STATE OF NEW YORK

834

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to the carpet collection program; and to amend a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, in relation to the effectiveness thereof

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

Section 1. Subdivisions 2, 3 and 10 of section 27-3301 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, are amended, a new opening paragraph and a new subdivision 3-a are added to read as follows:

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

2. "Carpet" means a manufactured article that is (a) used [~~in commercial buildings or single or multifamily residential buildings~~] **by a consumer**, (b) affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior feature, and (c) primarily constructed of a top surface of synthetic or natural face fibers or yarns or tufts attached to a backing system made of synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or residential broadloom carpet, modular carpet tiles, artificial turf, a pad or underlayment used in conjunction with a carpet. "Carpet" does not include handmade rugs, area rugs, or mats.

3. "Closed loop recycling" means recycling in which materials that are reclaimed are returned to the original process or processes in which they were generated [~~where~~] **and** they are reused in the production process.

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

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3-a. "Carpet collection program" or "program" means a program financed and implemented by producers, either individually, or through a representative organization, that provides for, but is not limited to, the collection, transportation, reuse, recycling, proper end-of-life management, or an appropriate combination thereof, of discarded carpet.

10. "Recycling" means to separate, dismantle or process the materials, components or commodities contained in discarded carpet for the purpose of preparing the materials, components, or commodities for use or reuse in new products or components. "Recycling" does not include**: (a)** energy recovery or energy generation by any means, including but not limited to, combustion, incineration, pyrolysis, gasification, solvolysis, waste to fuel or any chemical conversion process[~~,~~]**;** or **(b)** landfill disposal of discarded carpet or discarded product component materials.

§ 2. Subdivisions 1 and 4 of section 27-3303 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law, relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, are amended to read as follows:

1. No later than December thirty-first, two thousand [~~twenty-three~~] **twenty-five**, a producer, either individually or cooperatively with one or more producers, or a representative organization shall submit to the department for the department's approval a plan for the establishment of a carpet collection program that meets the collection requirements described in this section.

4. The plan submitted by the producer or representative organization to the department under this section shall, at a minimum:

(a) provide a list of each participating [~~provider~~] **producer** and brands covered by the program;

(b) provide information on the products covered by the program;

(c) describe how the producer or representative organization will collect, transport, recycle, and process carpet;

(d) describe how the program will provide for collection of carpet in the state, free of cost and in a manner convenient to consumers and carpet installers, including how the program will achieve, at a minimum, a convenience standard which ensures that all counties of the state and all municipalities which have a population of ten thousand or greater have at least one permanent collection site and one additional permanent collection site for every thirty thousand people located in those areas, that accepts carpet from consumers during normal business hours; however, with respect to a city having a population of one million or more, after consultation with the department of sanitation of such city, the department may otherwise establish an alternative convenience standard. The producer or representative organization may coordinate the program with existing municipal waste collection infrastructure as is mutually agreeable. Convenience standards shall be evaluated by the department periodically and the department may require additional collection locations to ensure adequate consumer convenience;

(e) describe in detail education and outreach efforts to inform consumers, carpet installers and others engaged in the management of discarded carpet about the program including, at a minimum, an internet website and a toll-free telephone number and written information included at the time of sale of carpet that provides sufficient information to allow a consumer to learn how to return such carpet for disposal, recycling or reuse;

(f) describe the methods to be used to reuse or recycle discarded carpet;

(g) describe the methods to be used to manage or dispose of discarded carpet that cannot be recycled or reused;

(h) describe how the program will meet annual performance goals, as determined by the department, provided that at a minimum, the program shall achieve the following recycling rates:

(i) a thirty percent recycling rate for carpets of which ten percent shall be closed-loop recycling by five years after the plan is approved by the department pursuant to section 27-3309 of this title;

(ii) a fifty percent recycling rate for carpets of which twenty percent shall be closed-loop recycling by ten years after the plan is approved by the department pursuant to section 27-3309 of this title; and

(iii) a seventy-five percent recycling rate for carpets, of which forty percent shall be closed-loop recycling by fifteen years after the plan is approved by the department pursuant to section 27-3309 of this title;

(i) describe what, if any, incentives will be used to encourage retailer participation;

(j) describe the outreach and education methods that will be used to encourage municipal landfill and transfer station participation; [~~and~~]

(k) describe the sources of data and methodology for estimating the amount of carpet discarded in the state annually[~~.~~]**; and**

(l) any other information as specified by the department.

§ 3. Section 27-3305 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

§ 27-3305. Producer responsibilities.

1. Beginning not later than July first, two thousand [~~twenty-four~~] **twenty-six**, [~~or six months after the plan is approved under subdivision four of section 27-3309 of this title, whichever occurs later,~~] the producer or representative organization shall implement the carpet collection program utilizing collection sites established pursuant to paragraph (d) of subdivision four of section 27-3303 of this title.

2. A producer shall not sell, or offer for sale, carpet to any person in the state unless the producer [~~and the producer's brands are registered with the department pursuant to this section on and after the date of implementation of the carpet collection program~~] **is implementing or participating under an approved plan**.

