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:

Section 1. Declaration of legislative findings and intent. The legislature finds and declares that it is the policy of the state of New York to promote the recyclability of products and materials and to promote policies that encourage the optimal goal of closed-loop recycling and a circular economy. The legislature finds and declares that the solid waste management plan adopted by the department of environmental conservation on December 27, 2010 entitled "Beyond Waste, A Sustainable Materials Management Strategy for New York State" promotes and supports a system of sustainable solid waste management and favors waste prevention, reuse, and recycling over the disposal of materials. The legislature finds and declares that in the solid waste management plan product stewardship was identified as a centerpiece of the new solid waste management plan for the state, and carpet was one of the products identified as most suited to a stewardship approach based on research and feedback from stakeholders. According to the report, carpet accounted for 1.4 percent of total solid waste generation in New York state, or roughly 512 million pounds. Carpet waste is heavy and bulky and imposes significant solid waste management cost on municipalities because it is expensive to dispose of. The legislature finds and declares that perfluoroalkyl and polyfluoroalkyl substances, or PFAS chemicals, which are harmful to humans are increasingly being found in household products, including carpets produced by major United States 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.

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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

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

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

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

(h) "Commissioner" means the commissioner of environmental conservation.

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

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

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

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

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

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

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

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

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

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

(q) "Recycling" means the process by which discarded carpet is processed and returned to the economic mainstream for the purpose of preparing the materials, components, or commodities for use or reuse in new products or components. "Recycling" does not include energy recovery or energy generation by means of combustion or landfill disposal of discarded carpet.

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

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

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

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

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

(v) "Sale" or "sell" means a transfer of title of carpet for consideration, including a remote sale conducted through a sales outlet, catalog, website, telephone, or through similar electronic means. "Sale" or "sell" includes a lease through which carpet is provided to a consumer in the state by a producer, distributor, or retailer.

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

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

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

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

(a) Name of the producer and contact information;

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

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

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

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

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

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

§ 27-3207. Carpet stewardship advisory board.

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

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

(a) one representative of carpet producers;

(b) one representative of carpet retailers;

(c) one representative of carpet recyclers;

(d) one representative of carpet collectors;

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

(f) one representative of a carpet installer association;

(g) one representative from a statewide environmental organization;

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

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

(j) one at-large member.

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

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

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

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

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

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

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

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

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

§ 27-3209. Stewardship organization responsibilities.

1. A stewardship organization shall be created and financed collectively by carpet producers.

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

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

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

(a) two representatives of carpet producers;

(b) two representatives of carpet recyclers;

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

(d) one representative of retailers;

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

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

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

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

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

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

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

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

§ 27-3211. Stewardship plan.

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

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

(b) Contact information for each individual representing the stewardship organization, including the address of the stewardship organization where the department will send any notifications and for service of process, designation of a program manager responsible for administering the program, a list of all producers participating in the stewardship program, and contact information for each producer, including the address for service of process, and the brands covered by the product stewardship program;

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

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

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

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

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

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

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

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

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

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

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

(k) A description of the outreach and educational materials that must be provided to consumers, retailers, collection sites, and transporters of discarded carpet, and how such outreach will be evaluated for effectiveness. 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. Program collection sites shall be made available within a fifteen mile radius for at least seventy percent of the population of the state's residents, and within a fifteen mile radius for at least eighty percent of the population of the state's residents within three years after the start of the program.

2. Convenience standards shall be evaluated by the department periodically and the department may require additional collection locations to ensure adequate consumer convenience.

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

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

§ 27-3217. Stewardship assessment.

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

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

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

4. The stewardship assessment amount shall take into account the financial burden that a particular carpet material has on the stewardship program, and the amount of post-consumer recycled content contained in a particular carpet, and be differentiated to incentivize the use of post-consumer content in carpet and discourage the use of carpet materials that pose challenges for the recycling of discarded carpet.

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

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

§ 27-3219. Administrative fee.

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

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

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

§ 27-3221. Producer responsibilities.

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

(a) manages carpet by reducing its waste generation;
(b) promotes carpet recycling and reuse; and
(c) provides for negotiation and execution of agreements to collect, transport, process, and market the producer's discarded carpet for end-of-life recycling, reuse, or disposal.
2. No producer may sell or offer for sale carpet in the state unless the producer is part of a stewardship organization in compliance with the provisions of this title.
3. The stewardship program shall be free to the consumer, convenient and adequate to serve the needs of businesses and residents in all areas of the state on an ongoing basis.
4. On and after the first of March of the year following the effective date of this title, no carpet shall be sold or offered for sale in the state that is not the subject of an approved stewardship plan as provided in this title.
5. Each producer shall submit a plan to the department through participation in a certified stewardship organization that meets the requirements of section 27-3211 of this title.

§ 27-3223. Retailer and distributor responsibilities.

1. Beginning two years after the effective date of this title, no retailer or distributor may sell or offer for sale carpet in the state unless the producer of such carpet is participating in a stewardship program.
2. Any retailer or distributor may participate, on a voluntary basis, as a designated collection point pursuant to a product stewardship program and in accordance with applicable law.
3. No retailer or distributor shall be found to be in violation of this section if, on the date the carpet was ordered from the producer or its agent, the producer was listed as compliant with this title on the department's website.

§ 27-3225. Requirements for program collectors.

A program collector:
1. May not charge for the acceptance of carpet at points of collection.
2. Shall accept all types and brands of carpet.
3. Shall abide by the best management practices for collection of discarded carpet that are provided by the stewardship organization with an approved plan.
4. Shall submit an annual report to the stewardship organization with an approved plan.

§ 27-3227. Requirement for recycling.

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

§ 27-3229. Department responsibilities.

1. Upon stewardship plan approval, the department shall post information on its website about the stewardship organization and its participating producers that are in compliance with this title, including the brands of such producers.
2. Beginning the first of January of the year following the effective date of this title, the department shall post on its website the location of all collection sites identified to the department by the stewardship organization in its plans and annual reports.
3. The department shall post on its website the stewardship plan approved by the department.

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

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

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

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

§ 27-3231. Rules and regulations.

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

§ 27-3233. Annual audit and report.

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

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

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

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

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

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

(d) the amount of carpet sold in the state during the reporting period;

(e) an estimate of the amount of discarded carpet that has been collected for reuse and an evaluation of what the stewardship organization can do to increase the amount of discarded carpet that is reused;

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

(g) a description and evaluation of the education and outreach program, samples of educational materials provided to consumers and carpet installers, and an evaluation of the effectiveness of the materials and methods used to disseminate the materials;

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

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

(j) recommendations for any changes to the program.

§ 27-3235. Enforcement and penalties.

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

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

3. Any producer or stewardship organization who violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed five thousand dollars for each violation and an additional penalty of not more than one thousand five hundred dollars for each day during which such violation continues. For a second violation committed within twelve months of a prior violation, the producer or stewardship organization shall be liable for a civil penalty not to exceed ten thousand dollars and an additional penalty of not more than three thousand dollars for each day during which such violation continues. For a third or subsequent violation committed within twelve months of any prior violation, the producer or stewardship organization shall be liable for a civil penalty not to exceed twenty thousand dollars and an additional penalty of six thousand dollars for each day during which such violation continues.

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

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

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

§ 27-3237. State preemption.

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

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

§ 27-3239. Procurement.

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

§ 27-3241. Anti-competitive conduct.

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

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

§ 27-3243. Severability.

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

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

§ 92-kk. Carpet administrative fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "carpet administrative fund".

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

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

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