

AMENDED IN ASSEMBLY JUNE 1, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1125**

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**Introduced by Assembly Member Pavley**  
**(Coauthors: Assembly Members Hancock and, Koretz, Laird,**  
***Leno, Levine, Lieber, and Saldana*)**  
(Coauthor: Senator Kuehl)

February 22, 2005

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An act to add Chapter 8.4 (commencing with Section 42451) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1125, as amended, Pavley. Household Battery Recycling Act.

Existing law authorizes the California Integrated Waste Management Board to conduct a study on the disposal and recyclability of household batteries.

This bill would enact the Household Battery Recycling Act of 2006 and would define terms for purposes of the act, including "household battery."

The act would require, on and after ~~February~~ *July* 1, 2006, a retailer of household batteries sold in this state to have in place a system for the acceptance and collection of used household batteries for reuse, recycling, or proper disposal with specified elements, including the take-back at no cost to the consumer of a used household battery, the type or brand of which the retailer sold or previously sold.

The bill would prohibit the sale of a household battery to a consumer in this state after ~~February~~ *July* 1, 2006, unless the retailer of that household battery complies with the act.

The bill would require the Department of Toxic Substances Control, by ~~February~~ *July* 1, 2007, and each ~~February~~ *July* 1 thereafter, to post

on its Web site an estimated California recycling rate for household batteries.

The bill would also direct a state agency that purchases household batteries to require each prospective bidder, to certify that it and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with the act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 8.4 (commencing with Section 42451)  
2 is added to Part 3 of Division 30 of: the Public Resources Code,  
3 to read:

4  
5 CHAPTER 8.4. HOUSEHOLD BATTERY RECYCLING ACT  
6 OF 2006

7  
8 Article 1. General Provisions  
9

10 42451. (a) This chapter shall be known, and may be cited, as  
11 the Household Battery Recycling Act of 2006.

12 (b) The Legislature finds and declares all of the following:

13 (1) The Department of Toxic Substances Control has  
14 determined that, due to their hazardous material content, the solid  
15 waste disposal of all household batteries should be prohibited. A  
16 regulation authorizing a temporary householder exemption to this  
17 prohibition will expire, by its own terms, in February 2006.

18 (2) The purpose of this chapter is to enact a comprehensive  
19 and innovative system for the reuse, recycling, and proper and  
20 legal disposal of previously used household batteries.

21 (3) It is the further purpose of this chapter to enact a law that  
22 establishes a program that is convenient for consumers and the  
23 public to return, recycle, and ensure the safe and environmentally  
24 sound disposal of used household batteries, and that provides for  
25 a system that does not charge the consumer when a household  
26 battery is returned.

27 (4) It is the intent of the Legislature that the cost associated  
28 with the handling, recycling, and disposal of used household  
29 batteries be the responsibility of the producers and consumers of

1 household batteries, and not local government or their service  
2 providers, state government, or taxpayers.

3 (5) In order to reduce the likelihood of illegal disposal of  
4 hazardous materials, it is the intent of this chapter to ensure that  
5 all costs associated with the proper management of used  
6 household batteries is internalized by the producers and  
7 consumers of household batteries at or before the point of  
8 purchase, and not at the point of discard.

9 (6) Manufacturers and retailers of household batteries, in  
10 working to achieve the goals and objectives of this chapter,  
11 should have the flexibility to partner with each other and with  
12 those private and nonprofit business enterprises that currently  
13 provide collection and processing services to develop and  
14 promote a safe and effective used household battery recycling  
15 system for California.

16 (7) The producers of household batteries should reduce and, to  
17 the extent feasible, ultimately phase out the use of hazardous  
18 materials in household batteries.

19 (8) Household batteries, to the greatest extent feasible, should  
20 be designed for extended life and reuse.

21 (9) The purpose of this chapter is to provide for the safe, cost  
22 free, and convenient collection, reuse, and recycling of 100  
23 percent of the household batteries discarded or offered for  
24 recycling in the state.

25 (10) In establishing a cost-effective system for the recovery,  
26 reuse, recycling, and proper disposal of used household batteries,  
27 it is the intent of the Legislature to encourage manufacturers and  
28 retailers to build on the retailer take-back systems initiated by the  
29 Rechargeable Battery Recycling Coalition and others.

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## Article 2. Definitions

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33 42452. For the purposes of this chapter, the following terms  
34 have the following meanings, unless the context clearly requires  
35 otherwise:

36 (a) "Consumer" means a purchaser or owner of a household  
37 battery. "Consumer" also includes a business, corporation,  
38 limited partnership, nonprofit organization, or governmental  
39 entity, but does not include an entity involved in a wholesale  
40 transaction between a distributor and retailer.

1 (b) “Department” means the Department of Toxic Substances  
2 Control.

3 (c) (1) “Household battery” means a device consisting of one  
4 or more electrically connected electrochemical cells that is  
5 designed to receive, store, and deliver electric energy. For  
6 purposes of this subdivision, “electrochemical cell” means a  
7 system consisting of an anode, cathode, and an electrolyte, plus  
8 those electrical and mechanical connections that may be needed  
9 to allow the cell to deliver or receive electrical energy.

