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

7789

I N S E N A T E

May 12, 2016

Introduced by Sen. O'MARA -- 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 enacting the "solar panel collection act"; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Short title. This act shall be known and may be cited as the "solar panel collection act".

S 2. Article 27 of the environmental conservation law is amended by adding a new title 31 to read as follows:

TITLE 31

SOLAR PANEL COLLECTION ACT

SECTION 27-3101. DEFINITIONS.
27-3103. SOLAR PANEL COLLECTION.
27-3105. SOLAR PANEL WHOLESALER AND RETAILER REQUIREMENTS.
27-3107. DEPARTMENT RESPONSIBILITIES.
27-3109. DISPOSAL PROHIBITION.

S 27-3101. DEFINITIONS.

1. "COLLECTION PROGRAM" MEANS A SYSTEM FOR THE COLLECTION, TRANSPORTATION, RECYCLING, AND DISPOSAL OF OUT-OF-SERVICE SOLAR PANELS THAT IS FINANCED AND MANAGED OR PROVIDED BY A SOLAR PANEL MANUFACTURER INDIVIDUALLY OR COLLECTIVELY WITH OTHER SOLAR PANEL MANUFACTURERS IN ACCORDANCE WITH THIS SECTION.

2. "OUT-OF-SERVICE SOLAR PANEL" MEANS A SOLAR PANEL THAT IS REMOVED, REPLACED OR OTHERWISE TAKEN OUT OF SERVICE.

3. "QUALIFIED CONTRACTOR" MEANS A PERSON ENGAGED IN THE BUSINESS OF INSTALLATION, SERVICE OR REMOVAL OF SOLAR PANELS WHO EMPLOYS SEVEN OR MORE SERVICE TECHNICIANS OR INSTALLERS.

4. "QUALIFIED LOCAL GOVERNMENT AUTHORITIES" MEANS ANY MUNICIPAL CORPORATION OR PLANNING UNIT AS DEFINED IN SECTION 27-0107 OF THIS ARTICLE, OR COUNTY DEPARTMENTS OF HEALTH.

5. "SOLAR PANEL" MEANS A BANK OF SOLAR CELLS THAT, WHEN EXPOSED TO RADIATION FROM THE SUN, CAN GENERATE HEATING OR ELECTRICITY.

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

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6. "SOLAR PANEL MANUFACTURER" MEANS A PERSON WHO OWNS OR OWNED A NAME BRAND OF ONE OR MORE SOLAR PANELS SOLD IN THE STATE.

7. "SOLAR PANEL RETAILER" MEANS A PERSON WHO SELLS SOLAR PANELS OF ANY KIND PRIMARILY TO HOMEOWNERS OR OTHER NONPROFESSIONALS THROUGH ANY SALE OR DISTRIBUTION MECHANISM INCLUDING SALES USING THE INTERNET OR CATALOGS.

8. "SOLAR PANEL WHOLESALER" MEANS A PERSON WHO IS ENGAGED IN THE DISTRIBUTION AND WHOLESALE SELLING OF SOLAR PANELS TO CONTRACTORS, AND WHOSE TOTAL WHOLESALE SALES ACCOUNT FOR EIGHTY PERCENT OR MORE OF ITS TOTAL SALES. A SOLAR PANEL MANUFACTURER IS NOT, BY VIRTUE OF MANUFACTURING, A SOLAR PANEL WHOLESALER.

S 27-3103. SOLAR PANEL COLLECTION.

1. EACH SOLAR PANEL MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY, WITH OTHER SOLAR PANEL MANUFACTURERS, ESTABLISH AND MAINTAIN A PROGRAM FOR THE COLLECTION, TRANSPORTATION, RECYCLING, DISPOSAL AND PROPER MANAGEMENT OF OUT-OF-SERVICE SOLAR PANELS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

2. EACH SOLAR PANEL MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY WITH OTHER SOLAR PANEL MANUFACTURERS THROUGH A COLLECTION PROGRAM, DO THE FOLLOWING:

(A) ON AND AFTER JULY FIRST, TWO THOUSAND SEVENTEEN, COMPILE A LIST OF SOLAR PANEL WHOLESALERS IN THE STATE.

