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

3346--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 24, 2013

Introduced by M. of A. SWEENEY, SCHIMEL, COLTON, COOK, JAFFEE, MARKEY, KAVANAGH, ROSENTHAL, OTIS, PEOPLES-STOKES -- Multi-Sponsored by -- M. of A. GLICK, GOTTFRIED, THIELE -- 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

AN ACT to amend the environmental conservation law, in relation to product stewardship

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

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 31 to read as follows:

TITLE 31

PRODUCT STEWARDSHIP

SECTION 27-3101. DEFINITIONS.

27-3103. IDENTIFICATION OF CANDIDATE PRODUCTS; REPORT.

27-3105. NO LIMITATION OF MUNICIPAL AUTHORITY.

S 27-3101. DEFINITIONS.

AS USED IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE INDICATES, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

1. BRAND. "BRAND" MEANS A NAME, SYMBOL, WORD OR MARK THAT IDENTIFIES A PRODUCT, RATHER THAN ITS COMPONENTS, AND ATTRIBUTES THE PRODUCT TO THE OWNER OF THE BRAND.

2. PRODUCER. "PRODUCER" MEANS A PERSON THAT:

(A) HAS LEGAL OWNERSHIP OF THE BRAND OF A PRODUCT SOLD IN OR INTO THE STATE;

(B) IMPORTS A PRODUCT BRANDED BY A PERSON THAT MEETS THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION AND HAS NO PHYSICAL PRESENCE IN THE UNITED STATES; OR

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

LBD04713-02-3

(C) SELLS A PRODUCT IN THE STATE AT WHOLESALE OR RETAIL, DOES NOT HAVE LEGAL OWNERSHIP OF THE BRAND OF THE PRODUCT AND ELECTS TO FULFILL THE RESPONSIBILITIES OF THE PRODUCER FOR THAT PRODUCT.

3. PRODUCT. "PRODUCT" MEANS AN ITEM INTENDED FOR SALE WITHIN THE STATE THAT IS IDENTIFIED PURSUANT TO SECTION 27-3103 OF THIS ARTICLE AS APPROPRIATE FOR A PRODUCT STEWARDSHIP PROGRAM.

4. PRODUCT CATEGORY. "PRODUCT CATEGORY" MEANS A GROUP OF SIMILAR PRODUCTS DESIGNATED PURSUANT TO SECTION 27-3103 OF THIS ARTICLE FOR THE PURPOSE OF ESTABLISHING PRODUCT STEWARDSHIP PROGRAMS.

5. PRODUCT STEWARDSHIP. "PRODUCT STEWARDSHIP" MEANS A PRODUCER'S TAKING RESPONSIBILITY FOR MANAGING AND REDUCING THE LIFE-CYCLE IMPACTS OF THE PRODUCER'S PRODUCT, FROM PRODUCT DESIGN TO END-OF-LIFE MANAGEMENT.

6. PRODUCT STEWARDSHIP PROGRAM. "PRODUCT STEWARDSHIP PROGRAM" MEANS A PROGRAM, FINANCED WITHOUT A FEE TO CONSUMERS, EITHER MANAGED OR PROVIDED BY PRODUCERS AND INCLUDES, BUT IS NOT LIMITED TO, THE COLLECTION, TRANSPORTATION, REUSE AND RECYCLING OR DISPOSAL, OR BOTH, OF UNWANTED PRODUCTS.

7. RECYCLE. "RECYCLE" MEANS TO SEPARATE, DISMANTLE OR PROCESS THE MATERIALS, COMPONENTS OR COMMODITIES CONTAINED IN WASTE FOR THE PURPOSE OF PREPARING THE MATERIALS, COMPONENTS OR COMMODITIES FOR USE OR REUSE IN NEW PRODUCTS OR COMPONENTS THEREOF, BUT NOT FOR ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF COMBUSTION, GASIFICATION, PYROLYSIS OR OTHER MEANS. RECYCLING INCLUDES THE MANUAL AND MECHANICAL SEPARATION OF ELECTRONIC WASTE TO RECOVER MATERIALS, COMPONENTS OR COMMODITIES CONTAINED THEREIN FOR THE PURPOSE OF REUSE OR RECYCLING, AND CHANGING THE PHYSICAL OR CHEMICAL COMPOSITION OF WASTE TO SEGREGATE COMPONENTS FOR PURPOSES OF RECYCLING THOSE COMPONENTS.

