

# STATE OF NEW YORK

---

5027--A

2021-2022 Regular Sessions

## IN SENATE

February 22, 2021

---

Introduced by Sens. KAVANAGH, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the state finance 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:

1 Section 1. Declaration of legislative findings and intent. The legis-  
2 lature finds and declares that it is the policy of the state of New York  
3 to promote the recyclability of products and materials and to promote  
4 policies that encourage the optimal goal of closed-loop recycling and a  
5 circular economy. The legislature finds and declares that the solid  
6 waste management plan adopted by the department of environmental conser-  
7 vation on December 27, 2010 entitled "Beyond Waste, A Sustainable Mate-  
8 rials Management Strategy for New York State" promotes and supports a  
9 system of sustainable solid waste management and favors waste  
10 prevention, reuse, and recycling over the disposal of materials. The  
11 legislature finds and declares that in the solid waste management plan  
12 product stewardship was identified as a centerpiece of the new solid  
13 waste management plan for the state, and carpet was one of the products  
14 identified as most suited to a stewardship approach based on research  
15 and feedback from stakeholders. According to the report, carpet  
16 accounted for 1.4 percent of total solid waste generation in New York  
17 state, or roughly 512 million pounds. Carpet waste is heavy and bulky  
18 and imposes significant solid waste management cost on municipalities  
19 because it is expensive to dispose of. The legislature finds and  
20 declares that perfluoroalkyl and polyfluoroalkyl substances, or PFAS  
21 chemicals, which are harmful to humans are increasingly being found in  
22 household products, including carpets produced by major United States  
23 carpet producers. The legislature further finds and declares that reduc-

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

LBD09864-02-1

ing the toxic components in carpet will not only reduce exposure to toxic chemicals in our homes and workplaces, but also improve market opportunities for carpet to be recycled back into carpet materials. The legislature finds and declares that enactment of this act will reduce carpet waste, encourage closed-loop carpet recycling, and provide a mechanism for carpet producer stewardship of its product through its life cycle.

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 32 to read as follows:

#### TITLE 32

#### CARPET STEWARDSHIP

#### Section 27-3201. Short title and definitions.

27-3203. Labeling, warranty, and design requirements.

27-3205. Post-consumer content and adhesive requirements.

27-3207. Carpet stewardship advisory board.

27-3209. Stewardship organization responsibilities.

27-3211. Stewardship plan.

27-3213. Submission to the commissioner and approval timing.

27-3215. Collection convenience standard requirements.

27-3217. Stewardship assessment.

27-3219. Administrative fee.

27-3221. Producer responsibilities.

27-3223. Retailer and distributor responsibilities.

27-3225. Requirements for program collectors.

27-3227. Requirement for recycling.

27-3229. Department responsibilities.

27-3231. Rules and regulations.

27-3233. Annual audit and report.

27-3235. Enforcement and penalties.

27-3237. State preemption.

27-3239. Procurement.

27-3241. Anti-competitive conduct.

27-3243. Severability.

#### § 27-3201. 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 the title unless the context clearly requires otherwise:

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

(b) "Carpet" means a manufactured article that is (i) used in commercial buildings or single or multifamily residential buildings, (ii) affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior feature, and (iii) primarily constructed of a top surface of synthetic or natural face fibers or yarns or tufts attached to a backing system made of synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or residential broadloom carpet, modular carpet tiles, and artificial turf, pad or underlayment used in conjunction with a carpet. "Carpet" does not include handmade rugs, area rugs, or mats.

(c) "Carpet stewardship advisory board" means the board created under section 27-3207 of this title.

(d) "Closed-loop recycling" means a process where discarded carpet is collected, recycled, and then used again to make carpet.

(e) "Collection rate" means the amount of carpet collected and is determined by dividing the amount of discarded carpet collected for

1 recycling or reuse by the total amount of carpet discarded in a program  
2 year.

3 (f) "Collection site" means a permanent location in the state at which  
4 discarded carpet may be returned for recycling by a consumer.