3. The program shall be free to the consumer, convenient and adequate to serve the needs of consumers in all areas of the state on an ongoing basis.

4. A producer or representative organization shall maintain records demonstrating compliance with the provisions of this title and make them available for audit and inspection by the department for a period of three years. The department shall make such records available to the public upon request in accordance with the provisions of the state freedom of information law and the regulations promulgated thereunder. Record holders shall submit the records required to comply with the request within sixty working days of written notification by the department of receipt of the request.

5. A producer or representative organization shall be responsible for all costs associated with the implementation of the carpet collection program, including but not limited to the cost of collection. A producer, producers or representative organization shall pay costs incurred by

the [~~state~~] **department** in the administration and enforcement of this title. Exclusive of fines and penalties, the [~~state~~] **department** shall only [~~recover~~] **be reimbursed** its actual cost of administration and enforcement.

6. Any person who becomes a producer on or after December thirty-first, two thousand [~~twenty-three~~] **twenty-five** shall submit a plan to the department, or notify the department that it has joined an existing plan, prior to selling or offering for sale in the state any carpet, and shall comply with the requirements of this title.

7. On or before July first, two thousand [~~twenty-five~~] **twenty-seven**, and annually thereafter, a producer or representative organization shall submit a report to the department that includes, for the previous program year, a description of the program, including, but not limited to, the following:

(a) a detailed description of the methods used to collect, transport, and process carpet in the state, including detailing collection methods made available to consumers and an evaluation of the program's collection convenience;

(b) identification of all collection sites in the state;

(c) the weight of all of the producer's carpet collected in the state by method of disposition, including reuse, recycling and other methods of processing or disposal;

(d) an evaluation of whether the performance goals and recycling rates have been achieved;

(e) the total cost of implementing the program;

(f) samples of all educational materials provided to consumers and a detailed list of efforts undertaken and an evaluation of the methods used to disseminate such materials including recommendations, if any, for how the educational component of the program can be improved; and

(g) any other information required by the department.

8. On or before January first of each program year following implementation of the plan pursuant to section 27-3303 of this title, each producer, group of producers or representative organization shall submit a report to the department that assesses compliance with performance goals and describes any modifications necessary to achieve such goals.

§ 4. Section 27-3307 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

§ 27-3307. Retailer requirements.

1. Beginning July first, two thousand [~~twenty-four~~] **twenty-six**, no retailer may sell or offer for sale carpet in the state unless the producer of such carpet is participating in a carpet collection program. A retailer shall be in compliance with this section if, on the date the carpet was offered for sale, the producer is listed on the department's website as implementing or participating in an approved program or if the carpet brand is listed on the department's website as being included in the program.

2. Any retailer may participate, on a voluntary basis, as a designated collection site pursuant to a carpet collection program and in accordance with all applicable laws and regulations.

§ 5. Subdivisions 2 and 5 of section 27-3309 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet

collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, are amended to read as follows:

2. Beginning July first, two thousand [~~twenty-four~~] twenty-six, the department shall post on its website the location of all collection sites identified to the department by the producer in its plans and annual reports.

5. The department shall submit a report regarding the implementation of this title in this state to the governor and legislature by April first, two thousand [~~twenty-five~~] twenty-seven and every two years thereafter. The report shall include, at a minimum, an evaluation of:

(a) the stream of carpet in the state;

(b) disposal, recycling and reuse rates in the state for carpet;

(c) a discussion of compliance and enforcement related to the requirements of this title; and

(d) recommendations for any changes to this title.

§ 6. Subdivision 5 of section 27-3311 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

5. The board shall meet at least [~~quarterly~~] biannually by call of the chair.

§ 7. Section 27-3313 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

§ 27-3313. Labeling and design requirements.

1. On and after one year after the plan is approved by the department pursuant to section 27-3309 of this title, carpet sold or offered for sale in the state shall be accompanied by the following identifying information:

(a) Name of the producer and contact information; and

(b) Carpet material, composition, and type of construction.

2. On and after December thirty-first, two thousand [~~twenty-four~~] twenty-six, no carpet sold or offered for sale in the state shall contain or be treated with PFAS substances for any purpose.

§ 8. Section 27-3317 of the environmental conservation law, as added by a chapter of the laws of 2022 amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

§ 27-3317. Penalties.

Any producer, representative organization, or retailer who violates any provision of or fails to perform any duty imposed pursuant to this title shall be liable for a civil penalty not to exceed five hundred dollars for each violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues. Civil penalties shall be assessed by the department after a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter.

§ 9. Section 3 of a chapter of the laws of 2022, amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, is amended to read as follows:

§ 3. This act shall take effect [~~**immediately**~~] **two years after it shall have become a law**.

§ 10. This act shall take effect immediately; provided, however, that sections one, two, three, four, five, six, seven and eight of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2022, amending the environmental conservation law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, takes effect.