(B) ESTABLISH A SYSTEM TO COLLECT, TRANSPORT, RECYCLE, DISPOSE AND PROPERLY MANAGE OUT-OF-SERVICE SOLAR PANELS FROM ALL COLLECTION SITES.

(C) NOT INCLUDE ANY FEES OR OTHER CHARGES TO CONSUMERS OR PERSONS PARTICIPATING IN THE PROGRAM.

(D) BEGINNING JULY FIRST, TWO THOUSAND SEVENTEEN, CONDUCT EDUCATION AND OUTREACH EFFORTS, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

(I) ESTABLISH AND MAINTAIN A PUBLIC WEBSITE FOR THE DISSEMINATION OF EDUCATIONAL MATERIALS TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE SOLAR PANELS. THIS WEBSITE SHALL INCLUDE TEMPLATES OF THE EDUCATIONAL MATERIALS ON THE INTERNET WEBSITE IN A FORM AND FORMAT THAT CAN BE EASILY DOWNLOADED AND PRINTED. THE LINK TO THIS WEBSITE SHALL BE PROVIDED TO THE DEPARTMENT;

(II) CONTACT SOLAR PANEL WHOLESALERS AT LEAST ONCE A YEAR TO ENCOURAGE THEIR SUPPORT AND PARTICIPATION IN EDUCATING CUSTOMERS ON THE IMPORTANCE OF STATUTORY REQUIREMENTS FOR THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE SOLAR PANELS;

(III) CREATE AND MAINTAIN A WEB-BASED PROGRAM THAT ALLOWS CONTRACTORS AND CONSUMERS TO IDENTIFY COLLECTION SITES FOR OUT-OF-SERVICE SOLAR PANELS IN THE STATE AND PROVIDE A LIST OF COLLECTION SITES TO THE DEPARTMENT; AND

(IV) DEVELOP INFORMATIONAL ARTICLES, PRESS RELEASES, AND NEWS STORIES PERTAINING TO THE IMPORTANCE OF AND OPPORTUNITIES FOR COLLECTING AND RECYCLING OUT-OF-SERVICE SOLAR PANELS AND DISTRIBUTE THOSE MATERIALS TO TRADE PUBLICATIONS, LOCAL MEDIA, AND STAKEHOLDER GROUPS.

(E) ON OR BEFORE JULY FIRST, TWO THOUSAND SEVENTEEN, DEVELOP AND UPDATE AS NECESSARY EDUCATIONAL AND OTHER OUTREACH MATERIALS FOR DISTRIBUTION TO CONTRACTORS, CONTRACTOR ASSOCIATIONS AND CONSUMERS. THESE MATERIALS SHALL BE MADE AVAILABLE FOR USE BY PARTICIPATING SOLAR PANEL WHOLESALERS, SOLAR PANEL RETAILERS, CONTRACTORS, AND QUALIFIED GOVERNMENT AUTHORITIES. THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) SIGNAGE, SUCH AS POSTERS AND CLING SIGNAGE, THAT CAN BE PROMINENTLY DISPLAYED TO PROMOTE THE COLLECTION OF OUT-OF-SERVICE SOLAR PANELS TO CONTRACTORS AND CONSUMERS; AND

(II) WRITTEN MATERIALS OR TEMPLATES OF MATERIALS FOR REPRODUCTION BY SOLAR PANEL WHOLESALERS AND SOLAR PANEL RETAILERS TO BE PROVIDED TO CUSTOMERS AT THE TIME OF PURCHASE OR DELIVERY OF A SOLAR PANEL. THE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON THE IMPORTANCE OF PROPERLY MANAGING OUT-OF-SERVICE SOLAR PANELS AND OPPORTUNITIES FOR THE COLLECTION OF THESE SOLAR PANELS.

(F) PROVIDE AN OPPORTUNITY FOR THE DEPARTMENT TO REVIEW AND OFFER FEEDBACK AND SUGGESTIONS ON THE COLLECTION PROGRAM.