5 (g) "Collector" means a person who collects discarded carpet for the  
6 purpose of supplying the recyclers.

7 (h) "Commissioner" means the commissioner of environmental conserva-  
8 tion.

9 (i) "Consumer" means a person located in the state who purchases,  
10 owns, leases, or uses carpet, including but not limited to an individ-  
11 ual, a business, corporation, limited partnership, not-for-profit corpo-  
12 ration, the state, a public corporation, public school, school district,  
13 private or parochial school, or board of cooperative educational  
14 services or governmental entity.

15 (j) "Department" means the department of environmental conservation.

16 (k) "Discarded carpet" means carpet that a consumer has used and  
17 disposed of in the state.

18 (l) "Distributor" or "wholesaler" means a person who buys or otherwise  
19 acquires carpet and sells or offers to sell carpet to retailers in this  
20 state.

21 (m) "Energy recovery" means the process by which all or a portion of  
22 solid waste materials are processed or combusted in order to utilize the  
23 heat content or other forms of energy derived from such solid waste  
24 materials.

25 (n) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemi-  
26 cals" means a class of fluorinated organic chemicals containing at least  
27 one fully fluorinated carbon atom.

28 (o) "Producer" means any person who manufactures or renovates carpet  
29 that is sold, offered for sale, or distributed in the state. "Producer"  
30 includes:

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

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

37 (p) "Proprietary information" means information that is a trade secret  
38 or is production, commercial, or financial information, that if  
39 disclosed would impair the competitive position of the submitter and  
40 would make available information not otherwise publicly available.

41 (q) "Recycling" means the process by which discarded carpet is proc-  
42 essed and returned to the economic mainstream for the purpose of prepar-  
43 ing the materials, components, or commodities for use or reuse in new  
44 products or components. "Recycling" does not include energy recovery or  
45 energy generation by means of combustion or landfill disposal of  
46 discarded carpet.

47 (r) "Recycling rate" means the percentage of discarded carpet products  
48 that is managed through recycling or reuse, as defined by this title,  
49 and is computed by dividing the amount of discarded carpet collected and  
50 recycled or reused by the total amount of discarded carpet collected  
51 over a program year.

52 (s) "Recycler" means a person that engages in recycling.

53 (t) "Retailer" means any person who sells or offers for sale carpet to  
54 a consumer in the state.

55 (u) "Reuse" means donating or selling a discarded carpet product back  
56 into the market for its original intended use, when the discarded carpet

1 product retains its original performance characteristics and can be used  
2 for its original purpose.

3 (v) "Sale" or "sell" means a transfer of title of carpet for consider-  
4 ation, including a remote sale conducted through a sales outlet, cata-  
5 log, website, telephone, or through similar electronic means. "Sale" or  
6 "sell" includes a lease through which carpet is provided to a consumer  
7 in the state by a producer, distributor, or retailer.

8 (w) "Stewardship organization" means a nonprofit entity representing  
9 producers and other designated representatives who are cooperating with  
10 one another to collectively establish and operate a stewardship program  
11 for the purpose of complying with this title.

12 (x) "Stewardship program" means a program financed and implemented by  
13 producers through a stewardship organization that provides for, but is  
14 not limited to, the collection, transportation, reuse, recycling, or  
15 proper management through disposal, or an appropriate combination there-  
16 of, of discarded carpet.

17 § 27-3203. Labeling, warranty, and design requirements.

18 1. On and after the effective date of this title, carpet sold or  
19 offered for sale in the state shall be accompanied by the following  
20 identifying information:

21 (a) Name of the producer and contact information;

22 (b) Carpet material, composition, and type of construction.

23 2. On and after the effective date of this title, all carpet shall be  
24 accompanied by an all-inclusive warranty for a period of seven years,  
25 with exceptions for inappropriate use and damage.

