

STATE OF NEW YORK

7552

2025-2026 Regular Sessions

IN SENATE

April 22, 2025

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

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:

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. Post-consumer content requirements.

13 27-3417. Penalties.

14 27-3419. Rules and regulations.

15 § 27-3401. Definitions.

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

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

20 2. "Closed-loop recycling" means recycling in which materials that are
21 reclaimed are returned to the original process or processes in which
22 they were generated and they are reused in the production process.

23 3. "Collection program" or "program" means a program financed and
24 implemented by producers, either individually, or through a represen-

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

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1 tative organization, that provides for, but is not limited to, the
2 collection, transportation, reuse, recycling, proper end-of-life manage-
3 ment, or an appropriate combination thereof, of discarded covered prod-
4 uct.

5 4. "Collection site" means a permanent location in the state at which
6 discarded covered product may be returned by a consumer. Collection
7 sites shall accept all types of covered product as defined by this title
8 regardless of brand.

9 5. "Consumer" means a person located in the state who purchases, owns,
10 leases, or uses the covered product, including but not limited to an
11 individual, a business, corporation, limited partnership, not-for-profit
12 corporation, the state, a public corporation, public school, school
13 district, private or parochial school, or board of cooperative educa-
14 tional services or government entity.

15 6. "Covered product" means a gas cylinder.

16 7. "Discarded covered product" means covered product that a consumer
17 has used and disposed of in the state and is no longer used for its
18 manufactured purpose.

19 8. "End-of-life" means the stage at which a covered product is no
20 longer suitable for its primary intended purpose and may be evaluated
21 for potential repurposing or recycling.

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

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

39 11. "Producer" means any person who manufactures a covered product
40 that is sold, offered for sale, or distributed in the state under the
41 manufacturer's own name or brand. "Producer" includes:

42 (a) the owner of a trademark or brand under which a covered product is
43 sold, offered for sale, or distributed in this state, whether or not
44 such trademark or brand is registered in the state; and

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

48 12. "Recycling" means to separate, dismantle or process the materials,
49 components or commodities contained in discarded covered products for
50 the purpose of preparing the materials, components, or commodities for
51 use or reuse in new products or components. "Recycling" does not
52 include:

53 (a) energy recovery or energy generation by any means, including but
54 not limited to, combustion, incineration, pyrolysis, gasification,
55 solvolysis, or waste-to-fuel;

56 (b) any chemical conversion process; or

1 (c) landfill disposal.

2 13. "Recycling rate" means the percentage of discarded covered product
3 that is managed through recycling or reuse, as defined by this title,
4 and is calculated by dividing the amount of recycled output derived from
5 collected covered products, plus any amount sent for reuse, by the esti-
6 mated total amount of discarded covered product generated during a
7 program year.

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

11 15. "Retailer" means any person who sells or offers for sale covered
12 products to a consumer in the state.

13 16. "Reuse" means the return of a product into the economic stream for
14 use in the same kind of application as the product was originally
15 intended to be used, without a change in the product's identity.

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

21 § 27-3403. Disposal ban.

22 1. No person shall knowingly dispose of any covered product as solid
23 waste in the state at any time on or after January first, two thousand
24 twenty-seven.

25 2. Beginning six months from the effective date of this title, no
26 retailer, distributor, wholesaler, manufacturer, or owner or operator of
27 a covered product collection site, consolidation facility, or waste
28 recycling facility in the state shall dispose of covered product waste
29 at a solid waste management facility or hazardous waste management
30 facility, or place covered product waste for collection which is
31 intended for disposal at a solid waste management facility or hazardous
32 waste management facility.

33 3. Beginning two years from the effective date of this title, no
34 person, except for an individual or household shall place or dispose of
35 any covered product waste in any solid waste management facility, or
36 place covered product waste for collection which is intended for
37 disposal at a solid waste management facility or hazardous waste manage-
38 ment facility in this state. Persons engaged in the collection of solid
39 waste for delivery to a solid waste management facility shall provide
40 written information to users of such facility on the proper methods for
41 the recycling of covered product.

