STATE OF NEW YORK

1691

2023-2024 Regular Sessions

IN SENATE

January 13, 2023

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the state finance law, in relation to enacting the "New York photovoltaic module stewardship and take-back program act"

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

Section 1. Short title. This act shall be known and may be cited as the "New York photovoltaic module stewardship and take-back program act".

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 34 to read as follows:

TITLE 34

NEW YORK PHOTOVOLTAIC MODULE STEWARDSHIP AND TAKE-BACK PROGRAM

Section 27-3401. Definitions.

27-3403. New York photovoltaic module stewardship and take-back program.

27-3405. Manufacturer stewardship plans.

27-3407. Annual report.

27-3409. Enforcement.

27-3411. Administrative fee.

§ 27-3401. Definitions.

For the purposes of this title, the following terms shall have the following meanings:

1. "Manufacturer" means any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) manufactures or has manufactured a photovoltaic module under its own brand names for sale in or into this state;

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

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(b) assembles or has assembled a photovoltaic module that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) resells or has resold in or into this state under its own brand names a photovoltaic module produced by other suppliers, including retail establishments that sell photovoltaic modules under their own brand names;

(d) manufactures or has manufactured a cobranded photovoltaic module product for sale in or into this state that carries the name of both the manufacturer and a retailer;

(e) imports or has imported a photovoltaic module into the United States that is sold in or into this state. However, if the imported photovoltaic module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under this subdivision, that person is the manufacturer;

(f) sells at retail a photovoltaic module acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products; or

(g) elects to assume the responsibility and register in lieu of a manufacturer as defined under this subdivision;

2. "Person" means any individual, business entity, partnership, company, corporation, limited liability company, nonprofit organization, association, governmental entity, educational or cultural institutions, public benefit corporation, or any other group of individuals, or any officer or employee or agent thereof;

3. "Photovoltaic module" means the smallest non-divisible, environmentally protected assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended to generate electrical power under sunlight, except that "photovoltaic module" does not include a photovoltaic cell that is part of a consumer electronic device for which it provides electricity needed to make the consumer electronic device function. "Photovoltaic module" includes but is not limited to interconnections, terminals, and protective devices such as diodes that are:

(a) installed on, connected to, or integral with buildings; or

(b) used as components of freestanding, off-grid, power generation systems, such as for powering water pumping stations, electric vehicle charging stations, fencing, street and signage lights, and other commercial or agricultural purposes;

4. "Reuse" means any operation by which a photovoltaic module or a component of a photovoltaic module changes ownership and is used for the same purpose for which it was originally purchased;

5. "Stewardship organization" means a person appointed by one or more manufacturers to act on behalf of the manufacturer to implement and operate a stewardship plan under this title;

6. "Stewardship plan" means the plan developed by a manufacturer or its designated stewardship organization for a self-directed stewardship program; and

7. "Stewardship program" means the activities conducted by a manufacturer or a stewardship organization to fulfill the requirements of this title and implement the activities described in its stewardship plan.

§ 27-3403. New York photovoltaic module stewardship and take-back program.

1. The department shall develop guidance for a photovoltaic module stewardship and take-back program to guide manufacturers in preparing and implementing a self-directed program to ensure the convenient, safe,

and environmentally sound take-back and recycling of photovoltaic modules and their components and materials. By December thirty-first, two thousand twenty-four, the department shall establish a process to develop guidance for photovoltaic module stewardship plans by working with manufacturers, stewardship organizations, and other stakeholders on the content, review, and approval of stewardship plans.

2. A manufacturer shall annually review and amend, if necessary, its stewardship plan. The department shall approve the amendment if it meets the requirements for plan approval outlined in the department's guidance.

3. A stewardship organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in implementing and operating the stewardship program required under this title. The department shall develop rules and guidance for adherence to such designation.

§ 27-3405. Manufacturer stewardship plans.

1. Each manufacturer shall prepare and submit a stewardship plan to the department by the later of January first, two thousand twenty-six, or within thirty days of its first sale of a photovoltaic module in or into the state. A manufacturer shall implement the stewardship plan.

2. A stewardship plan shall, at a minimum:

(a) describe how manufacturers will finance the take-back and recycling system, and include an adequate funding mechanism to finance the costs of collection, management, and recycling of photovoltaic modules and residuals sold in or into the state by the manufacturer with a mechanism that ensures that photovoltaic modules can be delivered to take-back locations without cost to the last owner or holder;

(b) describe how the program will minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials;

(c) provide for the take-back of photovoltaic modules at locations that are within the region of the state in which the photovoltaic modules were used and are as convenient as reasonably practicable, and if no such location within the region of the state exists, include an explanation for the lack of such location;

(d) provide a process for relevant stakeholders to receive information required in order to participate in the program; and

(e) establish performance goals.

§ 27-3407. Annual report.

Beginning December first, two thousand twenty-seven, and annually thereafter, a manufacturer, or its designated stewardship organization, shall provide to the department a report for the previous calendar year that documents implementation of the plan, recommendations to the department, and an assessment of its achievement of its performance goals. Such report shall be posted on the manufacturer's publicly accessible website.

§ 27-3409. Enforcement.

The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this title.

§ 27-3411. Administrative fee.

The department may collect a flat fee from participating manufacturers to recover costs associated with stewardship program and plan guidance, review, and approval processes. All fees collected from manufacturers under this title shall be deposited in the photovoltaic module recycling account established pursuant to section ninety-nine-qq of the state finance law.

§ 3. The state finance law is amended by adding a new section 99-qq to read as follows:

§ 99-qq. Photovoltaic module recycling account. 1. There is hereby established in the custody of the state comptroller an account to be known as the "photovoltaic module recycling account".

2. The photovoltaic module recycling account shall consist of (a) any funds received from and in compliance with the federal Infrastructure Investment and Jobs Act and the Inflation Reduction Act appropriated for the implementation of title thirty-four of article twenty-seven of the environmental conservation law, (b) all fees collected pursuant to section 27-3411 of the environmental conservation law, and (c) all other moneys credited or transferred thereto from any other fund or source pursuant to law.

3. Moneys in such fund may be used, for the purpose of paying all costs of the department of environmental conservation for management and administration of the New York photovoltaic module stewardship and take-back program established by title thirty-four of article twenty-seven of the environmental conservation law.

4. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

§ 4. This act shall take effect immediately.