26 3. On and after a date that is two years after the effective date of  
27 this title, no carpet sold or offered for sale in the state shall  
28 contain or be treated with PFAS chemicals to provide a specific charac-  
29 teristic, appearance or quality, to perform a specific function, or for  
30 any other purpose.

31 § 27-3205. Post-consumer content and adhesive requirements.

32 1. On and after a date that is two years after the effective date of  
33 this title, all carpet sold in the state shall be manufactured with a  
34 minimum of ten percent from post-consumer sources; and four years there-  
35 after, a minimum of twenty percent from post-consumer sources; and five  
36 years thereafter, a minimum of thirty percent from such sources.

37 2. On and after a date which is two years after the effective date of  
38 this title, no permanent adhesives may be used in the installation of  
39 carpet. All carpet shall be designed and installed so as to allow  
40 removal without significant damage to the carpet.

41 § 27-3207. Carpet stewardship advisory board.

42 1. There is hereby established within the department the carpet  
43 stewardship advisory board to receive and review stewardship plans  
44 required by this title and make recommendations to the commissioner  
45 regarding their approval.

46 2. The board shall be composed of eleven voting members to be  
47 appointed by the commissioner. Such members shall include:

48 (a) one representative of carpet producers;

49 (b) one representative of carpet retailers;

50 (c) one representative of carpet recyclers;

51 (d) one representative of carpet collectors;

52 (e) two representatives of companies that utilize discarded carpet to  
53 manufacture a new product;

54 (f) one representative of a carpet installer association;

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

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

1 (i) one representative from the New York product stewardship council;  
2 and

3 (j) one at-large member.

4 3. Such appointments shall be made no later than the first day of  
5 January following the date on which this title takes effect.

6 4. The members shall designate a chair from among the members by  
7 majority vote. Board members shall receive no compensation but shall be  
8 entitled to their necessary and actual expenses incurred in the perform-  
9 ance of their board duties.

10 5. The board shall meet at least quarterly by call of the chair.

11 6. Each carpet stewardship plan prepared by a stewardship organization  
12 pursuant to this title shall be submitted to the advisory board, which  
13 shall consider whether the plan meets the criteria and objectives of  
14 this title.

15 7. The board shall, within ninety days of such submission, either:

16 (a) forward the plan to the commissioner with its recommendation for  
17 approval; or

18 (b) return the plan with its disapproval and stated reasons therefor,  
19 including any recommended changes to the plan necessary for approval.

20 8. A stewardship organization may resubmit a plan for approval at any  
21 time. Upon such resubmission, the board shall within ninety days forward  
22 the plan to the commissioner with its recommendation for approval or  
23 disapproval.

24 9. The board shall review the submitted annual reports and make such  
25 recommendations to the department and stewardship organization with an  
26 approved plan for improving the plan. 10. The decision of the board  
27 shall be by vote of the majority of its membership.

28 § 27-3209. Stewardship organization responsibilities.

29 1. A stewardship organization shall be created and financed collec-  
30 tively by carpet producers.

31 2. The stewardship organization shall demonstrate to the department  
32 the management capability and financial capacity to operate a statewide  
33 program.

34 3. The stewardship organization shall not control, be controlled by,  
35 nor be under common control of any single manufacturer, third-party  
36 organization, vendor, collector, or industry-wide trade association.

37 4. The stewardship organization shall have a board of directors  
38 composed of the following:

39 (a) two representatives of carpet producers;

40 (b) two representatives of carpet recyclers;

41 (c) two representatives of manufacturers who utilize recycled carpet  
42 materials but are not carpet producers;

43 (d) one representative of retailers;

44 (e) one representative of a New York-based environmental advocacy  
45 organization; and

46 (f) one representative of an organization that represents local  
47 government.

48 5. On or before the first of July following the formation of the  
49 carpet stewardship advisory board, a stewardship organization shall  
50 submit a stewardship plan to the carpet stewardship advisory board.

51 6. A stewardship organization operating a stewardship program shall  
52 update the stewardship plan every three years, at a minimum, and submit  
53 the updated plan to the department for review and approval.

