

STATE OF NEW YORK

643--B

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sen. KAVANAGH -- 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

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.

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

17 § 4. Subdivision 4 of section 27-1803 of the environmental conserva-
18 tion law, as added by chapter 562 of the laws of 2010, is amended to
19 read as follows:

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

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1 4. "rechargeable battery" means any rechargeable nickel-cadmium,
2 sealed lead, lithium ion, nickel metal hydride battery, or any other
3 such dry cell battery capable of being recharged weighing less than
4 twenty-five pounds, or battery packs containing such batteries, includ-
5 ing rechargeable batteries embedded in consumer devices such as toys,
6 appliances and personal care devices; but shall not include a battery
7 used as the principal electric power source for a vehicle, such as, but
8 not limited to, an automobile, boat, truck, tractor, golf cart or wheel-
9 chair, except such term shall include a battery used as the principal
10 electric power source for an electric scooter or bicycle with electric
11 assist; for storage of electricity generated by an alternative power
12 source, such as solar or wind-driven generators; or for memory backup
13 that is an integral component of an electronic device;

14 § 5. Paragraphs a and d of subdivision 1 of section 27-1807 of the
15 environmental conservation law, as added by chapter 562 of the laws of
16 2010, are amended to read as follows:

17 a. Retailers having a place of business in the state shall accept from
18 consumers at any time during normal business hours rechargeable
19 batteries of a similar size and shape as the retailer offers for sale.
20 Retailers shall take up to ten such batteries per day from any person
21 regardless of whether such person purchases replacement batteries, and
22 retailers shall also accept as many such batteries as a consumer
23 purchases from the retailer. Retailers shall conspicuously post and
24 maintain, at or near the point of entry to the place of business, a
25 legible sign, not less than eight and one-half inches by eleven inches
26 in size, stating that used rechargeable batteries of the size and shape
27 sold or offered for sale by the retailer may not enter the solid waste
28 stream, and that the retail establishment is a collection site for recy-
29 cling such batteries. Such sign shall state the following in letters at
30 least one inch in height: "It is illegal to dispose of rechargeable
31 batteries in [~~the state of~~] New York State as solid waste, including
32 rechargeable batteries embedded in consumer devices such as toys, appli-
33 ances and personal care devices. We accept used rechargeable batteries
34 for return to the manufacturer."

35 d. Retailers must be in compliance with the provisions of this subdivi-
36 sion no later than one hundred eighty days after the effective date of
37 this title or, with respect to a product that is added to the definition
38 of "rechargeable battery" in subdivision four of section 27-1803 of this
39 title, no later than one hundred eighty days after the effective date of
40 the chapter of the laws of two thousand twenty-three that amended such
41 subdivision.

42 § 6. Paragraphs a and b of subdivision 2 of section 27-1807 of the
43 environmental conservation law, as added by chapter 562 of the laws of
44 2010, are amended to read as follows:

45 a. Within ninety days of the effective date of this title or, with
46 respect to a product that is added to the definition of "rechargeable
47 battery" in subdivision four of section 27-1803 of this title, within
48 ninety days of the effective date of the chapter of the laws of two
49 thousand twenty-three that amended such subdivision, submittance to the
50 commissioner of a plan that identifies the methods by which battery
51 manufacturers will safely collect, transport, and recycle rechargeable
52 batteries collected by retailers at the expense of the battery manufac-
53 turer and provide retailers with information on the safe handling and
54 storage of rechargeable batteries.

55 b. Submittance to the department of annual reports, on a form
56 prescribed by the department, concerning the amount of rechargeable

1 batteries received within the state and recycled either by number or by
2 weight; the costs of such efforts; and any other relevant information as
3 required by the department. Such reports shall include the weight of
4 rechargeable batteries received within a city with a population of one
5 million or more.

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

8 d. Providing for the safe collection and disposal of damaged, defec-
9 tive, or recalled batteries collected by retailers and by government
10 agencies.

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

13 5. In addition to any enforcement of this title by the commissioner
14 pursuant to subdivision four of this section, in a city with a popu-
15 lation of one million or more, the provisions of section 27-1805 and
16 subdivision one of section 27-1807 of this title may be enforced by an
17 agency or agencies designated by the mayor of such city. Any notice of
18 violation issued by an agency designated by the mayor of such city
19 charging a violation of section 27-1805 and subdivision one of section
20 27-1807 of this title shall be returnable to the office of administra-
21 tive trials and hearings of such city. Such office of administrative
22 trials and hearings shall have the power to impose the civil penalties
23 set forth in subdivisions one, two and three of this section. All civil
24 penalties collected for any violation of this title that have been
25 imposed by the office of administrative trials and hearings of such city
26 shall be paid into the general fund of such city.

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

29 § 27-1811. State preemption.

30 Jurisdiction in all matters pertaining to rechargeable battery recycl-
31 ing is, by this title, vested exclusively in the state. Any provision of
32 any local law or ordinance, or any rule or regulation promulgated there-
33 to, governing rechargeable battery recycling shall, upon the effective
34 date of section 27-1805 of this title, be preempted; provided, however,
35 that nothing in this section shall preclude a person from coordinating,
36 for recycling or reuse, the collection of rechargeable batteries and
37 provided, further, however, that nothing in this section shall preclude
38 the enforcement of this title pursuant to subdivision five of section
39 27-1809 of this title.

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