

STATE OF NEW YORK

643--D

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2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sens. KAVANAGH, HOYLMAN-SIGAL -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to rechargeable battery recycling

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

1 Section 1. The article heading of article 27 of the environmental
2 conservation law is amended to read as follows:

3 REDUCTION, COLLECTION, REUSE, RECYCLING,
4 TREATMENT AND DISPOSAL OF [~~REFUSE AND OTHER~~] SOLID WASTE AND
5 EXTENDED PRODUCER RESPONSIBILITY

6 § 2. The title heading of title 18 of article 27 of the environmental
7 conservation law, as added by chapter 562 of the laws of 2010, is
8 amended to read as follows:

9 EXTENDED PRODUCER RESPONSIBILITY FOR
10 RECHARGEABLE [~~BATTERY RECYCLING~~] BATTERIES

11 § 3. Section 27-1801 of the environmental conservation law, as added
12 by chapter 562 of the laws of 2010, is amended to read as follows:

13 § 27-1801. Short title.

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

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1 This title shall be known as and may be cited as the "[~~New York State~~
2 Extended Producer Responsibility Law for Rechargeable [~~Battery Law~~
3 Batteries".

4 § 4. Subdivision 4 of section 27-1803 of the environmental conserva-
5 tion law, as added by chapter 562 of the laws of 2010, is amended and a
6 new subdivision 7 is added to read as follows:

7 4. "rechargeable battery" means any rechargeable nickel-cadmium,
8 sealed lead, lithium ion, nickel metal hydride battery, or any other
9 such dry cell battery capable of being recharged weighing less than
10 twenty-five pounds, or battery packs containing such batteries; but
11 shall not include a battery used as the principal electric power source
12 for a vehicle, such as, but not limited to, an automobile, boat, truck,
13 tractor, golf cart or wheelchair, except such term shall include a
14 battery used as the principal electric power source for an electric
15 scooter or bicycle with electric assist; for storage of electricity
16 generated by an alternative power source, such as solar or wind-driven
17 generators; or for memory backup that is an integral component of an
18 electronic device;

19 7. "sell" or "sale" means any transfer for consideration of title or
20 the right to use, from a manufacturer or retailer to a person, includ-
21 ing, but not limited to, transactions conducted through retail sales
22 outlets, catalogs, mail, the telephone, the internet, or any electronic
23 means; "sell" or "sale" shall not include samples, donations, and reuse.

24 § 5. Paragraphs a and d of subdivision 1 of section 27-1807 of the
25 environmental conservation law, as added by chapter 562 of the laws of
26 2010, are amended to read as follows:

27 a. [~~Retailers~~] Except for retailers that offer for sale an electric
28 scooter or bicycle with electric assist or the batteries that power
29 them, retailers having a place of business in the state shall accept
30 from consumers at any time during normal business hours rechargeable
31 batteries of a similar size and shape as the retailer offers for sale.
32 Retailers shall take up to ten such batteries per day from any person
33 regardless of whether such person purchases replacement batteries, and
34 retailers shall also accept as many such batteries as a consumer
35 purchases from the retailer. Retailers may not sell or offer for sale an
36 electric scooter or bicycle with electric assist or the batteries that
37 power them unless the battery manufacturer is participating in a battery
38 collection program approved by the department pursuant to this title.
39 Retailers may serve as a collection point for batteries designed to
40 power electric scooters or bicycles with electric assist. Retailers that
41 serve as a collection point for batteries shall conspicuously post and
42 maintain, at or near the point of entry to the place of business, a
43 legible sign, not less than eight and one-half inches by eleven inches
44 in size, stating that used rechargeable batteries of the size and shape
45 sold or offered for sale by the retailer may not enter the solid waste
46 stream, and that the retail establishment is a collection site for recy-
47 cling such batteries. Such sign shall state the following in letters at
48 least one inch in height: "It is illegal to dispose of rechargeable
49 batteries in [~~the state of~~] New York State as solid waste. We accept
50 used rechargeable batteries for return to the manufacturer."