54 7. The stewardship organization shall notify the department within  
55 thirty days of any significant changes or modifications to the plan or  
56 its implementation. Within thirty days of the notification, a written



1 plan amendment shall be submitted to the department for review and  
2 approval.

3 8. The stewardship organization shall meet with the carpet stewardship  
4 advisory board at least twice per year.

5 9. The stewardship organization shall be responsible for producers'  
6 compliance with the requirements of this title, including: the prepara-  
7 tion and implementation of a stewardship plan, the preparation and  
8 submission of annual audits, and reports to the commissioner as provided  
9 in section 27-3233 of this title.

10 § 27-3211. Stewardship plan.

11 1. The stewardship plan shall include, at a minimum:

12 (a) Certification that the stewardship program will accept for  
13 collection all discarded carpet;

14 (b) Contact information for each individual representing the steward-  
15 ship organization, including the address of the stewardship organization  
16 where the department will send any notifications and for service of  
17 process, designation of a program manager responsible for administering  
18 the program, a list of all producers participating in the stewardship  
19 program, and contact information for each producer, including the  
20 address for service of process, and the brands covered by the product  
21 stewardship program;

22 (c) A description of the methods by which discarded carpet will be  
23 collected;

24 (d) An explanation of how the stewardship program will achieve, at a  
25 minimum, a convenience standard under section 27-3215 of this title;

26 (e) A description of how the effectiveness of the stewardship program  
27 will be monitored, evaluated, and maintained;

28 (f) The names and locations of collection sites, transporters, and  
29 recyclers who will manage discarded carpet;

30 (g) A description of how the discarded carpet will be safely and  
31 securely transported, tracked, and handled from collection through final  
32 recycling and processing;

33 (h) A description of the methods to be used to reuse or recycle  
34 discarded carpet to ensure that the components, to the extent feasible,  
35 are transformed or remanufactured into finished products for use;

36 (i) A description of the methods to be used to manage or dispose of  
37 discarded carpet that cannot be recycled or reused;

38 (j) Establish goals for each year of the plan that increase the annual  
39 percent of discarded carpet that is collected (collection rate) and the  
40 annual percent that is recycled (recycling rate) and the percent of  
41 which, pending available markets, should be closed-loop recycled. This  
42 calculation is to be based on the previous three-year average amount of  
43 carpet sold in the state so that the following goals are met:

44 (i) Five years after the effective date of this title, twenty-five  
45 percent recycled, of which ten percent should be closed-loop recycling;

46 (ii) Ten years after the effective date of this title, fifty percent  
47 recycled, of which twenty percent should be closed-loop recycling; and

48 (iii) Fifteen years after the effective date of this title, seventy-  
49 five percent recycled, of which forty percent should be closed-loop  
50 recycling.

51 (k) A description of the outreach and educational materials that must  
52 be provided to consumers, retailers, collection sites, and transporters  
53 of discarded carpet, and how such outreach will be evaluated for effec-  
54 tiveness. These materials shall include:

(i) information about collection opportunities for post-consumer carpet; efforts to promote the source reduction, reuse, and recycling of carpet; and

(ii) a program that shall be implemented to train carpet installers on how to properly manage discarded carpet.

(l) An up-to-date stewardship organization website and toll-free telephone number through which a consumer can easily learn how and where to return their discarded carpet for recycling;

(m) An evaluation of the status of end markets for discarded carpet and what, if any, additional end markets are needed to improve the functioning of the programs;

(n) A funding mechanism that demonstrates sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan;

(o) A description of a process by which an independent auditor will be selected for the purposes of section 27-3233 of this title. The plan shall identify the criteria used by the stewardship organization in selecting an independent auditor, including:

(i) identify, in detail, the operational plans for interacting with retailers on the proper handling and management of post-consumer carpet;

(ii) define the methodology for calculating the fees necessary to achieve the annual collection and recycling rates;

(iii) ensure that fees collected are sufficient for implementation of this title.

