# 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:**

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

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

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

**EXTENDED PRODUCER RESPONSIBILITY FOR**
RECHARGEABLE [~~**BATTERY RECYCLING**~~] **BATTERIES**

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

§ 27-1801. Short title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 27-1811. State preemption.

Jurisdiction in all matters pertaining to rechargeable battery 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 rechargeable battery recycling shall, upon the effective

date of section 27-1805 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 rechargeable batteries **and provided, further, however, that nothing in this section shall preclude the enforcement of this title pursuant to subdivision five of section 27-1809 of this title**.

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