3. NO LATER THAN APRIL FIRST, TWO THOUSAND EIGHTEEN, AND NO LATER THAN APRIL FIRST OF EACH YEAR THEREAFTER, EACH SOLAR PANEL MANUFACTURER SHALL, INDIVIDUALLY OR COLLECTIVELY WITH OTHER SOLAR PANEL MANUFACTURERS, SUBMIT AN ANNUAL REPORT ON ITS COLLECTION PROGRAM TO THE DEPARTMENT COVERING THE ONE-YEAR PERIOD ENDING DECEMBER THIRTY-FIRST OF THE PREVIOUS YEAR. EACH REPORT SHALL BE POSTED ON THE MANUFACTURER'S OR PROGRAM OPERATOR'S RESPECTIVE INTERNET WEBSITE. THE ANNUAL REPORT SHALL INCLUDE THE FOLLOWING:

(A) THE NUMBER OF OUT-OF-SERVICE SOLAR PANELS COLLECTED AND MANAGED UNDER THIS SECTION DURING THE PREVIOUS CALENDAR YEAR;

(B) A LIST OF ALL SOLAR PANEL WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL GOVERNMENT AUTHORITIES, AND SOLAR PANEL RETAILERS PARTICIPATING IN THE PROGRAM AS SOLAR PANEL COLLECTION SITES AND THE NUMBER OF OUT-OF-SERVICE SOLAR PANELS RETURNED BY EACH;

(C) AN ACCOUNTING OF THE PROGRAM'S ADMINISTRATIVE COSTS;

(D) A DESCRIPTION OF OUTREACH STRATEGIES EMPLOYED UNDER PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION;

(E) EXAMPLES OF OUTREACH AND EDUCATIONAL MATERIALS USED UNDER PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION;

(F) THE INTERNET WEBSITE ADDRESS OF ADDRESSES WHERE THE ANNUAL REPORT MAY BE VIEWED ONLINE;

(G) A DESCRIPTION OF HOW THE OUT-OF-SERVICE SOLAR PANELS WERE MANAGED;

(H) ANY MODIFICATIONS THAT THE SOLAR PANEL MANUFACTURER IS PLANNING TO MAKE IN ITS COLLECTION PROGRAM; AND

(I) THE IDENTIFICATION OF A COLLECTION PROGRAM CONTACT AND THE BUSINESS PHONE NUMBER, MAILING ADDRESS, AND E-MAIL ADDRESS FOR THE CONTACT.

4. ALL CONTRACTORS, SOLAR PANEL WHOLESALERS, SOLAR PANEL MANUFACTURERS, AND SOLAR PANEL RETAILERS PARTICIPATING IN THE PROGRAM SHALL HANDLE AND MANAGE THE OUT-OF-SERVICE SOLAR PANELS IN A MANNER THAT IS CONSISTENT WITH THE REQUIREMENTS FOR THE DISPOSAL OF HAZARDOUS WASTE.

5. ON AND AFTER JULY FIRST, TWO THOUSAND SEVENTEEN, NO SOLAR PANEL WHOLESALER SHALL SELL, OFFER TO SELL, DISTRIBUTE, OR OFFER TO DISTRIBUTE SOLAR PANELS UNLESS THE WHOLESALER PARTICIPATES AS A COLLECTION SITE FOR OUT-OF-SERVICE SOLAR PANELS OR REQUESTS AND RECEIVES A WAIVER FROM THE DEPARTMENT FOLLOWING A DEMONSTRATION THAT SUCH PARTICIPATION WOULD POSE AN UNDUE BURDEN.

S 27-3105. SOLAR PANEL WHOLESALER AND RETAILER REQUIREMENTS.

NO SOLAR PANEL WHOLESALER OR SOLAR PANEL RETAILER SHALL SELL, OFFER FOR SALE OR DISTRIBUTE ANY SOLAR PANEL FOR FINAL SALE UNLESS THE MANUFACTURER OF SUCH SOLAR PANEL IS LISTED ON THE DEPARTMENT'S WEBSITE, IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

S 27-3107. DEPARTMENT RESPONSIBILITIES.

