TO THE LOCATION PROVIDED BY THE MANUFACTURER.

7. A FLOORING AND FLOOR COVERING CONTRACTOR SHALL NOT BE REQUIRED TO REMOVE, ACCEPT, AND TRANSPORT CARPET FROM THE PREMISES OF A CONSUMER WHEN:

(A) THE CONSUMER REQUESTS TO RETAIN CUSTODY OF ALL OR ANY PORTION OF THE CARPET, AND THE FLOORING AND FLOOR COVERING CONTRACTOR:

(I) REMOVES ALL CARPET WHICH THE CUSTOMER DOES NOT ELECT TO RETAIN CUSTODY OF, AND

(II) INFORMS THE CUSTOMER THAT HE OR SHE IS RESPONSIBLE FOR THE PROPER MANAGEMENT OF THE CARPET IN ACCORDANCE WITH APPLICABLE LAW, AND OBTAINS A STATEMENT, SIGNED BY THE CUSTOMER, ATTESTING THAT HE OR SHE HAS ELECTED TO RETAIN CUSTODY OF THE CARPET, THE APPROXIMATE SQUARE YARDAGE OF THE RETAINED CARPET AND ACKNOWLEDGING THAT HE OR SHE HAS BEEN INFORMED OF HIS OR HER RESPONSIBILITY FOR THE PROPER MANAGEMENT OF THE CARPET, INCLUDING ANY COSTS ASSOCIATED WITH THE ACCEPTANCE THEREOF BY OR ON BEHALF OF THE APPROPRIATE MUNICIPALITY, OR BY A CONTRACTED LICENSED HAULER; OR

(B) THE CONSUMER HAS NOT CONTRACTED WITH SUCH FLOORING AND FLOOR COVERING CONTRACTOR TO INSTALL OR REPLACE FLOORING OR FLOOR COVERING, OR A RETAILER, A WHOLESALER OR A MANUFACTURER HAS NOT CONTRACTED WITH SUCH FLOORING AND FLOOR COVERING CONTRACTOR TO INSTALL FLOORING OR FLOOR COVERING OR TO REMOVE, ACCEPT, AND TRANSPORT DISCARDED CARPET FROM SUCH CONSUMER.

8. BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN, ANY CONSUMER IN THE STATE WHO WISHES TO DISPOSE OF ANY DISCARDED CARPET SHALL CONTACT A MANUFACTURER, WHOLESALER, RETAILER, FLOORING AND FLOOR COVERING CONTRACTOR OR RECYCLING FACILITY TO ORGANIZE THE REMOVAL AND ACCEPTANCE OF DISCARDED CARPET.

9. ON A MONTHLY BASIS, A WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR SHALL COMMUNICATE IN WRITING TO THE MANUFACTURER THE WEIGHT OF DISCARDED CARPET THAT HAS BEEN ACCEPTED BY SUCH WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR FOR RECYCLING OR REUSE.

S 27-2809. CARPET STEWARDSHIP PLAN.

1. EACH CARPET STEWARDSHIP PLAN SHALL ADDRESS THE ENVIRONMENTAL IMPACTS OF CARPET OVER ITS ENTIRE LIFE CYCLE, INCLUDING CARPET DESIGN, MANUFACTURE, AND DISTRIBUTION, AND THE REMOVAL, ACCEPTANCE, TRANSPORTATION, REUSE, RECYCLING, AND FINAL DISPOSITION OF DISCARDED CARPET.