(p) Any other information required by regulations promulgated by the department.

2. By the first of July after the effective date of this title, and by July first of each year thereafter, the stewardship organization shall submit a report to the department that includes, for the previous program year, a description of the stewardship program, including, but not limited to, the following:

(a) a description of the methods used to collect, transport, and process discarded covered products in regions of the state;

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

(c) the weight of all discarded covered products collected and reused or recycled in all regions of the state;

(d) an evaluation of whether the performance goals and recycling rates established in the stewardship plan have been achieved; and

(e) an estimated weight of discarded covered products and any component materials that were collected pursuant to the stewardship plan, but not recycled.

§ 27-3213. Submission to the commissioner and approval timing.

1. Before rejection or approval of a stewardship plan can be made in accordance with this title, the stewardship organization shall submit the plan to the carpet stewardship advisory board.

2. Within sixty days of submission of the stewardship plan to the commissioner upon the recommendation of the advisory board, the commissioner shall either approve the plan, or return it to the stewardship organization and provide the reasons for disapproval.

3. The stewardship organization shall provide a revised plan to the commissioner within sixty days, and the commissioner shall approve or reject such revised plan within thirty days.

4. The stewardship organization shall implement the stewardship plan on the first of January in the year following approval of the plan under this section.

§ 27-3215. Collection convenience standard requirements.

1 1. Program collection sites shall be made available within a fifteen  
2 mile radius for at least seventy percent of the population of the  
3 state's residents, and within a fifteen mile radius for at least eighty  
4 percent of the population of the state's residents within three years  
5 after the start of the program.

6 2. Convenience standards shall be evaluated by the department period-  
7 ically and the department may require additional collection locations to  
8 ensure adequate consumer convenience.

9 3. In those areas that are not included within the collection conven-  
10 ience standard in subdivision one of this section, the stewardship  
11 organization shall provide collection events at least once per year.

12 4. With respect to a city having a population of one million or more,  
13 after consultation with the appropriate local or regional entity respon-  
14 sible for the collection of solid and hazardous waste, the stewardship  
15 plan shall establish an alternative convenience standard that is  
16 approved by the department.

17 § 27-3217. Stewardship assessment.

18 1. One month after the approval of the stewardship plan, each producer  
19 shall include in the price of any carpet sold to retailers and distribu-  
20 tors in the state an amount determined under the approved stewardship  
21 plan. A retailer or distributor shall not deduct this amount from the  
22 purchase price.

23 2. Each producer shall remit the quarterly assessment amount to the  
24 stewardship organization each quarter.

25 3. Such an assessment shall be in an amount sufficient to cover the  
26 costs of collection, recycling, and other activities specified in the  
27 stewardship plan as required by this title.

28 4. The stewardship assessment amount shall take into account the  
29 financial burden that a particular carpet material has on the steward-  
30 ship program, and the amount of post-consumer recycled content contained  
31 in a particular carpet, and be differentiated to incentivize the use of  
32 post-consumer content in carpet and discourage the use of carpet materi-  
33 als that pose challenges for the recycling of discarded carpet.

34 5. The independent auditor, as described in the stewardship plan,  
35 shall verify that the amount added to each unit of carpet will cover the  
36 costs of implementing the stewardship plan.

37 6. The amounts so collected shall be deposited in a bank chartered in  
38 New York and shall be expended only for the purposes of compliance with  
39 this title.

40 § 27-3219. Administrative fee.

41 A stewardship organization shall pay the department the following  
42 fees, which shall be adequate to cover the department's full costs of  
43 administering and enforcing the stewardship program and shall not exceed  
44 the amount necessary to recover costs incurred by the department in  
45 connection with the administration and enforcement of the requirements  
46 of this title:

47 1. a one-time fee of ten thousand dollars for a plan upon submission  
48 of an initial stewardship plan; and

49 2. an annual administrative fee to be established by the department in  
50 regulations to be paid one year after the effective date of this title a  
51 reimbursement fee to the commissioner for the costs of administering  
52 this title.