51 d. Retailers must be in compliance with the provisions of this subdi-
52 vision no later than one hundred eighty days after the effective date of
53 this title or, with respect to a product that is added to the definition
54 of "rechargeable battery" in subdivision four of section 27-1803 of this
55 title, no later than one hundred eighty days after the effective date of

1 the chapter of the laws of two thousand twenty-three that amended such
2 subdivision.

3 § 6. Paragraphs a and b of subdivision 2 of section 27-1807 of the
4 environmental conservation law, as added by chapter 562 of the laws of
5 2010, are amended to read as follows:

6 a. Within ninety days of the effective date of this title or, with
7 respect to a product that is added to the definition of "rechargeable
8 battery" in subdivision four of section 27-1803 of this title, within
9 one hundred eighty days of the effective date of the chapter of the laws
10 of two thousand twenty-three that amended such subdivision, submittance
11 to the commissioner of a plan that identifies the methods by which
12 battery manufacturers will safely collect, transport, and recycle
13 rechargeable batteries collected by retailers at the expense of the
14 battery manufacturer and provide retailers with information on the safe
15 handling and storage of rechargeable batteries.

16 b. Submittance to the department of annual reports, on a form
17 prescribed by the department, concerning the amount of rechargeable
18 batteries received within the state and recycled either by number or by
19 weight; the costs of such efforts; and any other relevant information as
20 required by the department. With respect to a product that is added to
21 the definition of rechargeable battery in subdivision four of section
22 27-1803 of this title, such reports shall include the weight of
23 rechargeable batteries received within a city with a population of one
24 million or more.

25 § 7. Subdivision 2 of section 27-1807 of the environmental conserva-
26 tion law is amended by adding a new paragraph d and a new subdivision
27 2-a is added to read as follows:

28 d. As applicable, providing for the safe collection and disposal of
29 damaged or defective batteries from electric scooters or bicycles with
30 electric assist collected by retailers and by government agencies.

31 2-a. A battery manufacturer may not sell, offer for sale, or distrib-
32 ute rechargeable batteries in the state unless the battery manufacturer
33 is implementing or participating under an approved plan in accordance
34 with this section.

35 § 8. Section 27-1809 of the environmental conservation law is amended
36 by adding a new subdivision 5 to read as follows:

37 5. Notwithstanding subdivision four of this section, in a city with a
38 population of one million or more, the provisions of section 27-1805 and
39 subdivision one of section 27-1807 of this title shall only be enforced
40 by an agency or agencies designated by the mayor of such city. Any
41 notice of violation issued by an agency designated by the mayor of such
42 city charging a violation of section 27-1805 and subdivision one of
43 section 27-1807 of this title shall be returnable to the office of
44 administrative trials and hearings of such city. Such office of adminis-
45 trative trials and hearings shall have the power to impose the civil
46 penalties set forth in subdivisions one, two and three of this section.
47 All civil penalties collected for any violation of this title that have
48 been imposed by the office of administrative trials and hearings of such
49 city shall be paid into the general fund of such city.

50 § 9. Section 27-1811 of the environmental conservation law, as added
51 by chapter 562 of the laws of 2010, is amended to read as follows:

52 § 27-1811. State preemption.

53 Jurisdiction in all matters pertaining to rechargeable battery recycl-
54 ing is, by this title, vested exclusively in the state. Any provision of
55 any local law or ordinance, or any rule or regulation promulgated there-
56 to, governing rechargeable battery recycling shall, upon the effective

1 date of section 27-1805 of this title, be preempted; provided, however,
2 that nothing in this section shall preclude a person from coordinating,
3 for recycling or reuse, the collection of rechargeable batteries and
4 provided, further, however, that nothing in this section shall preclude
5 the enforcement of this title pursuant to subdivision five of section
6 27-1809 of this title.

7 § 10. This act shall take effect immediately; provided, however, that
8 the amendments to paragraph a of subdivision 1 of section 27-1807 of the
9 environmental conservation law made by section five of this act shall
10 take effect one hundred eighty days after it shall have become a law.