42 4. Beginning three years from the effective date of this title, no
43 individual or household shall place or dispose of any covered product
44 waste, that exceeds an amount as determined by the department, shall
45 place or dispose of any covered product waste in any solid waste manage-
46 ment facility, or place covered product waste for collection which is
47 intended for disposal at a solid waste management facility or hazardous
48 waste management facility in this state.

49 5. Beginning two years from the effective date of this title, an owner
50 or operator of a solid waste management facility or hazardous waste
51 management facility shall educate users of such facility on the proper
52 methods for the management of covered product waste. Such education
53 shall include:

54 (a) providing written information to users of such facility on the
55 proper methods for recycling of covered product waste; and

1 (b) posting, in conspicuous locations at such facility, signs stating
2 that covered product waste may not be disposed of at the facility.
3 § 27-3405. Producer plan.

4 1. No later than June thirtieth, two thousand twenty-six, a producer,
5 either individually or cooperatively with one or more producers, or a
6 representative organization shall submit to the department for the
7 department's approval a plan for the establishment of a collection
8 program that meets the collection requirements described in this
9 section.

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

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

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

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

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

21 (a) provide a list of each participating producer and brands covered
22 by the program;

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

24 (c) describe how the producer or representative organization will
25 collect, transport, recycle and process covered product;

26 (d) describe how the program will provide for collection of covered
27 product in the state, free of cost and in a manner convenient to consum-
28 ers, including how the program will achieve, at a minimum, a convenience
29 standard which ensures that all counties in the state and all munici-
30 palities which have a population of ten thousand or greater have at
31 least one permanent collection site and one additional permanent
32 collection site for every thirty thousand people located in those areas,
33 that accepts covered product from consumers during normal business
34 hours; however with respect to a city having a population of one million
35 or more, after consultation with the department of sanitation of such
36 city, the department may otherwise establish an alternative convenience
37 standard. The producer or representative organization may coordinate the
38 program with existing municipal waste collection infrastructure as is
39 mutually agreeable. Convenience standards shall be evaluated by the
40 department periodically and the department may require additional
41 collection locations to ensure adequate consumer convenience;

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

49 (f) describe the methods to be used to reuse or recycle discarded
50 covered product;

51 (g) describe the methods to be used to manage or dispose of discarded
52 covered product that cannot be recycled or reused;

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

1 (i) a thirty percent recycling rate for covered product of which ten
2 percent shall be closed-loop recycling by five years after the plan is
3 approved by the department pursuant to section 27-3411 of this title;

4 (ii) a fifty percent recycling rate for covered product of which twen-
5 ty percent shall be closed-loop recycling by ten years after the plan is
6 approved by the department pursuant to section 27-3411 of this title;
7 and

8 (iii) a seventy-five percent recycling rate for covered product, of
9 which forty percent shall be closed-loop recycling by fifteen years
10 after the plan is approved by the department pursuant to section 27-3411
11 of this title;

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

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

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

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

19 § 27-3407. Producer responsibilities.

20 1. Beginning no later than January thirty-first, two thousand twenty-
21 seven, the producer or representative organization shall implement the
22 collection program utilizing collection sites established pursuant to
23 paragraph (d) of subdivision 4 of section 27-3405 of this title.

24 2. A producer shall not sell, or offer for sale, covered product to
25 any person in the state unless the producer is implementing or partic-
26 ipating under an approved plan.

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

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

39 5. A producer or representative organization shall be responsible for
40 all costs associated with the implementation of the collection program,
41 including but not limited to the cost of collection. A producer, produc-
42 ers or representative organization shall pay costs incurred by the
43 department in the administration and enforcement of this title. Exclu-
44 sive of fines and penalties, the department shall only be reimbursed its
45 actual cost of administration and enforcement.

46 6. Any person who becomes a producer on or after January thirty-first,
47 two thousand twenty-seven, shall submit a plan to the department, or
48 notify the department that it has joined an existing plan, prior to
49 selling or offering for sale in the state any covered product, and shall
50 comply with the requirements of this title.

