**§ 27-0719. Battery management and disposal.**

1. Legislative intent. It is the intent of the legislature to minimize the risk to the environment posed by batteries, both in consumer and non-consumer uses, whether rechargeable or nonrechargeable. Such risk is to be addressed through the elimination of mercury in zinc carbon batteries, the minimization of mercury in alkaline manganese batteries, the redesign of certain products containing rechargeable batteries, and through the development of an action plan to establish a schedule for collection systems capable of providing for the recycling or disposal of all mercuric oxide batteries, silver oxide batteries, nickel cadmium batteries, small lead acid batteries, and other types of batteries the commissioner may identify.

2. Definitions. For the purposes of this section, the following definitions shall apply:

(a) A "battery" means a device consisting of one or more cells, each cell consisting of a positive electrode, a negative electrode and an electrolyte, which is used to provide stored electrical power.

(b) An "alkaline manganese battery" means a battery consisting of a manganese dioxide positive electrode, a zinc negative electrode and an alkaline electrolyte.

(c) A "mercuric oxide battery" means a battery consisting of a mercuric oxide positive electrode and a zinc negative electrode.

(d) A "nickel cadmium battery" means a battery consisting of a nickel positive electrode and a cadmium negative electrode.

(e) A "small lead-acid battery" means a battery consisting of positive and negative electrode materials which are leads or compounds thereof, used in nonvehicular applications and weighing less than twenty-five pounds.

(f) A "zinc carbon battery" means a battery consisting of a manganese dioxide positive electrode, a zinc negative electrode, and a non-alkaline electrolyte.

(g) A "silver oxide battery" means a battery consisting of a silver oxide positive electrode, and a zinc negative electrode.

(h) A "battery pack" means one or more batteries enclosed in a housing.

(i) A "distributor" means a seller of batteries or devices that contain batteries at the time of sale.

(j) "Easily removed" means a battery or battery pack which is either detachable or readily removable by the consumer from a consumer product without cutting or desoldering any wires.

3. Mercury reduction and elimination. (a) No person may knowingly sell or offer for sale in New York state an alkaline manganese battery manufactured on or after January first, nineteen hundred ninety-two, which contains more than 0.025 percent mercury by weight of the battery; provided, however, that for alkaline manganese batteries having sizes and shapes resembling buttons or coins, the limitation on mercury content shall be twenty-five milligrams of mercury per battery.

(b) No person may knowingly sell or offer for sale in New York state a zinc carbon battery manufactured on or after January first, nineteen hundred ninety-three that contains a mercury concentration level of more than one part per million (0.0001%) by weight.

4. Rechargeable batteries. (a) No distributor may sell or offer for sale any product which contains a nickel cadmium or small lead-acid battery or battery pack manufactured after July first, nineteen hundred ninety-three unless:

(1) In the case of consumer products, the battery can be easily removed by the consumer, or is contained in a battery pack that is separate from the product and can be easily removed from the product.

(2) In the case of nonconsumer products, the battery can be removed or is contained in a battery pack that is separate from the product.

(3) In all cases, the battery is clearly marked as to its type, so that consumers, collectors and recyclers may easily identify chemical content.

(b) The commissioner shall authorize the sale of a consumer product or a nonconsumer product which does not comply with paragraph (a) of this subdivision, if the commissioner determines that:

(1) The product was available for sale on or before the effective date of this section, and the product cannot reasonably be redesigned and manufactured prior to July first, nineteen hundred ninety-three; provided, however, that such authorizations shall not apply to products

manufactured on or after July first, nineteen hundred ninety-five; or

(2) Design of the product to comply with paragraph (a) of this subdivision would result in significant danger to public health and safety.

5. Technology assessment, collection and recycling. On or before January first, nineteen hundred ninety-three, the commissioner, in consultation with the commissioner of economic development and battery manufacturers, battery recyclers and others, shall report to the governor and the legislature on an action plan which reviews the technological feasibility of requiring the elimination of mercury from alkaline manganese batteries, and establishes a schedule for collection systems capable of providing for the recycling or disposal of all mercuric oxide batteries, silver oxide batteries, nickel cadmium batteries, small lead acid batteries, and such other type of batteries as the commissioner may identify. Such plan and schedule shall identify the appropriate role of battery manufacturers, retailers, consumers, recyclers and others in the implementation of collection systems and provide an evaluation of the feasibility of a returnable battery deposit system in New York state; provided, however, that nothing contained herein shall be deemed to authorize the commissioner to impose such system or systems.