

# STATE OF NEW YORK

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5386

2023-2024 Regular Sessions

## IN ASSEMBLY

March 10, 2023

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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:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 renewable energy mandates such as those codified in the Climate Leader-  
3 ship and Community Protection Act (CLCPA) are driving policy decisions  
4 statewide without accounting for either the costs of implementation or,  
5 in some cases, considerations of environmental and personnel health and  
6 safety. Perhaps nowhere is this more evident than in the state's push to  
7 purchase, procure and encourage increased use of electric vehicles and  
8 the development of large-scale energy storage facilities, both of which  
9 depend on lithium-ion batteries to function effectively. To date,  
10 despite CLCPA mandates and similar efforts, there has been little or no  
11 consideration given to the potential health, safety and environmental  
12 concerns associated with lithium-ion battery casualties, especially  
13 their tendencies toward high-heat fires caused by "thermal runaway" in  
14 the event of an automotive accident or other incident where battery  
15 casings suffer damage. New York state is home to over 230,000 first  
16 responders, who are currently placed at risk through environmentally and  
17 economically irresponsible mandates every time they respond to an inci-  
18 dent involving an electric vehicle or battery-based energy storage. The  
19 legislature thus finds that the health and safety risks associated with  
20 lithium-ion battery incidents need to be studied in detail, and compre-  
21 hensive best practices need to be developed, in order to protect those  
22 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.

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

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

13 (b) The commission shall consist of 13 members, 7 of which shall be  
14 appointed by the governor, including the commissioner of the Division of  
15 Homeland Security and Emergency Services who shall serve as the chair;  
16 the Director of the Office of Fire Prevention and Control; the Director  
17 of the Division of Building Codes and Standards; the commissioner of the  
18 Department of Health or his or her designee; the commissioner of the  
19 Department of Environmental Conservation or his or her designee; the  
20 commissioner of the Department of Transportation or his or her designee;  
21 and the commissioner of the State Police. Additional members of the  
22 commission shall include 1 representative of a local police department,  
23 1 member appointed by the temporary president of the senate, 1 member  
24 appointed by the speaker of the assembly, 1 member appointed by the  
25 minority leader of the senate and 1 member appointed by the minority  
26 leader of the assembly. All appointments to the commission shall be made  
27 within 90 days of the effective date of this act.

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

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

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

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

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

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

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

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

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

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

7 (iv) estimates concerning a state fund designed to pay for any neces-  
8 sary specialized equipment and training for all emergency first respon-  
9 der personnel throughout the state;

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

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

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

22 (i) local emergency response plans;

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

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

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

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

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

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

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

44 (e) The commission shall conduct and complete such study no later than  
45 1 year after the effective date of this act. The study shall include  
46 recommendations that shall have the full force and effect of rule and  
47 regulation for all state agencies.

48 § 4. This act shall take effect immediately.