53 § 27-3221. Producer responsibilities.

54 1. By the first of January of the year following the effective date of  
55 this title, each producer shall, through a stewardship organization,  
56 implement and finance a statewide stewardship program that:



1 (a) manages carpet by reducing its waste generation;  
2 (b) promotes carpet recycling and reuse; and  
3 (c) provides for negotiation and execution of agreements to collect,  
4 transport, process, and market the producer's discarded carpet for end-  
5 of-life recycling, reuse, or disposal.

6 2. No producer may sell or offer for sale carpet in the state unless  
7 the producer is part of a stewardship organization in compliance with  
8 the provisions of this title.

9 3. The stewardship program shall be free to the consumer, convenient  
10 and adequate to serve the needs of businesses and residents in all areas  
11 of the state on an ongoing basis.

12 4. On and after the first of March of the year following the effective  
13 date of this title, no carpet shall be sold or offered for sale in the  
14 state that is not the subject of an approved stewardship plan as  
15 provided in this title.

16 5. Each producer shall submit a plan to the department through partic-  
17 ipation in a certified stewardship organization that meets the require-  
18 ments of section 27-3211 of this title.

19 § 27-3223. Retailer and distributor responsibilities.

20 1. Beginning two years after the effective date of this title, no  
21 retailer or distributor may sell or offer for sale carpet in the state  
22 unless the producer of such carpet is participating in a stewardship  
23 program.

24 2. Any retailer or distributor may participate, on a voluntary basis,  
25 as a designated collection point pursuant to a product stewardship  
26 program and in accordance with applicable law.

27 3. No retailer or distributor shall be found to be in violation of  
28 this section if, on the date the carpet was ordered from the producer or  
29 its agent, the producer was listed as compliant with this title on the  
30 department's website.

31 § 27-3225. Requirements for program collectors.

32 A program collector:

33 1. May not charge for the acceptance of carpet at points of  
34 collection.

35 2. Shall accept all types and brands of carpet.

36 3. Shall abide by the best management practices for collection of  
37 discarded carpet that are provided by the stewardship organization with  
38 an approved plan.

39 4. Shall submit an annual report to the stewardship organization with  
40 an approved plan.

41 § 27-3227. Requirement for recycling.

42 All carpet that is removed by installers and to be discarded is  
43 required to be transported to a program collection site for recycling.

44 § 27-3229. Department responsibilities.

45 1. Upon stewardship plan approval, the department shall post informa-  
46 tion on its website about the stewardship organization and its partic-  
47 ipating producers that are in compliance with this title, including the  
48 brands of such producers.

49 2. Beginning the first of January of the year following the effective  
50 date of this title, the department shall post on its website the  
51 location of all collection sites identified to the department by the  
52 stewardship organization in its plans and annual reports.

53 3. The department shall post on its website the stewardship plan  
54 approved by the department.

1     4. The department shall deposit the fees collected pursuant to this  
2 title into the stewardship organization fund as established pursuant to  
3 section ninety-two-kk of the state finance law.

4     5. The department shall select one stewardship organization per five  
5 year operating period.

6     6. The department shall meet with the stewardship organization with an  
7 approved plan at least annually to review the functioning of the plan  
8 and identify components of the plan that need improvement.

9     7. Starting six years after the effective date of this title, the  
10 department shall impose a penalty of twenty-five cents per pound to be  
11 assessed on the stewardship organization for each pound of carpet beyond  
12 the amount actually recycled that is missing to achieve the goals speci-  
13 fied in the approved stewardship plan. All penalties collected pursuant  
14 to this section shall be paid over to the commissioner for deposit to  
15 the environmental protection fund established pursuant to section nine-  
16 ty-two-s of the state finance law.

17 § 27-3231. Rules and regulations.

18 The department is authorized to promulgate any rules and regulations  
19 necessary to implement this title.

20 § 27-3233. Annual audit and report.