2. AN UPDATED CARPET STEWARDSHIP PLAN SHALL BE SUBMITTED TO THE DEPARTMENT AT LEAST EVERY FIVE YEARS.

3. THE PLAN SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING ELEMENTS:

(A) IDENTIFICATION AND CONTACT INFORMATION FOR (I) THE PERSON SUBMITTING THE PLAN; (II) THE MANUFACTURER OR MANUFACTURERS PARTICIPATING IN THE CARPET STEWARDSHIP PLAN; AND (III) IF A STEWARDSHIP ORGANIZATION IMPLEMENTS THE CARPET STEWARDSHIP PLAN ON BEHALF OF MANUFACTURERS, THE

CARPET STEWARDSHIP ORGANIZATION, INCLUDING A DESCRIPTION OF THE CARPET STEWARDSHIP ORGANIZATION, ITS MANAGEMENT AND ADMINISTRATION AND THE TASKS TO BE PERFORMED BY THE CARPET STEWARDSHIP ORGANIZATION;

(B) A DESCRIPTION OF THE BRANDS OF CARPET COVERED BY THE PLAN;

(C) A LIST OF THE MANUFACTURER'S WHOLESALERS AND RETAILERS;

(D) A LIST OF THE RECYCLING FACILITIES THAT WILL BE USED BY THE MANUFACTURER INCLUDING THE ADDRESSES AND TELEPHONE NUMBERS OF SUCH FACILITIES, AND THEIR AVERAGE COSTS OF HANDLING AND RECYCLING DISCARDED CARPET;

(E) GOALS, OVER A FIVE-YEAR PERIOD. THE GOALS SHALL INCLUDE THE FOLLOWING:

(1) THE CARPET RECYCLING AND REUSE GOALS; AND

(2) A DESCRIPTION OF CARPET DESIGNING AND MATERIALS CONTENT, MANUFACTURING, PACKAGING, DISTRIBUTION, AND END-OF-LIFE MANAGEMENT GOALS. THE GOALS SHALL ADDRESS THE USE OF VIRGIN MATERIALS IN THE MANUFACTURE OF THE CARPET, THE IMPACT UPON, OR USE OF, WATER OR ENERGY IN THE MANUFACTURE OF THE CARPET, THE USE OF, OR GENERATION OF HAZARDOUS SUBSTANCES, IN THE MANUFACTURE OF THE CARPET, THE IMPACT OF THE CARPET ON GREENHOUSE GAS EMISSIONS, THE CARPET'S LONGEVITY, THE RECYCLED CONTENT OF THE CARPET, AND RECYCLABILITY, WHERE APPLICABLE;

(F) THE METHODS AND PROCESSES USED TO INCREASE THE ACCEPTANCE AND RECYCLING OR REUSE OF DISCARDED CARPET AND THE RECYCLABILITY OF CARPET;

(G) THE STRATEGIES USED TO INCENTIVIZE THE MARKET GROWTH OF RECYCLED PRODUCTS MADE FROM DISCARDED CARPET AND TO DEVELOP RECYCLING INFRASTRUCTURE IN THE STATE;

(H) AN OVERVIEW OF THE ROLES AND RESPONSIBILITIES OF KEY PLAYERS ALONG THE DISTRIBUTION CHAIN;

(I) EDUCATION AND OUTREACH ACTIVITIES TO CONSUMERS, FLOORING AND FLOOR COVERING CONTRACTORS, WHOLESALERS, RETAILERS AND OTHER INTERESTED PARTIES; AND

(J) A DETAILED FINANCING MECHANISM TO CARRY OUT THE PLAN, INCLUDING BUT NOT LIMITED TO THE ADMINISTRATIVE, OPERATIONAL, AND CAPITAL COSTS OF THE PLAN.

S 27-2811. DEPARTMENT RESPONSIBILITIES.

1. THE DEPARTMENT SHALL POST ON ITS WEBSITE THE LIST OF THE MANUFACTURERS WHO HAVE REGISTERED WITH THE DEPARTMENT TOGETHER WITH A LINK TO EACH MANUFACTURER'S WEBSITE AND CARPET STEWARDSHIP PLAN.

