STATE OF NEW YORK

5386

2023-2024 Regular Sessions

IN ASSEMBLY

March 10, 2023

Introduced by M. of A. PALMESANO, ANGELINO, BLANKENBUSH, K. BROWN, BYRNES, GALLAHAN, J. M. GIGLIO, GOODELL, McDONOUGH, TAGUE -- read once and referred to the Committee on Environmental Conservation

AN ACT in relation to creating the commission on battery fire safety practices to evaluate the need for resources for police, volunteer fire departments and emergency medical services concerning health and safety best practices when responding to lithium-ion battery incidents

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

Section 1. Legislative findings and intent. The legislature finds that renewable energy mandates such as those codified in the Climate Leadership and Community Protection Act (CLCPA) are driving policy decisions statewide without accounting for either the costs of implementation or, in some cases, considerations of environmental and personnel health and safety. Perhaps nowhere is this more evident than in the state's push to purchase, procure and encourage increased use of electric vehicles and the development of large-scale energy storage facilities, both of which depend on lithium-ion batteries to function effectively. To date, despite CLCPA mandates and similar efforts, there has been little or no consideration given to the potential health, safety and environmental concerns associated with lithium-ion battery casualties, especially their tendencies toward high-heat fires caused by "thermal runaway" in the event of an automotive accident or other incident where battery casings suffer damage. New York state is home to over 230,000 first responders, who are currently placed at risk through environmentally and economically irresponsible mandates every time they respond to an incident involving an electric vehicle or battery-based energy storage. The legislature thus finds that the health and safety risks associated with lithium-ion battery incidents need to be studied in detail, and comprehensive best practices need to be developed, in order to protect those who are at the forefront of the state's emergency response capabilities.

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

LBD08491-01-3

Toward this end, the legislature further recommends that no purchase or procurement of electric vehicles or energy storage facilities for any state purpose occur prior to the conclusion of the commission on battery fire safety practices, and the purchase of all necessary equipment and training for all state first responder personnel based upon such commission's recommendations.

§ 2. (a) There is hereby created a commission to be known as the commission on battery fire safety practices, hereafter referred to as the "commission", which shall be tasked with evaluating the need for resources for volunteer fire departments and emergency medical services within the state concerning health and safety best practices when responding to lithium-ion battery incidents.

(b) The commission shall consist of 13 members, 7 of which shall be appointed by the governor, including the commissioner of the Division of Homeland Security and Emergency Services who shall serve as the chair; the Director of the Office of Fire Prevention and Control; the Director of the Division of Building Codes and Standards; the commissioner of the Department of Health or his or her designee; the commissioner of the Department of Environmental Conservation or his or her designee; the commissioner of the Department of Transportation or his or her designee; and the commissioner of the State Police. Additional members of the commission shall include 1 representative of a local police department, 1 member appointed by the temporary president of the senate, 1 member appointed by the speaker of the assembly, 1 member appointed by the minority leader of the senate and 1 member appointed by the minority leader of the assembly. All appointments to the commission shall be made within 90 days of the effective date of this act.

(c) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

(d) The commission shall consult with, or attempt to consult with, representatives from the following organizations regarding this study: a designee from the Firemen's Association of the State of New York, a designee from the New York State Association of Counties, a designee from the New York commission of Mayors, a designee from the New York State Association of Fire Chiefs, various towing companies, a designee from the Association of Fire Districts of New York, a designee from the Volunteer Fire Police Association of the State of New York, the County Fire Coordinators Association of the State of New York and the New York State Fire Marshal and Inspectors Association.

(e) The commission shall have the authority to conduct a study concerning health and safety best practices for first responders when responding to lithium-ion battery incidents and any other study the commission deems necessary.

§ 3. (a) The study shall evaluate health and safety best practices for first responders within the state when responding to lithium-ion battery incidents including, but not limited to:

(i) high-heat fires from the thermal runaway caused by battery damage, such as that likely to be suffered during an auto accident. This shall include, but shall not be limited to:

(1) equipment necessary to protect all first responders upon arrival to the scene of a lithium-ion battery fire;

(2) equipment necessary to contain and control such fires; and

(3) regulations, policies and procedures necessary for traffic control concerning auto accidents where an electric vehicle (EV) is involved.

(ii) health and safety concerns connected to environmental contamination caused by the release of toxic or hazardous substances as a result of battery damage, including specific health risks to first responder personnel;

(iii) equipment, policies and procedures necessary for the safe removal and storage of an EV from the scene of an accident;

(iv) estimates concerning a state fund designed to pay for any necessary specialized equipment and training for all emergency first responder personnel throughout the state;

(v) the estimated costs of replacing or renovating fire department apparatus', vehicles, personal protective equipment, fire department structures, recruitment and retention programs, training programs or any other necessary expenses outlined in such report, and assessed at the county level; and

(vi) any other issue or concern the commission deems necessary.

(b) The study shall evaluate health and safety risks, as well as requirements for all police, volunteer fire departments, volunteer emergency medical and volunteer fire police services within the state concerning fires or other incidents involving large-scale energy storage facilities containing lithium-ion batteries as a primary means of energy storage. This evaluation shall include, but shall not be limited to:

(i) local emergency response plans;

(ii) equipment, training, policies and procedures necessary to contain or control such large-scale thermal runaway events (fires) or other incidents;

(iii) possible environmental contamination concerns surrounding the release of battery materials into the air, soil or area water table, including specific health risks to first responder personnel;

(iv) available large-scale evacuation plans in the event of a fire, toxic release or other incident;

(v) coordination with federal resources for addressing large scale thermal runaway events; and

(vi) any other issue or concern the commission deems necessary.

(c) The commission shall hold at least 3 public hearings within the state, 1 in each of the following appellate districts: the second appellate district; the third appellate district; and the fourth appellate district.

(d) The commission shall submit a written report to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly and the minority leader of the assembly detailing their findings. This report shall be made publicly available on the division of homeland security and emergency services' website within 30 days of being published.

(e) The commission shall conduct and complete such study no later than 1 year after the effective date of this act. The study shall include recommendations that shall have the full force and effect of rule and regulation for all state agencies.

§ 4. This act shall take effect immediately.