21 1. The stewardship organization shall appoint an independent auditor  
22 who shall, at the end of each calendar year in which a stewardship plan  
23 is in effect, review the implementation of such plan and assess whether  
24 stewardship assessments provided for in such plan are sufficient to fund  
25 the costs of compliance with this title, and whether they exceed such  
26 costs. The results of such audit shall be submitted to the commissioner  
27 together with the annual report provided for in this section.

28 2. Starting with year two of the approved plan, the stewardship organ-  
29 ization shall demonstrate to the auditor that a financial reserve exists  
30 that will finance the organization's activities for at least six months.

31 3. At the close of each calendar year in which a stewardship plan is  
32 in effect, the stewardship organization shall submit a report to the  
33 commissioner and stewardship advisory board containing the following  
34 information:

35 (a) a detailed description of the methods used to collect, transport,  
36 and recycle discarded carpet in the state;

37 (b) an evaluation of the convenience of the collection process for  
38 consumers;

39 (c) the weight of discarded carpet collected, recycled, and otherwise  
40 disposed of;

41 (d) the amount of carpet sold in the state during the reporting peri-  
42 od;

43 (e) an estimate of the amount of discarded carpet that has been  
44 collected for reuse and an evaluation of what the stewardship organiza-  
45 tion can do to increase the amount of discarded carpet that is reused;

46 (f) a description of the collection infrastructure and listing of  
47 collection sites;

48 (g) a description and evaluation of the education and outreach  
49 program, samples of educational materials provided to consumers and  
50 carpet installers, and an evaluation of the effectiveness of the materi-  
51 als and methods used to disseminate the materials;

52 (h) information on progress made towards recycling targets and an  
53 explanation of why performance goals were not met, if applicable;

54 (i) an evaluation of the effectiveness of methods and processes used  
55 to achieve performance goals; and

56 (j) recommendations for any changes to the program.

1 § 27-3235. Enforcement and penalties.

2 1. Except as otherwise provided in this section, any person or entity  
3 that violates any provision of or fails to perform any duty imposed  
4 pursuant to this title or any rule or regulation promulgated pursuant  
5 thereto, or any term or condition of any registration or permit issued  
6 pursuant thereto, or any final determination or order of the commission-  
7 er made pursuant to this article or article seventy-one of this chapter  
8 shall be liable for a civil penalty not to exceed five hundred dollars  
9 for each violation and an additional penalty of not more than five  
10 hundred dollars for each day during which such violation continues.

11 2. Any retailer or distributor who violates any provision of or fails  
12 to perform any duty imposed pursuant to this title or any rule or regu-  
13 lation promulgated pursuant thereto, or any term or condition of any  
14 registration or permit issued pursuant thereto, or any final determi-  
15 nation or order of the commissioner made pursuant to this article or  
16 article seventy-one of this chapter shall be liable for a civil penalty  
17 not to exceed one thousand dollars for each violation and an additional  
18 penalty of not more than one thousand dollars for each day during which  
19 such violation continues.

20 3. Any producer or stewardship organization who violates any provision  
21 of or fails to perform any duty imposed pursuant to this title or any  
22 rule or regulation promulgated pursuant thereto, or any term or condi-  
23 tion of any registration or permit issued pursuant thereto, or any final  
24 determination or order of the commissioner made pursuant to this article  
25 or article seventy-one of this chapter shall be liable for a civil  
26 penalty not to exceed five thousand dollars for each violation and an  
27 additional penalty of not more than one thousand five hundred dollars  
28 for each day during which such violation continues. For a second  
29 violation committed within twelve months of a prior violation, the  
30 producer or stewardship organization shall be liable for a civil penalty  
31 not to exceed ten thousand dollars and an additional penalty of not more  
32 than three thousand dollars for each day during which such violation  
33 continues. For a third or subsequent violation committed within twelve  
34 months of any prior violation, the producer or stewardship organization  
35 shall be liable for a civil penalty not to exceed twenty thousand  
36 dollars and an additional penalty of six thousand dollars for each day  
37 during which such violation continues.

