STATE OF NEW YORK

4938--C

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

Introduced by M. of A. DINOWITZ, RAGA, HEVESI, COLTON, BORES, SIMON, GLICK, SEAWRIGHT, OTIS, FAHY -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the manufacture and sale of lithium-ion batteries for use in light electric-powered vehicles or personal electric mobility devices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 28-G to read as follows:

ARTICLE 28-G

BATTERIES FOR MICROMOBILITY DEVICES, BICYCLES WITH ELECTRIC ASSIST, AND MOPEDS

Section 495. Definitions.

495-a. Sale of lithium-ion batteries and second-use lithium-ion batteries.

§ 495. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Lithium-ion battery" means a storage battery in which an electrical current is generated by lithium ions embedded in a carbon carbonate mixture or gelled polymer electrolyte.

2. "Second-use lithium-ion battery" means a lithium-ion battery that has been assembled, refurbished, repaired, repurposed or reconditioned using cells removed from used batteries.

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

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3. "Micromobility device" means an electric scooter as defined in section one hundred fourteen-e of the vehicle and traffic law, an electrical personal assistive mobility device as defined in section one hundred fourteen-d of the vehicle and traffic law, or other personal mobility device equipped with a lithium-ion or other storage battery, including, but not limited to, a skateboard, unicycle, or other similar wheeled device. The term "micromobility device" shall not include bicycles with electric assist as defined in section one hundred two-c of the vehicle and traffic law, wheelchairs or other electrically driven mobility assistance devices as defined in section one hundred thirty-a of the vehicle and traffic law, or any vehicle that is capable of being registered with the department of motor vehicles.

4. "Moped" means a limited use motorcycle as defined in section one hundred twenty-one-b of the vehicle and traffic law.

5. "Accredited testing laboratory" means a nationally recognized testing laboratory as recognized by the federal occupational safety and health administration or an independent laboratory that has been certified by an accrediting body to ISO 17025 or ISO 17065.

§ 495-a. Sale of lithium-ion batteries and second-use lithium-ion batteries. 1. (a) No person, firm, partnership, association, or corporation shall manufacture, distribute, assemble, recondition, sell or offer for sale a lithium-ion battery or a second-use lithium-ion battery intended for use in a bicycle with electric assist as defined in section one hundred two-c of the vehicle and traffic law or for use in a moped unless the lithium-ion battery or second-use lithium-ion battery has been certified by an accredited testing laboratory for compliance with a battery standard referenced in UL 2849, UL 2271 or EN 15194, or such other safety standard approved by the department of state pursuant to regulation. Such certification or the logo, wordmark, or name of such accredited testing laboratory shall be displayed on packaging or documentation at the time of sale for the product or directly on the product itself.

(b) No person, firm, partnership, association, or corporation shall manufacture, distribute, assemble, recondition, sell or offer for sale a lithium-ion battery or a second-use lithium-ion battery intended for use in a micromobility device unless the lithium-ion battery or second-use lithium-ion battery has been certified by an accredited testing laboratory for compliance with UL 2271 or UL 2272, or such other safety standard approved by the department of state pursuant to regulation. Such certification or the logo, wordmark, or name of such accredited testing laboratory shall be displayed on packaging or documentation at the time of sale for the product or directly on the product itself.

2. A person who violates subdivision one of this section is liable for a civil penalty as follows:

(a) for the first violation, a civil penalty of not more than five hundred dollars; and

(b) for each subsequent violation issued for the same offense within two years of the date of a first violation, a civil penalty of not more than one thousand dollars.

3. Each failure to comply with subdivision one of this section with respect to each separate lithium-ion battery or second-use lithium-ion battery constitutes a separate violation.

4. The district attorney, county attorney, and the corporation counsel shall have concurrent authority to seek the relief in this section, and all civil penalties obtained in any such action shall be retained by such municipality or county.

5. The department of state may promulgate rules and regulations that provide for any additional acceptable safety standard relating to a lithium-ion battery or second-use lithium-ion battery.

6. Nothing contained in this section shall be deemed to authorize the operation of any bicycle with electric assist, moped, or micromobility device on public roads, private roads open to public motor vehicle traffic, or any parking lot unless the operation of such bicycle with electric assist, moped, or micromobility device thereon is authorized pursuant to the provisions of the vehicle and traffic law and such bicycle with electric assist, moped, or micromobility device is in compliance with such law.

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