

4522--C

2015-2016 Regular Sessions

I N S E N A T E

March 26, 2015

Introduced by Sens. AVELLA, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing a product stewardship program for primary batteries

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 16 to read as follows:

TITLE 16

PRODUCT STEWARDSHIP
FOR PRIMARY BATTERIES

SECTION 27-1601. DEFINITIONS.

27-1603. PRIMARY BATTERY REGISTRATION.

27-1605. PRIMARY BATTERY STEWARDSHIP PLAN.

27-1607. ANNUAL REPORT; PLAN AUDIT.

27-1609. AGENCY RESPONSIBILITIES.

27-1611. RETAILER OBLIGATIONS.

27-1613. ADMINISTRATIVE FEE.

27-1615. PENALTIES.

27-1617. RULEMAKING; PROCEDURE.

S 27-1601. DEFINITIONS.

WHEN USED IN THIS TITLE:

1. "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

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

LBD04566-05-6

1 2. "BRAND" MEANS A NAME, SYMBOL, WORD, OR TRACEABLE MARK THAT IDENTI-
2 FIES A PRIMARY BATTERY AND ATTRIBUTES THE PRIMARY BATTERY TO THE OWNER
3 OR LICENSEE OF THE BRAND AS THE PRODUCER.

4 3. "COLLECTION RATE" MEANS A PERCENTAGE BY WEIGHT THAT EACH PRODUCER
5 OR PRODUCERS COLLECTS BY AN ESTABLISHED DATE. THE COLLECTION RATE SHALL
6 BE CALCULATED BY WEIGHT BASED ON THE PERCENTAGE OF PRIMARY BATTERIES
7 THAT ARE COLLECTED DURING A CALENDAR YEAR, AS COMPARED TO THE AVERAGE
8 WEIGHT OF PRIMARY BATTERIES THAT WERE ESTIMATED TO HAVE BEEN SOLD IN THE
9 STATE BY PARTICIPATING PRODUCERS DURING THE THREE PREVIOUS CALENDAR
10 YEARS. ESTIMATES OF PRIMARY BATTERIES SOLD IN THE STATE MAY BE BASED ON
11 A REASONABLE PRO RATA CALCULATION BASED ON NATIONAL SALES.

12 4. "CONSUMER" MEANS ANY PERSON WHO RETURNS ANY NUMBER OF UNWANTED
13 PRIMARY BATTERIES.

14 5. "DISCARDED PRIMARY BATTERY" MEANS A PRIMARY BATTERY THAT IS NO
15 LONGER USED FOR ITS MANUFACTURED PURPOSE, WANTED BY ITS OWNER, OR FOR
16 ANY OTHER REASON ENTERS THE WASTE COLLECTION, RECOVERY, TREATMENT OR
17 RECYCLING SYSTEM.

18 6. "EASILY REMOVABLE" MEANS READILY DETACHABLE BY A PERSON WITHOUT THE
19 USE OF TOOLS OR WITH THE USE OF COMMON HOUSEHOLD TOOLS.

20 7. "PRIMARY BATTERY" MEANS A NONRECHARGEABLE BATTERY WEIGHING TWO
21 KILOGRAMS OR LESS, INCLUDING ALKALINE, CARBON-ZINC, AND LITHIUM METAL.
22 PRIMARY BATTERY SHALL NOT MEAN:

23 (A) BATTERIES INTENDED FOR INDUSTRIAL, BUSINESS TO BUSINESS, WARRANTY
24 OR MAINTENANCE SERVICES, OR NONPERSONAL USE;

25 (B) A BATTERY THAT IS SOLD IN A COMPUTER, COMPUTER MONITOR, COMPUTER
26 PERIPHERAL, PRINTER, TELEVISION, OR DEVICE CONTAINING A CATHODE RAY
27 TUBE;

28 (C) A BATTERY THAT IS NOT EASILY REMOVABLE OR IS NOT INTENDED TO BE
29 REMOVED FROM A CONSUMER PRODUCT; AND

30 (D) A BATTERY THAT IS SOLD OR USED IN A MEDICAL DEVICE, AS THAT TERM
31 IS DEFINED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, 21 U.S.C. S
32 321(H), AS MAY BE AMENDED.

33 8. "PRIMARY BATTERY STEWARDSHIP PLAN" OR "PLAN" MEANS A PLAN SUBMITTED
34 TO THE COMMISSIONER PURSUANT TO SECTION 27-1605 OF THIS TITLE BY AN
35 INDIVIDUAL PRODUCER OR BY TWO OR MORE PRODUCERS ACTING COLLECTIVELY.

