STATE OF NEW YORK

8195--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 5, 2025

Introduced by M. of A. GALLAGHER -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the state finance law, in relation to establishing extended producer responsibility for gas cylinders

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

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 34 to read as follows:

TITLE 34

EXTENDED PRODUCER RESPONSIBILITY FOR GAS CYLINDERS

Section 27-3401. Definitions.
27-3403. Disposal ban.
27-3405. Producer plan.
27-3407. Producer responsibilities.
27-3409. Retailer responsibilities.
27-3411. Department responsibilities.
27-3413. Gas cylinders stewardship advisory board.
27-3415. Penalties.
27-3417. Limits on liability for antitrust, restraint of trade, or unfair trade practices.
27-3419. Rules and regulations.

§ 27-3401. Definitions.

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

1. "Brand" means a name, symbol, word, or mark that attributes a gas cylinder to the owner or licensee of the brand as the producer.

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

LBD11395-03-6

2. "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 gas cylinders.

3. "Collection site" means a permanent location in the state at which discarded gas cylinders may be returned by a consumer. Collection sites shall accept all types of gas cylinders as defined by this title regardless of brand.

4. "Consumer" means a person located in the state who purchases, owns, leases, or uses a gas cylinder, including but not limited to an individual, a business, corporation, limited partnership, not-for-profit corporation, the state, a public corporation, public school, school district, private or parochial school, or board of cooperative educational services or government entity.

5. "Discarded gas cylinder" means a gas cylinder that a consumer has used and disposed of in the state and is no longer used for its manufactured purpose.

6. "End-of-life" means the stage at which a gas cylinder is no longer suitable for its primary intended purpose and may be evaluated for potential repurposing or recycling.

7. "Energy recovery" means the process by which all or a portion of solid waste materials are processed or combusted in order to utilize the heat content or other forms of energy derived from such solid waste materials.

8. "Gas cylinder" means any nonrefillable or refillable cylinder supplied to a consumer for personal, family or household use of any size greater than a water capacity of one-half pounds but not exceeding a water capacity of fifty pounds, including, but not limited to, seamless cylinders and tubes, welded cylinders and insulated cylinders intended to contain compressed helium, carbon dioxide or flammable materials such as propane, butane or other flammable compressed gases. "Gas cylinder" does not include any cylinder, tube or container intended to deliver a product that is not a compressed gas, any medical or industrial-grade cylinder or any cylinder that is used by any medical facility or commercial enterprise or that contains oxygen, refrigerants, acetylene, hydrogen, ethylene, or foam adhesives;

9. "Producer" means any person who manufactures a gas cylinder that is sold, offered for sale, or distributed in the state under the manufacturer's own name or brand. "Producer" includes:

(a) the owner of a trademark or brand under which a gas cylinder is sold, offered for sale, or distributed in this state, whether or not such trademark or brand is registered in the state; and

(b) any person who imports a gas cylinder into the United States that is sold or offered for sale in the state and that is manufactured by a person who does not have a presence in the United States.

10. "Recycling" means to separate, dismantle or process the materials, components or commodities contained in discarded gas cylinders 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, or waste-to-fuel;

(b) any chemical conversion process; or

(c) landfill disposal.

11. "Recycling rate" means the percentage of discarded gas cylinders that is managed through recycling or reuse, as defined by this title, and is calculated by dividing the amount of recycled output derived from collected gas cylinders, plus any amount sent for reuse, by the estimated total amount of discarded gas cylinders generated during a program year.

12. "Representative organization" means a not-for-profit organization established by a producer or group of producers to implement a collection program.

13. "Retailer" means any person who sells or offers for sale gas cylinders to a consumer in the state.

14. "Reuse" means the return of a gas cylinder into the economic stream for use in the same kind of application as the gas cylinder was originally intended to be used, without a change in the product's identity; reuse may include refurbishment of a gas cylinder.

15. "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; this does not include samples, donations, or reuse.

§ 27-3403. Disposal ban.

1. Beginning July first, two thousand twenty-seven, no retailer, distributor, wholesaler, manufacturer, or owner or operator of a gas cylinder collection site, consolidation facility, or waste recycling facility in the state shall dispose of gas cylinder waste at a solid waste management facility or hazardous waste management facility, or place gas cylinder waste for collection which is intended for disposal at a solid waste management facility or hazardous waste management facility.

2. Beginning July first, two thousand twenty-eight, no person, except for an individual or household shall place or dispose of any gas cylinder waste in any solid waste management facility, or place gas cylinder waste for collection which is intended for disposal at a solid waste management facility or hazardous waste management facility in this state. Persons engaged in the collection of solid waste for delivery to a solid waste management facility shall provide written information to users of such facility on the proper methods for the recycling of gas cylinders.