8. REUSE. "REUSE" MEANS THE USE OF WASTE, WHICH IS TESTED AND CERTIFIED TO BE IN GOOD WORKING ORDER AND WHICH WAS REMOVED FROM THE WASTE STREAM, FOR THE SAME PURPOSE FOR WHICH IT WAS MANUFACTURED, INCLUDING THE CONTINUED USE OF WHOLE SYSTEMS OR COMPONENTS.

9. UNWANTED PRODUCT. "UNWANTED PRODUCT" MEANS A PRODUCT THAT IS NO LONGER WANTED BY ITS OWNER OR THAT HAS BEEN ABANDONED OR DISCARDED OR IS INTENDED TO BE DISCARDED BY ITS OWNER.

S 27-3103. IDENTIFICATION OF CANDIDATE PRODUCTS; REPORT.

1. BY JANUARY FIFTEENTH, TWO THOUSAND SIXTEEN, AND ANNUALLY THEREAFTER, THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE A REPORT ON PRODUCTS AND PRODUCT CATEGORIES THAT WHEN GENERATED AS WASTE MAY BE APPROPRIATELY MANAGED UNDER A PRODUCT STEWARDSHIP PROGRAM.

2. THE REPORT SHALL INCLUDE RECOMMENDATIONS FOR ESTABLISHING NEW PRODUCT STEWARDSHIP PROGRAMS AND SHALL IDENTIFY POTENTIAL FUNDING SOURCES FOR A HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. THE REPORT MAY INCLUDE RECOMMENDATIONS FOR CHANGES TO EXISTING PRODUCT STEWARDSHIP PROGRAMS. THE DEPARTMENT MAY IDENTIFY A PRODUCT OR PRODUCT CATEGORY AS A CANDIDATE FOR A PRODUCT STEWARDSHIP PROGRAM IF THE DEPARTMENT DETERMINES ONE OR MORE OF THE FOLLOWING CRITERIA ARE MET:

(A) THE PRODUCT OR PRODUCT CATEGORY IS FOUND TO CONTAIN TOXINS THAT POSE THE RISK OF AN ADVERSE IMPACT TO THE ENVIRONMENT OR PUBLIC HEALTH AND SAFETY;

(B) A PRODUCT STEWARDSHIP PROGRAM FOR THE PRODUCT WILL INCREASE THE RECOVERY OF MATERIALS FOR REUSE AND RECYCLING;

(C) A PRODUCT STEWARDSHIP PROGRAM WILL REDUCE THE COSTS OF WASTE MANAGEMENT TO LOCAL GOVERNMENTS AND TAXPAYERS;

(D) THERE IS SUCCESS IN COLLECTING AND PROCESSING SIMILAR PRODUCTS IN PROGRAMS IN OTHER STATES OR COUNTRIES; OR

(E) EXISTING VOLUNTARY PRODUCT STEWARDSHIP PROGRAMS FOR THE PRODUCT IN THE STATE ARE NOT EFFECTIVE IN ACHIEVING THE SOLID WASTE AND RECYCLING POLICIES OF THE STATE.

S 27-3105. NO LIMITATION OF MUNICIPAL AUTHORITY.

NOTHING IN THIS CHAPTER IS INTENDED TO CHANGE OR LIMIT MUNICIPAL AUTHORITY TO REGULATE COLLECTION OF SOLID WASTE, INCLUDING CURBSIDE COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.