36 9. "PRODUCER" MEANS ONE OF THE FOLLOWING WITH REGARD TO A PRIMARY
37 BATTERY THAT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE:

38 A. A PERSON WHO MANUFACTURES A PRIMARY BATTERY AND WHO SELLS, OFFERS
39 FOR SALE, OR DISTRIBUTES THAT PRIMARY BATTERY IN THE STATE UNDER THE
40 PERSON'S OWN NAME OR BRAND;

41 B. IF SUBPARAGRAPH A OF THIS PARAGRAPH DOES NOT APPLY, A PERSON WHO
42 OWNS OR LICENSES A TRADEMARK OR BRAND UNDER WHICH A PRIMARY BATTERY IS
43 SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE
44 TRADEMARK IS REGISTERED; OR

45 C. IF SUBPARAGRAPHS A AND B OF THIS PARAGRAPH DO NOT APPLY, A PERSON
46 WHO IMPORTS A PRIMARY BATTERY INTO THE STATE FOR SALE OR DISTRIBUTION.

47 10. "PROGRAM" OR "STEWARDSHIP PROGRAM" MEANS THE SYSTEM FOR THE
48 COLLECTION, TRANSPORTATION, RECYCLING, AND DISPOSAL OF PRIMARY BATTERIES
49 IMPLEMENTED PURSUANT TO AN APPROVED PRIMARY BATTERY STEWARDSHIP PLAN.

50 11. "RECHARGEABLE BATTERY" SHALL HAVE THE SAME MEANING AS SUBDIVISION
51 FOUR OF SECTION 27-1803 OF THIS ARTICLE.

52 12. "RECYCLING" MEANS ANY PROCESS BY WHICH DISCARDED PRODUCTS, COMPO-
53 NENTS, AND BY-PRODUCTS ARE TRANSFORMED INTO NEW USABLE OR MARKETABLE
54 MATERIALS IN A MANNER IN WHICH THE ORIGINAL PRODUCTS MAY LOSE THEIR
55 IDENTITY, BUT DOES NOT INCLUDE ENERGY RECOVERY OR ENERGY GENERATION BY

1 MEANS OF COMBUSTING DISCARDED PRODUCTS, COMPONENTS, AND BY-PRODUCTS WITH
2 OR WITHOUT OTHER WASTE PRODUCTS.

3 13. "RETAILER" MEANS A PERSON WHO OFFERS A PRIMARY BATTERY FOR SALE TO
4 ANY CONSUMER OR BUSINESS AT RETAIL IN THE STATE THROUGH ANY MEANS,
5 INCLUDING REMOTE OFFERINGS SUCH AS SALES OUTLETS, CATALOGUES, OR AN
6 INTERNET WEBSITE.

7 S 27-1603. PRIMARY BATTERY REGISTRATION.

8 1. SALE PROHIBITED. BEGINNING JANUARY FIRST, TWO THOUSAND EIGHTEEN,
9 EXCEPT AS SET FORTH UNDER THIS SUBDIVISION, A PRODUCER OF A PRIMARY
10 BATTERY SHALL NOT SELL, OFFER FOR SALE, OR DELIVER TO A RETAILER FOR
11 SUBSEQUENT SALE A PRIMARY BATTERY UNLESS ALL OF THE FOLLOWING HAS BEEN
12 MET:

13 A. THE PRODUCER IS REGISTERED UNDER AN APPROVED AND IMPLEMENTED PRIMA-
14 RY BATTERY STEWARDSHIP PLAN;

15 B. THE PRODUCER OR PRODUCERS HAVE PAID THE FEE UNDER SECTION 27-1613
16 OF THIS TITLE; AND

17 C. THE PRODUCER OR PRODUCERS AND THE BRAND OF SUCH PRODUCER OR PRODUC-
18 ERS DESIGNATED ON THE DEPARTMENT WEBSITE ARE IDENTIFIED AS COVERED BY AN
19 APPROVED PRIMARY BATTERY STEWARDSHIP PLAN.

