

STATE OF NEW YORK

8195--B

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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation 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:

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

3 TITLE 34

4 EXTENDED PRODUCER RESPONSIBILITY FOR GAS CYLINDERS

5 Section 27-3401. Definitions.

6 27-3403. Disposal ban.

7 27-3405. Producer plan.

8 27-3407. Producer responsibilities.

9 27-3409. Retailer responsibilities.

10 27-3411. Department responsibilities.

11 27-3413. Gas cylinders stewardship advisory board.

12 27-3415. Penalties.

13 27-3417. Limits on liability for antitrust, restraint of trade,
14 or unfair trade practices.

15 27-3419. Rules and regulations.

16 § 27-3401. Definitions.

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

19 1. "Brand" means a name, symbol, word, or mark that attributes a gas
20 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.

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1 2. "Collection program" or "program" means a program financed and
2 implemented by producers, either individually or through a represen-
3 tative organization, that provides for, but is not limited to, the
4 collection, transportation, reuse, recycling, proper end-of-life manage-
5 ment, or an appropriate combination thereof, of discarded gas cylinders.

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

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

16 5. "Discarded gas cylinder" means a gas cylinder that a consumer has
17 used and disposed of in the state and is no longer used for its manufac-
18 tured purpose.

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

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

36 8. "Producer" means any person who manufactures a gas cylinder that is
37 sold, offered for sale, or distributed in the state under the manufac-
38 turer's own name or brand. "Producer" includes:

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

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

45 9. "Recycling" means to separate, dismantle or process the materials,
46 components or commodities contained in discarded gas cylinders for the
47 purpose of preparing the materials, components, or commodities for use
48 or reuse in new products or components. "Recycling" does not include:

49 (a) energy recovery or energy generation by any means, including but
50 not limited to, combustion, incineration, pyrolysis, gasification,
51 solvolysis, or waste-to-fuel or any chemical conversion process; or

52 (b) landfill disposal of discarded gas cylinders or discarded compo-
53 nent materials.

54 10. "Recycling rate" means the percentage of discarded gas cylinders
55 that is managed through recycling or reuse, as defined by this title,
56 and is calculated by dividing the amount of recycled output derived from

1 collected gas cylinders, plus any amount sent for reuse, by the esti-
2 ated total amount of discarded gas cylinders generated during a program
3 year.

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

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

9 13. "Reuse" means the return of a gas cylinder into the economic
10 stream for use in the same kind of application as the gas cylinder was
11 originally intended to be used, without a change in the product's iden-
12 tity. "Reuse" may include refurbishment or the refilling of a gas cylin-
13 der.

14 14. "Sell" or "sale" means any transfer for consideration of title or
15 the right to use, from a manufacturer or retailer to a person, includ-
16 ing, but not limited to, transactions conducted through retail sales
17 outlets, catalogs, mail, the telephone, the internet or any electronic
18 means; this does not include samples, donations, or reuse.

19 § 27-3403. Disposal ban.

20 Beginning January first, two thousand thirty-one, no person shall
21 knowingly dispose of gas cylinders as solid waste at any time in the
22 state.

23 § 27-3405. Producer plan.

24 1. No later than December thirty-first, two thousand twenty-nine, a
25 producer, either individually or cooperatively with one or more produc-
26 ers, or a representative organization shall submit to the department for
27 the department's approval a plan for the establishment of a collection
28 program that meets the collection requirements described in this
29 section.

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

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

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

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

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

41 (a) provide a list of each participating producer and brand covered by
42 the program;

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

44 (c) describe how the producer or representative organization will
45 collect, transport, recycle and process gas cylinders;

46 (d) describe how the program will provide for collection of gas cylin-
47 ders in the state, free of cost and in a manner convenient to consumers,
48 including how the program will achieve, at a minimum, a convenience
49 standard which ensures that all counties in the state and all munici-
50 palities which have a population of ten thousand or greater have at
51 least one permanent collection site and one additional permanent
52 collection site for every thirty thousand people located in those areas,
53 that accepts gas cylinders from consumers during normal business hours;
54 however with respect to a city having a population of one million or
55 more, after consultation with the department of sanitation of such city,
56 the department may otherwise establish an alternative convenience stand-

1 ard. The producer or representative organization may coordinate the
2 program with existing municipal waste collection infrastructure as is
3 mutually agreeable. Convenience standards shall be evaluated by the
4 department periodically and the department may require additional
5 collection locations to ensure adequate consumer convenience;

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

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

15 (g) describe the methods to be used to manage or dispose of discarded
16 gas cylinders that cannot be recycled or reused;

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

20 (i) a thirty percent recycling rate for gas cylinders by five years
21 after the plan is approved by the department pursuant to section 27-3411
22 of this title;

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

26 (iii) a seventy-five percent recycling rate for gas cylinders by
27 fifteen years after the plan is approved by the department pursuant to
28 section 27-3411 of this title;

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

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

33 (k) describe the sources of data and methodology for estimating the
34 amount of discarded gas cylinders in the state annually; and

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

36 § 27-3407. Producer responsibilities.

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

41 2. A producer shall not sell, or offer for sale, gas cylinders to any
42 person in the state unless the producer is implementing or participating
43 under an approved plan.

44 3. The program shall be free to the consumer, provided, however, that
45 any customer deposit related to a gas cylinders refill or reuse system
46 shall not be considered a violation of this subdivision, and shall be
47 convenient and adequate to serve the needs of consumers in all areas of
48 the state on an ongoing basis.