1. NO LATER THAN JUNE FIRST, TWO THOUSAND EIGHTEEN, THE DEPARTMENT SHALL MAINTAIN ON ITS WEBSITE INFORMATION REGARDING THE COLLECTION AND PROPER MANAGEMENT OF OUT-OF-SERVICE SOLAR PANELS IN THE STATE. THE INFORMATION SHALL INCLUDE THE FOLLOWING:

(A) A DESCRIPTION OF THE COLLECTION PROGRAMS ESTABLISHED UNDER THIS SECTION; AND

(B) A LIST OF ALL SOLAR PANEL WHOLESALERS, CONTRACTORS, QUALIFIED LOCAL GOVERNMENT AUTHORITIES, AND SOLAR PANEL RETAILERS PARTICIPATING IN THE PROGRAM AS COLLECTION SITES.

2. NO LATER THAN NOVEMBER FIRST, TWO THOUSAND TWENTY-ONE, THE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND THE LEGISLATURE REGARDING THE EFFECTIVENESS OF THE COLLECTION PROGRAMS ESTABLISHED UNDER THIS SECTION, INFORMATION ON THE NUMBER OF OUT-OF-SERVICE SOLAR PANELS COLLECTED, HOW THE OUT-OF-SERVICE SOLAR PANELS WERE MANAGED, AND AN ESTIMATE OF THE NUMBER OF SOLAR PANELS THAT ARE AVAILABLE FOR COLLECTION. THE DEPARTMENT SHALL USE THIS INFORMATION TO RECOMMEND WHETHER THE PROVISIONS OF THIS SECTION SHOULD BE EXTENDED, ALONG WITH ANY OTHER STATUTORY CHANGES. IN PREPARING THE REPORT, THE DEPARTMENT SHALL CONSULT WITH SOLAR PANEL MANUFACTURERS, ENVIRONMENTAL ORGANIZATIONS, MUNICIPAL RECYCLERS, AND OTHER INTEREST GROUPS.

S 27-3109. DISPOSAL PROHIBITION.

1. NO TRANSPORTER SHALL KNOWINGLY COMMINGLE SOLAR PANELS WITH SOLID WASTE OR RECYCLABLE MATERIALS.

2. NO TRANSPORTER SHALL KNOWINGLY DELIVER SOLAR PANELS OR KNOWINGLY CAUSE SUCH MATERIALS TO BE DELIVERED TO:

(A) AN INCINERATOR;

(B) A LANDFILL;

(C) A TRANSFER STATION; OR

(D) ANYONE WHO THE TRANSPORTER KNOWS OR SHOULD KNOW WILL EITHER COMMINGLE SUCH MATERIALS WITH OTHER SOLID WASTE OR DELIVER SUCH MATERIALS TO AN INCINERATOR OR A LANDFILL FOR DISPOSAL.

3. NO OPERATOR OF AN INCINERATOR OR A LANDFILL SHALL KNOWINGLY ACCEPT SOLAR PANELS FOR DISPOSAL.

4. NO OPERATOR OF A TRANSFER STATION SHALL KNOWINGLY COMMINGLE SOLAR PANELS WITH OTHER SOLID WASTE OR CAUSE SUCH MATERIALS TO BE TRANSFERRED TO AN INCINERATOR OR LANDFILL FOR DISPOSAL.

5. EACH LANDFILL AND TRANSFER STATION SHALL POST, IN A CONSPICUOUS LOCATION AT THE FACILITY, A SIGN STATING THAT SOLAR PANELS ARE NOT ACCEPTED AT THE FACILITY.

S 3. a. Any person or contractor who replaces a solar panel from a building shall deliver the solar panel to an appropriate collection site.

b. Any person or contractor who demolishes a building shall ensure that all solar panels are removed from the building prior to demolition and shall dispose of the solar panels at a collection site.

c. Any department, authority, instrumentality, or municipal corporation of the state administering a program that involves the removal or replacement of solar panels as a result of any statutory requirement, shall inform contractors of their statutory obligations to deliver the solar panels to a collection site and prohibiting the disposal of such solar panels in a solid-waste facility.

d. Any contractor, organization or subcontractor of such organization, who contracts with or receives funding or financing provided in whole or in part by or through any department, agency, instrumentality, or political subdivision of the state for the installation, service, removal or handling of solar panels, shall ensure the collection, transportation and proper management of out-of-service solar panels in accordance with the provisions of title 31 of article 27 of the environmental conservation law.

S 4. This act shall take effect immediately, and shall expire and be deemed repealed January 1, 2027.