20 2. NEW PRODUCERS. A PRODUCER WHO, AFTER JANUARY FIRST, TWO THOUSAND
21 EIGHTEEN, SEEKS TO SELL, OFFER FOR SALE, OR OFFER FOR PROMOTIONAL
22 PURPOSES IN THE STATE A PRIMARY BATTERY NOT PREVIOUSLY SOLD IN THE
23 STATE, SHALL NOTIFY THE COMMISSIONER PRIOR TO SELLING OR OFFERING A
24 PRODUCT NOT COVERED BY A STEWARDSHIP PLAN IN THE STATE. THE COMMISSIONER
25 SHALL LIST A PRODUCER WHO SUPPLIES NOTICE UNDER THIS SUBDIVISION AS A
26 "NEW PRODUCER" ON THE DEPARTMENT'S WEBSITE. A PRODUCER THAT SUPPLIES
27 NOTICE UNDER THIS SUBDIVISION SHALL HAVE NINETY DAYS TO EITHER ACT COOP-
28 ERATIVELY WITH AT LEAST ONE OTHER PRODUCER OR TO SUBMIT ITS OWN PRIMARY
29 BATTERY STEWARDSHIP PLAN FOR APPROVAL TO THE STATE.

30 3. EXEMPTION. A PRODUCER WHO ANNUALLY SELLS, OFFERS FOR SALE, DISTRIB-
31 UTES, OR IMPORTS IN THE STATE PRIMARY BATTERIES WITH A TOTAL RETAIL
32 VALUE OF LESS THAN FIVE HUNDRED DOLLARS SHALL BE EXEMPT FROM THE
33 REQUIREMENTS OF THIS TITLE.

34 S 27-1605. PRIMARY BATTERY STEWARDSHIP PLAN.

35 1. PRIMARY BATTERY STEWARDSHIP PLAN REQUIRED. ON OR BEFORE APRIL
36 FIRST, TWO THOUSAND SEVENTEEN, EACH PRODUCER SELLING, OFFERING FOR SALE,
37 OR OFFERING FOR PROMOTIONAL PURPOSES A PRIMARY BATTERY IN THE STATE
38 SHALL INDIVIDUALLY OR AS PART OF A PRIMARY BATTERY STEWARDSHIP ORGANIZA-
39 TION SUBMIT A PRIMARY BATTERY STEWARDSHIP PLAN TO THE COMMISSIONER FOR
40 REVIEW.

41 2. PRIMARY BATTERY STEWARDSHIP PLAN; MINIMUM REQUIREMENTS. EACH PRIMA-
42 RY BATTERY STEWARDSHIP PLAN SHALL INCLUDE, AT A MINIMUM, ALL OF THE
43 FOLLOWING ELEMENTS:

44 A. LIST OF PRODUCERS AND BRANDS. EACH PRIMARY BATTERY STEWARDSHIP PLAN
45 SHALL LIST:

46 (I) ALL PARTICIPATING PRODUCERS AND CONTACT INFORMATION FOR EACH OF
47 THE PARTICIPATING PRODUCERS; AND

48 (II) THE BRANDS OF PRIMARY BATTERIES COVERED BY THE PLAN.

49 B. FREE COLLECTION. EACH PRIMARY BATTERY STEWARDSHIP PLAN SHALL
50 PROVIDE FOR THE FREE COLLECTION OF PRIMARY BATTERIES FROM CONSUMERS. A
51 PRODUCER SHALL NOT REFUSE THE COLLECTION OF A PRIMARY BATTERY BASED ON
52 THE BRAND OR MANUFACTURER OF THE PRIMARY BATTERY.

53 C. COLLECTION; CONVENIENCE. EACH PRIMARY BATTERY STEWARDSHIP PLAN
54 SHALL:

(I) ALLOW ALL RETAILERS THAT SELL PRIMARY BATTERIES OR PRIMARY BATTERY-CONTAINING PRODUCTS COVERED UNDER THE PLAN AND ALL MUNICIPALITIES TO OPT TO BE A COLLECTION FACILITY;

(II) PROVIDE, AT A MINIMUM, NO FEWER THAN TWO PERMANENT COLLECTION FACILITIES IN EACH COUNTY IN THE STATE; AND

(III) PROVIDE FOR THE ACCEPTANCE FROM A CONSUMER OF UP TO TWENTY BATTERIES PER VISIT. A COLLECTION FACILITY MAY AGREE TO ACCEPT MORE THAN TWENTY BATTERIES PER VISIT FROM A CONSUMER.