2. THE DEPARTMENT'S WEBSITE SHALL BE UPDATED PERIODICALLY TO REFLECT WHETHER A MANUFACTURER IS OR IS NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS TITLE. IN THE EVENT THE REGISTRATION OF A MANUFACTURER WAS REVOKED BY THE DEPARTMENT OR WITHDRAWN BY THE MANUFACTURER, THE DEPARTMENT SHALL SEND WRITTEN NOTIFICATION OF THIS FACT TO ALL WHOLESALERS, RETAILERS, AND FLOORING AND FLOOR COVERING CONTRACTORS LISTED IN SAID MANUFACTURERS CARPET STEWARDSHIP PLAN WITHIN THIRTY DAYS.

3. THE DEPARTMENT MAY CONDUCT RANDOMLY SELECTED AUDITS TO VERIFY COMPLIANCE BY A MANUFACTURER WITH THE PROVISIONS OF THIS TITLE.

4. THE DEPARTMENT MAY PROVIDE INFORMATION TO MANUFACTURERS REGARDING THE AVAILABILITY OF RECYCLING FACILITIES AND COMPANIES THAT REMOVE, ACCEPT, TRANSPORT, RECYCLE AND/OR REUSE DISCARDED CARPET, INCLUDING THE ADDRESSES AND PHONE NUMBERS OF SUCH FACILITIES.

5. IN ORDER TO ASSIST IN THE CREATION AND DEVELOPMENT OF CARPET RECYCLING INFRASTRUCTURE IN THE STATE AS WELL AS IN DEVELOPING MARKET OPPORTUNITIES FOR RECYCLED PRODUCTS AND MATERIALS, THE DEPARTMENT, THE ENVIRONMENTAL SERVICES UNIT OF EMPIRE STATE DEVELOPMENT, AND CARPET STEWARDSHIP ORGANIZATIONS MAY FORM A CARPET STEWARDSHIP PROGRAM SUPPORT UNIT HEADQUARTERED WITHIN THE ENVIRONMENTAL SERVICES UNIT OF EMPIRE

STATE DEVELOPMENT. THE ENVIRONMENTAL SERVICES UNIT OF EMPIRE STATE DEVELOPMENT SHALL HAVE PRIMARY RESPONSIBILITY TO MANAGE THE CARPET STEWARDSHIP PROGRAM SUPPORT UNIT. THE ROLE OF THE CARPET STEWARDSHIP PROGRAM SUPPORT UNIT SHALL BE TO PROVIDE ASSISTANCE AND COORDINATE EFFORTS TO CREATE IN THE STATE RECYCLING INFRASTRUCTURE AND MARKETS FOR RECYCLED PRODUCTS AND MATERIALS.

6. THE DEPARTMENT, THE CARPET STEWARDSHIP PROGRAM SUPPORT UNIT WITHIN THE ENVIRONMENTAL SERVICES UNIT OF EMPIRE STATE DEVELOPMENT, CARPET STEWARDSHIP ORGANIZATIONS AND MANUFACTURERS SHALL LAUNCH STATEWIDE COORDINATED INFORMATION CAMPAIGNS, AT THE MANUFACTURERS' COSTS, USING VARIOUS COMMUNICATION INSTRUMENTS SUCH AS THE INTERNET, NEWSPAPERS, TELEVISION, RADIO AND MOVIE THEATERS, TO INFORM AND EDUCATE CONSUMERS, FLOORING AND FLOOR COVERING CONTRACTORS, RETAILERS AND WHOLESALERS ABOUT THE MANDATORY REMOVAL, ACCEPTANCE, TRANSPORT AND RECYCLING OR REUSE OF DISCARDED CARPET.

7. ON OR BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, AND EVERY FOUR YEARS THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE DESCRIBING THE RESULTS OF THE CARPET STEWARDSHIP PROGRAM AND RECOMMENDING WHETHER TO UNDERTAKE ANY MODIFICATIONS TO IMPROVE ITS FUNCTIONING AND EFFICIENCY. AT A MINIMUM THE REPORT SHALL INCLUDE:

(A) AN EVALUATION OF THE CARPET WASTE STREAM IN THE STATE;

(B) RECYCLING AND REUSE RATES IN THE STATE FOR CARPET;

(C) AN EVALUATION OF COMPLIANCE AND ENFORCEMENT ACTIONS;

(D) A DISCUSSION OF OPPORTUNITIES FOR BUSINESS DEVELOPMENT IN THE STATE RELATED TO THE REMOVAL, ACCEPTANCE, TRANSPORT AND RECYCLING OR REUSE OF CARPET IN THE STATE.

8. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS IT DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

S 27-2813. ANNUAL REPORTING REQUIREMENTS.

1. THE MANUFACTURER OR THE CARPET STEWARDSHIP ORGANIZATION, WHICHEVER IS APPLICABLE, SHALL PREPARE AND SUBMIT TO THE DEPARTMENT, BY MAY FIRST EACH YEAR AN ANNUAL REPORT DESCRIBING THE ACTIVITIES CONDUCTED DURING THE PRIOR CALENDAR YEAR TO IMPLEMENT THE CARPET STEWARDSHIP PLAN, INCLUDING:

(A) IDENTIFICATION AND CONTACT INFORMATION FOR: (1) THE PERSON SUBMITTING THE ANNUAL REPORT; (2) THE MANUFACTURER; AND (3) THE CARPET STEWARDSHIP ORGANIZATION, IF APPLICABLE;

(B) GOALS ACHIEVED, INCLUDING BUT NOT LIMITED TO: (1) THE QUANTITY AND PERCENTAGE RATE OF CARPET ACCEPTED IN THE STATE FOR RECYCLING AND REUSE AND A COMPARISON ANALYSIS WITH THE GOALS OF THE PRIOR YEAR; AND (2) HOW THE CARPET STEWARDSHIP PLAN ATTAINED THE GOALS ESTABLISHED IN SUCH PLAN OR THE GOALS SET BY THE DEPARTMENT AND, IF THE GOALS WERE NOT ATTAINED, WHAT ACTIONS WILL BE TAKEN DURING THE CURRENT REPORTING PERIOD TO ATTAIN SUCH GOALS;

(C) THE REMOVAL, ACCEPTANCE, HANDLING, TRANSPORTATION, PROCESSING AND DISPOSAL SYSTEMS USED;

(D) THE EDUCATION AND OUTREACH ACTIVITIES PROVIDED DURING THE REPORTING PERIOD TO REACH CONSUMERS, COMMERCIAL BUILDING OWNERS, INSTITUTIONS, WHOLESALERS, RETAILERS, FLOORING AND FLOOR COVERING CONTRACTORS AND OTHER INTERESTED PARTIES;

(E) STEPS TAKEN TO MANAGE AND REDUCE THE LIFE-CYCLE IMPACTS OF THE CARPET, FROM PRODUCT DESIGN TO END-OF-LIFE MANAGEMENT, INCLUDING HOW THE FORMULATION, PACKAGING AND DISTRIBUTION OF CARPET HAVE BEEN IMPROVED TO REDUCE WASTE, REDUCE TOXICITY, REDUCE CARBON FOOTPRINT, REDUCE OTHER

ENVIRONMENTAL IMPACTS, INCREASE RECYCLED CONTENT, INCREASE PRODUCT LONGEVITY AND MAKE PRODUCTS MORE EASILY RECYCLABLE;

(F) THE TOTAL COST OF IMPLEMENTING THE CARPET STEWARDSHIP PLAN; AND

(G) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REASONABLY REQUIRE.

2. THE ANNUAL REPORT REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION SHALL BE SUBMITTED TO THE DEPARTMENT TOGETHER WITH AN ANNUAL ADMINISTRATIVE PROCESSING FEE IN THE AMOUNT OF FIVE THOUSAND DOLLARS AND ANY SURCHARGE REQUIRED TO BE PAID UNDER SECTION 27-2803 OF THIS TITLE.

3. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY.

S 27-2815. PREEMPTION.

ANY LOCAL LAW OR ORDINANCE WHICH IS INCONSISTENT WITH ANY PROVISION OF THIS TITLE OR ANY RULE OR REGULATION PROMULGATED THEREUNDER SHALL BE PREEMPTED.