3. Beginning July first, two thousand twenty-nine, no individual or household shall place or dispose of any gas cylinder waste, that exceeds an amount as determined by the department, shall place or dispose of any gas cylinder waste in any solid waste management facility, or place gas cylinder waste for collection which is intended for disposal at a solid waste management facility or hazardous waste management facility in this state.

4. Beginning July first, two thousand twenty-seven, an owner or operator of a solid waste management facility or hazardous waste management facility shall educate users of such facility on the proper methods for the management of gas cylinder waste. Such education shall include:

(a) providing written information to users of such facility on the proper methods for recycling of gas cylinder waste; and

(b) posting, in conspicuous locations at such facility, signs stating the dates set forth in subdivisions one, two, and three of this section after which gas cylinder waste may not be disposed of at the facility.

§ 27-3405. Producer plan.

1. No later than January first, two thousand twenty-eight, 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 collection program that meets the collection requirements described in this section.

2. A producer may satisfy the collection program requirement of this section by agreeing to participate collectively with other producers. Any such collective program shall notify the department.

3. A producer or representative organization shall update the plan, as needed, when there are changes proposed to the current program. A new plan or amendment shall be required to be submitted to the department for approval:

(a) when there is a revision of the program's goals; and

(b) every three years from the date of approval of a previous plan.

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 producer and brand 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 gas cylinders;

(d) describe how the program will provide for collection of gas cylinders in the state, free of cost and in a manner convenient to consumers, including how the program will achieve, at a minimum, a convenience standard which ensures that all counties in 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 gas cylinders 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 and others engaged in the management of discarded gas cylinders 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 gas cylinders that provides sufficient information to allow a consumer to learn how to return such gas cylinders for disposal, recycling or reuse;

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

(g) describe the methods to be used to manage or dispose of discarded gas cylinders 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 gas cylinders by four years after the plan is approved by the department pursuant to section 27-3411 of this title;

(ii) a fifty percent recycling rate for gas cylinders by eight years after the plan is approved by the department pursuant to section 27-3411 of this title; and

(iii) a seventy-five percent recycling rate for gas cylinders by twelve years after the plan is approved by the department pursuant to section 27-3411 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;

(k) describe the sources of data and methodology for estimating the amount of discarded product in the state annually; and

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

§ 27-3407. Producer responsibilities.

1. Beginning no later than January first, two thousand twenty-nine, the producer or representative organization shall implement the collection program utilizing collection sites established pursuant to paragraph (d) of subdivision four of section 27-3405 of this title.

2. A producer shall not sell, or offer for sale, gas cylinders to any person in the state unless the producer 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 the 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 collection program, including but not limited to the cost of collection. A producer, producers or representative organization shall pay costs incurred by the department in the administration and enforcement of this title. Exclusive of fines and penalties, the department shall only be reimbursed its actual cost of administration and enforcement.

6. Any person who becomes a producer on or after January first, two thousand twenty-eight, 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 gas cylinders, and shall comply with the requirements of this title.

7. On or before March thirty-first, two thousand thirty, and annually thereafter, a producer or representative organization shall submit a report to the department that includes, for the previous calendar 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 gas cylinders 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 gas cylinders 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 and a description of any modification the producer or representative organization believes is necessary to achieve such goals and rates;

(e) the total cost of implementing the program;

(f) samples of all educational materials provided to consumers and 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.

§ 27-3409. Retailer responsibilities.

1. Beginning January first, two thousand twenty-nine, no retailer may sell or offer for sale gas cylinders in the state unless the producer of such gas cylinders is participating in a collection program. A retailer shall be in compliance with this section if, on the date the gas cylinders were offered for sale, the producer is listed on the department's website as implementing or participating in an approved program or if the gas cylinders 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 collection program and in accordance with all applicable laws and regulations.

§ 27-3411. Department responsibilities.

1. The department shall (a) maintain a list of producers that are implementing or participating pursuant to section 27-3405 of this title, (b) maintain a list of each producer's brands, and (c) post such lists on the department's website.

2. Beginning on January first, two thousand twenty-nine, 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.

3. The department shall post on its website each producer plan approved by the department.

4. Within ninety days after receipt of a proposed plan or plan amendments, the department shall approve or reject the plan or the plan amendment. If the plan or the plan amendment is approved, the department shall notify the producer or representative organization in writing. If the department rejects the plan or plan amendment, the department shall notify the producer or representative organization in writing stating the reason for rejecting the plan or plan amendment. A producer or representative organization whose plan is rejected shall submit a revised plan to the department within thirty days of receiving a notice of rejection. If the department rejects the subsequent proposal, the producer and producers at issue shall be out of compliance and subject to enforcement provisions.