D. METHOD OF DISPOSITION. EACH PRIMARY BATTERY STEWARDSHIP PLAN SHALL INCLUDE A DESCRIPTION OF THE METHOD THAT WILL BE USED TO RESPONSIBLY AND PROPERLY MANAGE DISCARDED PRIMARY BATTERIES AND ENSURE THAT THE COMPONENTS OF THE DISCARDED PRIMARY BATTERIES, TO THE EXTENT ECONOMICALLY AND TECHNICALLY FEASIBLE, ARE RECYCLED.

E. ROLES AND RESPONSIBILITIES. A PRIMARY BATTERY STEWARDSHIP PLAN SHALL LIST ALL KEY PARTICIPANTS IN THE PRIMARY BATTERY COLLECTION CHAIN, INCLUDING:

(I) THE NUMBER AND NAME OF THE COLLECTION FACILITIES ACCEPTING PRIMARY BATTERIES UNDER THE PLAN, INCLUDING THE ADDRESS AND CONTACT INFORMATION FOR EACH FACILITY;

(II) THE NAME AND CONTACT INFORMATION OF A TRANSPORTER OR CONTRACTOR COLLECTING PRIMARY BATTERIES FROM COLLECTION FACILITIES; AND

(III) THE NAME, ADDRESS, AND CONTACT INFORMATION OF THE RECYCLING FACILITIES THAT PROCESS THE COLLECTED PRIMARY BATTERIES.

F. EDUCATION AND OUTREACH. A PRIMARY BATTERY STEWARDSHIP PLAN SHALL INCLUDE AN EDUCATION AND OUTREACH PROGRAM. THE EDUCATION AND OUTREACH PROGRAM MAY INCLUDE MEDIA ADVERTISING, RETAIL DISPLAYS, ARTICLES IN TRADE AND OTHER JOURNALS AND PUBLICATIONS, AND OTHER PUBLIC EDUCATIONAL EFFORTS. THE EDUCATION AND OUTREACH PROGRAM SHALL DESCRIBE THE OUTREACH PROCEDURES THAT WILL BE USED TO PROVIDE NOTICE OF THE PROGRAM TO BUSINESSES, MUNICIPALITIES, RETAILERS, WHOLESALERS, AND TRANSPORTERS. AT A MINIMUM, THE EDUCATION AND OUTREACH PROGRAM SHALL NOTIFY THE PUBLIC OF THE FOLLOWING:

(I) THAT THERE IS A FREE COLLECTION PROGRAM FOR ALL PRIMARY BATTERIES; AND

(II) THE LOCATION OF COLLECTION POINTS AND HOW TO ACCESS THE COLLECTION PROGRAM.

3. IMPLEMENTATION. A PRODUCER OR PRODUCERS SHALL INCLUDE PROVISIONS IN THE PLAN FOR THE IMPLEMENTATION OF THE PROGRAM IN CONJUNCTION WITH THOSE RETAILERS AND MUNICIPALITIES ACTING AS COLLECTION FACILITIES UNDER A PROGRAM. IMPLEMENTATION OF THE PROGRAM SHALL BE AT NO COST TO RETAILERS OR MUNICIPALITIES ACTING AS COLLECTION FACILITIES UNDER A PROGRAM. A PRODUCER SHALL PROVIDE RETAILERS AND MUNICIPALITIES ACTING AS COLLECTION FACILITIES PRODUCTS OR EQUIPMENT FOR SETTING UP A COLLECTION POINT AND FOR PROVIDING FOR THE PICKUP OF COLLECTED PRIMARY BATTERIES, INCLUDING ARRANGING FOR THE MANAGEMENT OF THOSE PRIMARY BATTERIES.

S 27-1607. ANNUAL REPORT; PLAN AUDIT.

1. ANNUAL REPORT. ON OR BEFORE APRIL FIRST, TWO THOUSAND NINETEEN, AND ANNUALLY THEREAFTER, A PRODUCER OR A PRIMARY BATTERY STEWARDSHIP ORGANIZATION SHALL SUBMIT A REPORT TO THE COMMISSIONER THAT CONTAINS THE FOLLOWING:

A. THE WEIGHT OF PRIMARY BATTERIES COLLECTED BY THE PRODUCER OR PRODUCERS ACTING COOPERATIVELY IN THE PRIOR CALENDAR YEAR;

B. THE COLLECTION RATE ACHIEVED IN THE PRIOR CALENDAR YEAR;

C. SPECIFIES THE COLLECTION FACILITIES THAT FAILED IN THE PREVIOUS CALENDAR YEAR TO COLLECT A MINIMUM OF ONE HUNDRED POUNDS BY WEIGHT OF PRIMARY BATTERIES AND WHETHER THESE COLLECTION FACILITIES WILL BE ELIMI-