S 27-2817. DISPOSITION OF FEES AND PENALTIES.

ALL FEES COLLECTED PURSUANT TO THIS TITLE SHALL BE DEPOSITED INTO THE ENVIRONMENTAL CONSERVATION SPECIAL REVENUE ACCOUNT TO THE CREDIT OF THE ENVIRONMENTAL REGULATORY ACCOUNT. ALL SURCHARGES AND PENALTIES COLLECTED PURSUANT TO THIS TITLE SHALL BE DEPOSITED INTO THE SOLID WASTE ACCOUNT OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED UNDER SECTION 92-S OF THE STATE FINANCE LAW. ALL FEES, SURCHARGES AND PENALTIES COLLECTED PURSUANT TO THIS TITLE SHALL BE USED EXCLUSIVELY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

S 27-2819. ENFORCEMENT.

1. THE DEPARTMENT SHALL ENFORCE ALL THE PROVISIONS OF THIS TITLE.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, THE DEPARTMENT MAY, UPON THE REQUEST OF A MUNICIPALITY, DELEGATE THE ENFORCEMENT OF THE PROVISIONS OF THIS TITLE TO A MUNICIPALITY. THE MUNICIPALITY SHALL SUBMIT TO THE DEPARTMENT A REQUEST TO BE AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS TITLE. THE DEPARTMENT SHALL MAKE A DECISION ON THE REQUEST FILED BY THE MUNICIPALITY WITHIN THIRTY DAYS FROM THE DATE OF RECEIPT OF THE MUNICIPALITY'S REQUEST.

3. THE DEPARTMENT MAY TEMPORARILY PREVENT A MANUFACTURER, WHOLESALER OR RETAILER WHO IS NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS TITLE FROM SELLING OR OFFERING TO SELL ANY CARPET IN THE STATE.

4. ANY MANUFACTURER WHO FAILS TO SUBMIT ANY REPORT, REGISTRATION FORM, FEE, OR SURCHARGE TO THE DEPARTMENT AS REQUIRED BY THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH DAY SUCH REPORT, REGISTRATION FORM, FEE, OR SURCHARGE IS NOT SUBMITTED.

5. ANY MANUFACTURER WHO VIOLATES ANY OTHER PROVISION OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION, TWO THOUSAND FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE-MONTH PERIOD.

6. ANY WHOLESALER, RETAILER, OR FLOORING AND FLOOR COVERING CONTRACTOR WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION, FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION AND ONE THOUSAND DOLLARS FOR THE THIRD AND SUBSEQUENT VIOLATIONS OF THIS TITLE IN A TWELVE-MONTH PERIOD.

7. ANY CONSUMER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION.

8. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE DEPARTMENT AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS CHAPTER, AND, IN ADDITION THERETO,

SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION. IN THE EVENT A MUNICIPALITY HAS RECEIVED A DELEGATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION, CIVIL PENALTIES SHALL BE ASSESSED BY THE DESIGNATED AUTHORITY OR ENVIRONMENTAL CONTROL BOARD OF SUCH MUNICIPALITY AFTER A HEARING OR OPPORTUNITY TO BE HEARD. ALL CIVIL PENALTIES COLLECTED FOR ANY VIOLATIONS OF THIS TITLE THAT HAVE BEEN IMPOSED BY A MUNICIPALITY SHALL BE PAID INTO THE GENERAL FUND OF SUCH MUNICIPALITY.