49 4. A producer or representative organization shall maintain records
50 demonstrating compliance with the provisions of this title and make them
51 available for audit and inspection by the department for a period of
52 three years. The department shall make such records available to the
53 public upon the request in accordance with the provisions of the state
54 freedom of information law and the regulations promulgated thereunder.
55 Record holders shall submit the records required to comply with the

1 request within sixty working days of written notification by the depart-
2 ment of receipt of the request.

3 5. A producer or representative organization shall be responsible for
4 all costs associated with the implementation of the collection program,
5 including but not limited to the cost of collection. A producer, produc-
6 ers or representative organization shall pay costs incurred by the
7 department in the administration and enforcement of this title. Exclu-
8 sive of fines and penalties, the department shall only be reimbursed its
9 actual cost of administration and enforcement.

10 6. Any person who becomes a producer on or after December thirty-
11 first, two thousand twenty-nine, shall submit a plan to the department,
12 or notify the department that it has joined an existing plan, prior to
13 selling or offering for sale in the state any gas cylinders, and shall
14 comply with the requirements of this title.

15 7. On or before July first, two thousand thirty-one, and annually
16 thereafter, a producer or representative organization shall submit a
17 report to the department that includes, for the previous calendar year,
18 a description of the program, including, but not limited to, the follow-
19 ing:

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

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

25 (c) the weight of all of the producer's gas cylinders in the state by
26 method of disposition, including reuse, recycling and other methods of
27 processing or disposal;

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

30 (e) the total cost of implementing the program;

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

35 (g) any other information required by the department.

36 8. On or before January first of each program year following implemen-
37 tation of the plan pursuant to section 27-3405 of this title, each
38 producer, group of producers or representative organization shall submit
39 a report to the department that assesses compliance with performance
40 goals and describes any modifications necessary to achieve such goals.

41 § 27-3409. Retailer responsibilities.

42 1. Beginning July first, two thousand thirty, no retailer may sell or
43 offer for sale gas cylinders in the state unless the producer of such
44 gas cylinders is participating in a collection program. A retailer shall
45 be in compliance with this section if, on the date the gas cylinders
46 were offered for sale, the producer is listed on the department's
47 website as implementing or participating in an approved program or if
48 the gas cylinders brand is listed on the department's website as being
49 included in the program.

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

53 § 27-3411. Department responsibilities.

54 1. The department shall (a) maintain a list of producers that are
55 implementing or participating pursuant to section 27-3405 of this title,

1 (b) maintain a list of each producer's brands, and (c) post such lists
2 on the department's website.

3 2. Beginning on July first, two thousand thirty, the department shall
4 post on its website the location of all collection sites identified to
5 the department by the producer in its plans and annual reports.

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

8 4. Within ninety days after receipt of a proposed plan or plan amend-
9 ments, the department shall approve or reject the plan or the plan
10 amendment. If the plan or the plan amendment is approved, the department
11 shall notify the producer or representative organization in writing. If
12 the department rejects the plan or plan amendment, the department shall
13 notify the producer or representative organization in writing stating
14 the reason for rejecting the plan or plan amendment. A producer or
15 representative organization whose plan is rejected shall submit a
16 revised plan to the department within thirty days of receiving a notice
17 of rejection. If the department rejects the subsequent proposal, the
18 producer and producers at issue shall be out of compliance and subject
19 to enforcement provisions.

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

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

25 (b) disposal, recycling and reuse rates in the state for gas cylin-
26 ders;

27 (c) a discussion of compliance and enforcement related to the require-
28 ments of this title; and

29 (d) recommendations for any changes to this title.

30 6. Starting four years after the plan is approved by the department
31 pursuant to this section, the department shall impose a penalty of twen-
32 ty-five cents per pound to be assessed on the producer or representative
33 organization for the number of additional pounds of gas cylinders that
34 would have needed to be recycled through the program to achieve the
35 performance goals specified in the approved stewardship plan. All penal-
36 ties collected pursuant to this section shall be paid over to the
37 commissioner for deposit to the environmental protection fund estab-
38 lished pursuant to section ninety-two-s of the state finance law.

39 § 27-3413. Gas cylinders stewardship advisory board.

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

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

45 (a) one representative of gas cylinder producers;

46 (b) two representatives of gas cylinder retailers;

47 (c) one representative of gas cylinder recyclers;

48 (d) two representatives of gas cylinder collectors;

49 (e) one representative of a company that utilizes discarded gas cylin-
50 ders to manufacture a new product;

51 (f) two representatives from a statewide environmental organization;

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

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

54 (i) one representative from a consumer organization; and

55 (j) one representative from a statewide recycling organization.

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

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

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

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

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

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

8 4. Such appointments shall be made no later than the first day of
9 January following the date on which this title takes effect. The members
10 shall designate a chair from among the members of the board by majority
11 vote. Board members shall receive no compensation but shall be entitled
12 to their necessary and actual expenses incurred in the performance of
13 their board duties.

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

15 § 27-3415. Penalties.

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

24 § 27-3417. Limits on liability for antitrust, restraint of trade, or
25 unfair trade practices.

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

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

42 § 27-3419. Rules and regulations.

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

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

47 § 71-1701. Applicability of this title.

48 This title shall be applicable to the enforcement of titles 1 through
49 11 and titles 15 through 19 of article 17; article 19; and titles 1
50 [and], 33 and 34 of article 27 of this chapter.

51 § 3. This act shall take effect immediately.