1 NATED FROM THE PRODUCER'S PLAN OR THE PLAN OF PRODUCERS ACTING COOPERA-
2 TIVELY;

3 D. THE LOCATIONS FOR ALL COLLECTION POINTS SET UP BY THE PRODUCERS
4 COVERED BY THE PLAN AND CONTACT INFORMATION FOR EACH LOCATION;

5 E. EXAMPLES AND DESCRIPTION OF EDUCATIONAL MATERIALS USED TO INCREASE
6 COLLECTION;

7 F. THE MANNER IN WHICH THE COLLECTED PRIMARY BATTERIES WERE MANAGED;

8 G. ANY MATERIAL CHANGE TO THE PRIMARY BATTERY STEWARDSHIP PLAN; AND

9 H. THE COST OF IMPLEMENTATION OF THE PROGRAM, INCLUDING THE COSTS OF
10 COLLECTION, RECYCLING, EDUCATION, AND OUTREACH.

11 2. PLAN AUDIT. ONCE EVERY FIVE YEARS, A PRODUCER OR STEWARDSHIP ORGAN-
12 IZATION SHALL HIRE AN INDEPENDENT THIRD PARTY TO AUDIT THE PLAN AND PLAN
13 OPERATION. THE AUDITOR SHALL EXAMINE THE EFFECTIVENESS OF THE PROGRAM IN
14 COLLECTING AND RECYCLING PRIMARY BATTERIES. THE INDEPENDENT AUDITOR
15 SHALL EXAMINE THE COST-EFFECTIVENESS OF THE PROGRAM AND COMPARE IT TO
16 THAT OF COLLECTION PROGRAMS FOR PRIMARY BATTERIES IN OTHER JURISDIC-
17 TIONS. THE INDEPENDENT AUDITOR SHALL MAKE RECOMMENDATIONS TO THE
18 COMMISSIONER ON WAYS TO INCREASE PROGRAM EFFICACY AND COST-EFFECTIVE-
19 NESS.

20 S 27-1609. AGENCY RESPONSIBILITIES.

21 1. APPROVAL OF PLAN. WITHIN NINETY DAYS AFTER RECEIPT OF A PROPOSED
22 STEWARDSHIP PLAN, THE COMMISSIONER SHALL DETERMINE WHETHER THE PLAN
23 COMPLIES WITH THE REQUIREMENTS OF SECTION 27-1605 OF THIS TITLE. IF THE
24 COMMISSIONER APPROVES A PLAN, THE COMMISSIONER SHALL NOTIFY THE APPLI-
25 CANT OF THE PLAN APPROVAL IN WRITING. IF THE COMMISSIONER REJECTS A
26 PLAN, THE COMMISSIONER SHALL NOTIFY THE APPLICANT IN WRITING OF THE
27 REASONS FOR REJECTING THE PLAN. AN APPLICANT WHOSE PLAN IS REJECTED BY
28 THE COMMISSIONER SHALL SUBMIT A REVISED PLAN TO THE COMMISSIONER WITHIN
29 FORTY-FIVE DAYS OF RECEIVING NOTICE OF REJECTION.

30 2. PLAN AMENDMENT; CHANGES. ANY CHANGES TO A PROPOSED STEWARDSHIP PLAN
31 SHALL BE APPROVED BY THE COMMISSIONER IN WRITING. THE COMMISSIONER, IN
32 HIS OR HER DISCRETION OR AT THE REQUEST OF A PRODUCER, MAY REQUIRE A
33 PRODUCER OR PRODUCERS TO AMEND AN APPROVED PLAN.

34 3. PUBLIC NOTICE. THE COMMISSIONER SHALL POST ALL PROPOSED AND
35 APPROVED PRIMARY BATTERY STEWARDSHIP PLANS ON THE DEPARTMENT'S WEBSITE.

36 4. PUBLIC INPUT. THE COMMISSIONER SHALL ESTABLISH A PROCESS UNDER
37 WHICH A PRIMARY BATTERY STEWARDSHIP PLAN, PRIOR TO PLAN APPROVAL OR
38 AMENDMENT, IS AVAILABLE FOR PUBLIC REVIEW AND COMMENT.

39 5. REGISTRATIONS. THE COMMISSIONER SHALL ACCEPT, REVIEW, AND APPROVE
40 OR DENY PRIMARY BATTERY STEWARDSHIP PLANS SUBMITTED UNDER SECTION
41 27-1605 OF THIS TITLE.