51 7. On or before March thirty-first, two thousand twenty-nine, and
52 annually thereafter, a producer or representative organization shall
53 submit a report to the department that includes, for the previous calen-
54 dar year, a description of the program, including, but not limited to,
55 the following:

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

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

6 (c) the weight of all of the producer's covered product in the state
7 by method of disposition, including reuse, recycling and other methods
8 of processing or disposal;

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

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

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

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

17 8. On or before January first of each program year following implemen-
18 tation of the plan pursuant to section 27-3405 of this title, each
19 producer, group of producers or representative organization shall submit
20 a report to the department that assesses compliance with performance
21 goals and describes any modification necessary to achieve such goals.

22 § 27-3409. Retailer responsibilities.

23 1. Beginning July first, two thousand twenty-eight, no retailer may
24 sell or offer for sale covered product in the state unless the producer
25 of such covered product is participating in a collection program. A
26 retailer shall be in compliance with this section if, on the date the
27 covered product was offered for sale, the producer is listed on the
28 department's website as implementing or participating in an approved
29 program or if the covered product brand is listed on the department's
30 website as being included in the program.

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

34 § 27-3411. Department responsibilities.

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

39 2. Beginning on January thirty-first, two thousand twenty-seven, the
40 department shall post on its website the location of all collection
41 sites identified to the department by the producer in its plans and
42 annual reports.

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

45 4. Within ninety days after receipt of a proposed plan or plan amend-
46 ments, the department shall approve or reject the plan or the plan
47 amendment. If the plan or the plan amendment is approved, the department
48 shall notify the producer or representative organization in writing. If
49 the department rejects the plan or plan amendment, the department shall
50 notify the producer or representative organization in writing stating
51 the reason for rejecting the plan or plan amendment. A producer or
52 representative organization whose plan is rejected shall submit a
53 revised plan to the department within thirty days of receiving a notice
54 of rejection. If the department rejects the subsequent proposal, the
55 producer and producers at issue shall be out of compliance and subject
56 to enforcement provisions.

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

5 (a) the stream of covered product in the state;

6 (b) disposal, recycling and reuse rates in the state for covered prod-
7 uct;

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

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

11 6. Starting four years after the plan is approved by the department
12 pursuant to this section, the department shall impose a penalty of twen-
13 ty-five cents per pound to be assessed on the producer or representative
14 organization for the number of additional pounds of covered product that
15 would have needed to be recycled through the program to achieve the
16 performance goals specified in the approved stewardship plan. All penal-
17 ties collected pursuant to this section shall be paid over to the
18 commissioner for deposit to the gas cylinder extended producer responsi-
19 bility fund established pursuant to section 97-uuuu of the state finance
20 law.

21 § 27-3413. Gas cylinders stewardship advisory board.

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

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

27 (a) one representative of covered product producers;

28 (b) two representatives of covered product retailers;

29 (c) one representative of covered product recyclers;

30 (d) two representatives of covered product collectors;

31 (e) one representative of a company that utilizes discarded covered
32 product to manufacture a new product;

33 (f) one representative of a covered product installer association;

34 (g) one representative from a statewide environmental organization;

35 (h) one representative from a statewide waste disposal association;

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

37 (j) one representative from a consumer organization; and

38 (k) one representative from a statewide recycling organization.

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

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

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

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

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

45 and

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

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

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

53 § 27-3415. Post-consumer content requirements.

54 All covered product in the state shall be manufactured with the
55 following minimum amounts from post-consumer sources:

1 1. within one year after the plan is approved by the department pursu-
2 ant to section 27-3411 of this title, a minimum of ten percent post-con-
3 sumer content;

4 2. within four years thereafter, a minimum of twenty percent post-con-
5 sumer content; and

6 3. five years thereafter, a minimum of thirty percent post-consumer
7 content.

8 § 27-3417. Penalties.

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

17 § 27-3419. Rules and regulations.

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

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

22 § 97-uuuu. Gas cylinder extended producer responsibility fund. 1.
23 There is hereby established in the joint custody of the state comp-
24 trroller and the commissioner of environmental conservation a special
25 fund to be known as the "gas cylinder extended producer responsibility
26 fund".

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

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

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

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

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

51 § 71-1701. Applicability of this title.

52 This title shall be applicable to the enforcement of titles 1 through
53 11 and titles 15 through 19 of article 17; article 19; and titles 1
54 [~~and~~], 33 and 34 of article 27 of this chapter.

55 § 4. This act shall take effect immediately.