38 4. All producers participating in a stewardship organization shall be  
39 jointly and severally liable for any penalties assessed against the  
40 stewardship organization pursuant to this title and article seventy-one  
41 of this chapter.

42 5. Civil penalties under this section shall be assessed by the depart-  
43 ment after an opportunity to be heard pursuant to the provisions of  
44 section 71-1709 of this chapter, or by the court in any action or  
45 proceeding pursuant to section 71-2727 of this chapter, and in addition  
46 thereto, such person or entity may by similar process be enjoined from  
47 continuing such violation and any permit, registration or other approval  
48 issued by the department may be revoked or suspended or a pending  
49 renewal denied.

50 6. The department and the attorney general are hereby authorized to  
51 enforce the provisions of this title and all monies collected shall be  
52 deposited to the credit of the environmental protection fund established  
53 pursuant to section ninety-two-s of the state finance law.

54 § 27-3237. State preemption.

55 Jurisdiction in all matters pertaining to carpet recycling is, by this  
56 title, vested exclusively in the state. Any provision of any local law

1 or ordinance, or any rule or regulation promulgated thereto, governing  
2 carpet recycling shall, upon the effective date of this title, be  
3 preempted; provided however, that nothing in this section shall preclude  
4 a person from coordinating, for recycling or reuse, the collection of  
5 carpet.

6 § 27-3239. Procurement.

7 State procurement guidelines shall specify a requirement to purchase a  
8 certain amount of carpet with a minimum post-consumer recycled content.

9 § 27-3241. Anti-competitive conduct.

10 1. A stewardship organization that organizes the collection, trans-  
11 port, and processing of discarded carpets, in an action to increase the  
12 recycling of discarded carpets by a producer, stewardship organization,  
13 or retailer that affects the types and quantities being recycled or the  
14 cost and structure of any return program shall not be liable for any  
15 claim of a violation of anti-trust, restraint of trade, or unfair trade  
16 practice arising from conduct undertaken in accordance with the program  
17 pursuant to this section, including setting and collection of a steward-  
18 ship charge.

19 2. Provided however, subdivision one of this section shall not apply  
20 to any agreement establishing or affecting the output or production of  
21 carpet or any agreement restricting the geographic area or customers to  
22 which carpet will be sold.

23 § 27-3243. Severability.

24 The provisions of this title shall be severable and if any phrase,  
25 clause, sentence or provision of this title, or the applicability there-  
26 of to any person or circumstance shall be held invalid, the remainder of  
27 this title and the application thereof shall not be affected thereby.

28 § 3. The state finance law is amended by adding a new section 92-kk to  
29 read as follows:

30 § 92-kk. Carpet administrative fund. 1. There is hereby established in  
31 the joint custody of the state comptroller and the commissioner of taxa-  
32 tion and finance a special fund to be known as the "carpet administra-  
33 tive fund".

34 2. The carpet administrative fund shall consist of all revenue  
35 collected from administrative fees pursuant to title thirty-two of arti-  
36 cle twenty-seven of the environmental conservation law and any cost  
37 recoveries, or other revenues collected pursuant to title thirty-two of  
38 article twenty-seven of the environmental conservation law, and any  
39 other monies deposited into the fund pursuant to law.

40 3. Moneys of the fund, following appropriation by the legislature,  
41 shall be used for execution of carpet program administration pursuant to  
42 title thirty-two of article twenty-seven of the environmental conserva-  
43 tion law, and expended for the purposes as set forth in title thirty-two  
44 of article twenty-seven of the environmental conservation law.

45 § 4. This act shall take effect one year after it shall have become a  
46 law. Effective immediately, the addition, amendment and/or repeal of any  
47 rule or regulation necessary for the implementation of this act on its  
48 effective date are authorized to be made and completed on or before such  
49 effective date.