42 6. AGENCY WEBSITE. THE COMMISSIONER SHALL MAINTAIN A WEBSITE THAT
43 INCLUDES THE NAMES OF PRODUCERS WITH APPROVED PLANS OR PARTICIPATION IN
44 APPROVED PLANS. THE WEBSITE SHALL LIST ALL OF AN APPROVED PRODUCER'S
45 BRANDS COVERED BY THE STEWARDSHIP PLAN FILED WITH THE COMMISSIONER. THE
46 COMMISSIONER SHALL UPDATE INFORMATION ON THE WEBSITE WITHIN TEN DAYS OF
47 RECEIPT OF NOTICE OF ANY CHANGE TO THE LISTED INFORMATION.

48 7. TERM OF STEWARDSHIP PLAN. A PRIMARY BATTERY STEWARDSHIP PLAN
49 APPROVED BY THE COMMISSIONER UNDER THIS SECTION SHALL HAVE A TERM NOT TO
50 EXCEED FIVE YEARS, PROVIDED THAT THE PRODUCER REMAINS IN COMPLIANCE WITH
51 THE REQUIREMENTS OF THIS TITLE AND THE TERMS OF THE APPROVED PLAN.

52 S 27-1611. RETAILER OBLIGATIONS.

53 1. SALE PROHIBITED. EXCEPT AS SET FORTH UNDER SUBDIVISION TWO OF THIS
54 SECTION, BEGINNING JANUARY FIRST, TWO THOUSAND EIGHTEEN, NO RETAILER
55 SHALL SELL OR OFFER FOR SALE A PRIMARY BATTERY UNLESS THE RETAILER HAS
56 REVIEWED THE DEPARTMENT'S WEBSITE REQUIRED IN SUBDIVISION SIX OF SECTION

27-1609 OF THIS TITLE TO DETERMINE THAT THE PRODUCER OF THE PRIMARY BATTERY IS IMPLEMENTING AN APPROVED BATTERY STEWARDSHIP PLAN.

2. INVENTORY EXCEPTION; EXPIRATION OR REVOCATION OF MANUFACTURER REGISTRATION. A RETAILER SHALL NOT BE RESPONSIBLE FOR AN UNLAWFUL SALE OF A PRIMARY BATTERY UNDER THIS SECTION IF:

A. THE RETAILER PURCHASED THE PRIMARY BATTERY PRIOR TO JANUARY FIRST, TWO THOUSAND EIGHTEEN AND SELLS THE BATTERY OR PRODUCT ON OR BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN; OR

B. THE PRODUCER'S STEWARDSHIP PLAN EXPIRED OR WAS REVOKED, AND THE RETAILER TOOK POSSESSION OF THE IN-STORE INVENTORY OF PRIMARY BATTERIES PRIOR TO THE EXPIRATION OR REVOCATION OF THE PRODUCER'S STEWARDSHIP PLAN.

S 27-1613. ADMINISTRATIVE FEE.

1. FEE ASSESSED. A PRODUCER ACTING INDIVIDUALLY SHALL PAY A FEE OF SEVEN THOUSAND FIVE HUNDRED DOLLARS ANNUALLY AND A PRODUCER ACTING COOPERATIVELY WITH AT LEAST ONE OTHER PRODUCER SHALL PAY A FEE OF FIFTEEN THOUSAND DOLLARS ANNUALLY FOR OPERATION UNDER A STEWARDSHIP PLAN APPROVED BY THE COMMISSIONER UNDER SECTION 27-1609 OF THIS TITLE.

2. DISPOSITION OF FEE. THE FEES COLLECTED UNDER SUBDIVISION ONE OF THIS SECTION SHALL BE DEPOSITED IN THE HAZARDOUS WASTE REMEDIAL FUND UNDER SECTION NINETY-SEVEN-B OF THE STATE FINANCE LAW.

S 27-1615. PENALTIES.

A PRODUCER WHO VIOLATES THE REQUIREMENTS OF THIS TITLE SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER DAY FOR EACH DAY OF NONCOMPLIANCE.

S 27-1617. RULEMAKING; PROCEDURE.

THE COMMISSIONER MAY ADOPT RULES OR PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF THIS TITLE.

S 2. The department of environmental conservation shall work with primary battery manufacturers to explore ways to develop labeling highlighting the existence of battery recycling programs.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.