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

(a) the stream of gas cylinders in the state;

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

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

(d) recommendations for any changes to this title.

6. Starting four years after the plan is approved by the department pursuant to this section, the department shall impose a penalty of twenty-five cents per pound to be assessed on the producer or representative organization for the number of additional pounds of gas cylinders that would have needed to be recycled through the program to achieve the performance goals specified in the approved stewardship plan. All penalties collected pursuant to this section shall be paid over to the commissioner for deposit to the gas cylinder extended producer responsibility fund established pursuant to section ninety-seven-uuuu of the state finance law.

§ 27-3413. Gas cylinders stewardship advisory board.

1. There is hereby established within the department the gas cylinders stewardship advisory board to make recommendations to the commissioner regarding producer plans required by this title.

2. The board shall be composed of thirteen voting members. Such members shall include:

(a) one representative of gas cylinder producers;

(b) two representatives of gas cylinder retailers;

(c) one representative of gas cylinder recyclers;

(d) two representatives of gas cylinder collectors;

(e) one representative of a company that utilizes discarded gas cylinders to manufacture a new product;

(f) two representatives from a statewide environmental organization;

(g) one representative from a statewide waste disposal association;

(h) one representative from the New York product stewardship council;

(i) one representative from a consumer organization; and

(j) one representative from a statewide recycling organization.

3. The members of the board shall be appointed as follows:

(a) two members to be appointed by the temporary president of the senate;

(b) two members to be appointed by the speaker of the assembly;

(c) one member to be appointed by the minority leader of the senate;

(d) one member to be appointed by the minority leader of the assembly; and

(e) seven members to be appointed by the governor.

4. Such appointments shall be made no later than ninety days following the effective date of this title. The members shall designate a chair from among the members of the board by majority vote. Board members shall receive no compensation but shall be entitled to their necessary and actual expenses incurred in the performance of their board duties.

5. The board shall meet at least annually by call of the chair.

§ 27-3415. 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 violations continue. 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.

§ 27-3417. Limits on liability for antitrust, restraint of trade, or unfair trade practices.

1. A producer, representative organization, or retailer shall not be liable for any claim of a violation of antitrust, restraint of trade, or unfair trade practice laws arising from the performance of an action required to be undertaken by this title or which is necessary to implement or participate under a producer plan approved by the department, solely to increase the collection and recycling of gas cylinders, which affects the types and quantities being collected and recycled or the cost and structure of such collection program that the producer, representative organization, or retailer is participating in pursuant to this title.

2. Provided, however, that subdivision one of this section shall not apply to any agreement establishing or affecting the price of gas cylinders, except, as necessary, to fulfill producer responsibility under subdivision five of section 27-3407 of this title, the output or production of gas cylinders, or restricting the geographic area or customers to which gas cylinders will be sold.

§ 27-3419. Rules and regulations.

The department is authorized to promulgate any rules and regulations necessary to implement this title.

§ 2. The state finance law is amended by adding a new section 97-uuuu to read as follows:

§ 97-uuuu. Gas cylinder extended producer responsibility fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of environmental conservation a special fund to be known as the "gas cylinder extended producer responsibility fund".

2. Such fund shall consist of all revenues received by the comptroller pursuant to the provisions of section 27-3411 of the environmental conservation law and all other moneys appropriated thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts, or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. The moneys of the gas cylinder extended producer responsibility fund, following appropriation by the legislature, shall be allocated for the direct costs associated with extended producer responsibility for gas cylinders pursuant to title thirty-four of article twenty-seven of the environmental conservation law.

4. The state comptroller may invest any moneys in the gas cylinder extended producer responsibility fund not expended for the purpose of this section as provided by law. The state comptroller shall credit any interest and income derived from the deposit and investment of moneys in the gas cylinder extended producer responsibility fund to the gas cylinder extended producer responsibility fund.

5. Any unexpected and unencumbered moneys remaining in the gas cylinder extended producer responsibility fund at the end of the fiscal year shall remain in the gas cylinder extended producer responsibility fund and shall not be credited to any other fund.

§ 3. Section 71-1701 of the environmental conservation law, as amended by chapter 795 of the laws of 2022, is amended to read as follows:

§ 71-1701. Applicability of this title.

This title shall be applicable to the enforcement of titles 1 through 11 and titles 15 through 19 of article 17; article 19; and titles 1 [~~and~~], 33 and 34 of article 27 of this chapter.

§ 4. This act shall take effect immediately.