STATE OF NEW YORK

643--E

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2023-2024 Regular Sessions

IN SENATE

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Introduced by Sens. KAVANAGH, ADDABBO, HARCKHAM, HOYLMAN-SIGAL, JACKSON, PARKER, RHOADS, TEDISCO, WEBB -- 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 -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, 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

§ 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**

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

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§ 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.

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**: (i)** nickel-cadmium, sealed lead, lithium ion, nickel metal hydride battery[~~,~~]**; (ii) battery used as the principal electric power source for an electric scooter or bicycle with electric assist;** or **(iii)** any other such dry cell battery capable of being recharged weighing less than [~~twenty-five~~] **fifty** pounds, or battery packs containing such batteries; **(iv)** 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; 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 having a place of business in the state shall accept from consumers at any time during normal business hours rechargeable batteries of a similar **shape,** size [~~and shape~~]**, and function** 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 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 as solid waste. We accept used rechargeable batteries for return to the manufacturer."

d. **Retailers may not sell or offer for sale to consumers in the state rechargeable batteries unless the battery manufacturer is operating in accordance with a collection, transportation, and recycling plan approved by the commissioner. The commissioner shall maintain on the department's website a list of manufacturers operating in accordance with approved plans, and the brands covered by such manufacturer's plans.**

e. 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 rechargeable battery defined in paragraph (ii) of subdivision four of section 27-1803 of this title, and**

with respect to the requirements of paragraph (d) of this subdivision one year after the effective date of the chapter of the laws of two thousand twenty-four which amended this title, or when the commissioner has approved a new or updated plan in compliance with such chapter, whichever is later.

§ 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 rechargeable batteries defined in paragraph (ii) of 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-four that amended such paragraph, submittance to the commissioner of a new or updated 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, including the weight of rechargeable batteries defined in paragraph (ii) of subdivision four of section 27-1803 of this title received within the state as well as within a city with a population of one million or more; the costs of such efforts; and any other relevant information as required by the department.

§ 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. Providing for the safe and prompt collection and disposal of 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 27-1807 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. The department shall, within one hundred eighty days of the effective date of the chapter of the laws of two thousand twenty-four that added this subdivision, promulgate rules and regulations to ensure the safe storage of rechargeable batteries that minimizes the risk of fires. Such rules and regulations shall also, at a minimum, require retailers to:

a. coordinate with a battery manufacturer, or any combination of battery manufacturers working together, to regularly remove batteries from the retail location; and

b. inform all employees who handle or have responsibility for managing batteries about proper handling and emergency procedures, including fire related hazards, appropriate to the type or types of battery handled by the retailer.

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

5. In a city with a population of one million or more, such city shall, in addition to any authority otherwise conferred in this chapter, have concurrent authority to enforce, by an agency or agencies

designated for such purpose by the mayor of such city, the provisions of section 27-1805 and subdivision one of section 27-1807 of this title. 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 environmental control board of such city. Such environmental control board 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 environmental control board of such city shall be paid into the general fund of such city.

§ 10. 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.

§ 11. This act shall take effect immediately.