9. ANY CONSUMER WHO WAS DENIED REMOVAL AND ACCEPTANCE OF HIS OR HER DISCARDED CARPET BY A MANUFACTURER, A WHOLESALER, A RETAILER OR A FLOORING AND FLOOR COVERING CONTRACTOR MAY REPORT SUCH DENIAL TO THE DEPARTMENT OR THE DESIGNATED AUTHORITY WITHIN A MUNICIPALITY WHO HAS RECEIVED A DELEGATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH CONSUMER SHALL FILE A CLAIM ONLINE WITH THE DEPARTMENT OR THE DESIGNATED AUTHORITY WITHIN A MUNICIPALITY, WHO HAS RECEIVED A DELEGATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION, INDICATING THE DATE, NAME AND LOCATION OF THE MANUFACTURER, WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR WHO REFUSED TO REMOVE AND ACCEPT THE CONSUMER'S DISCARDED CARPET. UPON REVIEW OF THE CLAIM, THE DEPARTMENT OR THE DESIGNATED AUTHORITY WITHIN A MUNICIPALITY, WHO HAS RECEIVED A DELEGATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION, SHALL INVESTIGATE THE CLAIM WITHIN NINETY DAYS FROM THE DATE OF RECEIPT OF THE CLAIM. WITHIN ONE HUNDRED AND TWENTY DAYS FROM THE DATE OF RECEIPT OF THE CLAIM, THE DEPARTMENT OR THE DESIGNATED AUTHORITY WITHIN A MUNICIPALITY, WHO HAS RECEIVED A DELEGATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION, SHALL DETERMINE WHETHER OR NOT AN ADMINISTRATIVE CIVIL PENALTY OF ONE THOUSAND DOLLARS SHALL BE ASSESSED AGAINST SUCH MANUFACTURER, WHOLESALER, RETAILER OR FLOORING AND FLOOR COVERING CONTRACTOR, IN ADDITION TO ENFORCING THE REMOVAL AND ACCEPTANCE OF DISCARDED CARPET MANDATED BY THE PROVISIONS OF THIS TITLE. THE PARTY WITH WHOM THE PERSON FILING THE CLAIM LAST INTERACTED SHALL BE THE PRIMARY RESPONSIBLE PARTY WHO SHALL PAY THE ADMINISTRATIVE CIVIL PENALTY OF ONE THOUSAND DOLLARS.

S 27-2821. STATE AGENCIES' RESPONSIBILITIES.

1. STATE AGENCIES SHALL IMPLEMENT CARPET WASTE REDUCTION, REUSE, RECYCLING AND PURCHASE RECYCLED CARPETS FROM MANUFACTURERS, WHOLESALERS OR RETAILERS WHO COMPLY WITH THE PROVISIONS OF THIS TITLE. STATE AGENCIES SHALL USE FLOORING AND FLOOR COVERING CONTRACTORS WHO COMPLY WITH THE PROVISIONS OF THIS TITLE.

2. BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN, AT LEAST THIRTY-FIVE PERCENT OF THE CARPETS PURCHASED BY STATE AGENCIES SHALL BE RECYCLED CARPET AND COMPLY WITH THE NSF/ANSI 140-2007E STANDARD, PLATINUM LEVEL, OR A MORE STRINGENT STANDARD PROVIDING FOR THE BEST SUSTAINABILITY PERFORMANCE AND A BETTER PROTECTION OF THE ENVIRONMENT AND THE PUBLIC HEALTH. THEREAFTER, SUCH PURCHASE SHALL INCREASE AT A RATE OF TWENTY PERCENT EACH YEAR UNTIL IT REACHES ONE HUNDRED PERCENT.

S 27-2823. MISCELLANEOUS.

1. THIS TITLE DOES NOT LIMIT, SUPERSEDE, DUPLICATE, OR OTHERWISE CONFLICT WITH THE PROVISIONS OF ARTICLE THIRTY-SEVEN OF THIS CHAPTER ON SUBSTANCES HAZARDOUS OR ACUTELY HAZARDOUS TO PUBLIC HEALTH, SAFETY AND THE ENVIRONMENT.

2. IF ANY PROVISION OF THIS TITLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE REMAINDER OF THIS TITLE OR THE APPLICATION OF THE PROVISION TO OTHER PERSONS OR CIRCUMSTANCES IS NOT AFFECTED.

S 3. This act shall take effect immediately.