10 (2) “Household battery” also includes an intact, unbroken  
11 battery from which the electrolyte has been removed.

12 (3) “Household battery” does not include a spent lead-acid  
13 battery that is managed under Article 10.5 (commencing with  
14 Section 25215) of Chapter 6.5 of Division 20 of the Health and  
15 Safety Code. A small sealed lead-acid storage battery is not a  
16 lead-acid battery for purposes of this section. *A battery sold by a  
17 retailer to a consumer that the retailer installs in a device and  
18 that is not handled by the consumer at the point of purchase, is  
19 not a household battery.*

20 (d) “Retailer” means a person who sells a household battery in  
21 the state to a consumer, including a manufacturer of a household  
22 battery who sells that household battery directly to a consumer. A  
23 sale includes, but is not limited to, transactions conducted  
24 through sales outlets, catalogs, or the Internet, or any other  
25 similar electronic means, but does not include a sale that is a  
26 wholesale transaction with a distributor or retailer. *“Retailer”  
27 does not include a person who sells primarily food and is listed  
28 in the Progressive Grocers Guide. “Retailer” does not include a  
29 person who has less than one million dollars (\$1,000,000)  
30 annually in gross sales.*

31 (e) (1) “Sell” or “sale” means a transfer for consideration of  
32 title or of the right to use, by lease or sales contract, including,  
33 but not limited to, transactions conducted through sales outlets,  
34 catalogs, or the Internet or any other similar electronic means,  
35 but does not include a wholesale transaction with a distributor or  
36 a retailer.

37 (2) For purposes of this subdivision and subdivision (d),  
38 “distributor” means a person who sells a household battery to a  
39 retailer.

1 (f) “Used household battery” means a household battery that  
2 has been previously used and is made available, by a consumer,  
3 for reuse, recycling, or proper disposal.

4  
5 Article 3. Household Battery Recycling  
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7 42453. (a) On and after ~~February~~ *July* 1, 2006, every retailer  
8 of household batteries sold in this state shall have in place a  
9 system for the acceptance and collection of used household  
10 batteries for reuse, recycling, or proper disposal.

11 (b) A system for the acceptance and collection of used  
12 household batteries for reuse, recycling, or proper disposal shall,  
13 at a minimum, include all of the following elements:

14 (1) The take-back at no cost to the consumer of a used  
15 household battery, the type or brand of which the retailer sold or  
16 previously sold.

17 (2) If the retailer delivers a household battery directly to a  
18 consumer in this state, the system provides the consumer, at the  
19 time of delivery, with a mechanism for the return of used  
20 household batteries for reuse, recycling, or proper disposal, at no  
21 cost to the consumer.

22 (3) Making information available to consumers about  
23 household battery recycling opportunities provided by the retailer  
24 and encouraging consumers to utilize those opportunities. This  
25 information may include, but is not limited to, one or more of the  
26 following:

27 (A) Signage that is prominently displayed and easily visible to  
28 the consumer.

29 (B) Written materials provided to the consumer at the time of  
30 purchase or delivery, or both.

31 (C) Reference to the household batteries recycling opportunity  
32 in retailer advertising or other promotional materials, or both.

33 (D) Direct communications with the consumer at the time of  
34 purchase.

35 42454. On and after ~~February~~ *July* 1, 2006, it is unlawful to  
36 sell a household battery to a consumer in this state unless the  
37 retailer of that household battery complies with this chapter.

Article 4. Statewide Recycling Goals

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 3 42456. On or before ~~February~~ *July* 1, 2007, and each  
 4 ~~February~~ *July* 1 thereafter, the department shall post on its Web  
 5 site an estimated California recycling rate for household  
 6 batteries, the numerator of which shall be the estimated number  
 7 of household batteries returned for recycling in California during  
 8 the previous calendar year, and the denominator of which is the  
 9 number of household batteries estimated to be sold in this state  
 10 during the previous calendar year.

Article 5. State Agency Procurement

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 14 42457. (a) A state agency that purchases household batteries  
 15 shall require each prospective bidder; to certify that it, and its  
 16 agents, subsidiaries, partners, joint venturers, and subcontractors  
 17 for the procurement, have complied with this chapter and any  
 18 regulations adopted pursuant to this chapter, or to demonstrate  
 19 that this chapter is inapplicable to all lines of business engaged in  
 20 by the bidder, its agents, subsidiaries, partners, joint venturers, or  
 21 subcontractors.

22 (b) Failure to provide certification pursuant to this section  
 23 shall render the prospective bidder and its agents, subsidiaries,  
 24 partners, joint venturers, and subcontractors ineligible to bid on  
 25 the procurement of household batteries.

26 (c) The bid solicitation documents shall specify that the  
 27 prospective bidder is required to cooperate fully in providing  
 28 reasonable access to its records and documents that evidence  
 29 compliance with this chapter.

30 (d) Any person awarded a contract by a state agency that is  
 31 found to be in violation of this section is subject to the following  
 32 sanctions:

33 (1) The contract shall be voided by the state agency to which  
 34 the equipment, materials, or supplies were provided.

35 (2) The contractor is ineligible to bid on any state contract for  
 36 a period of three years.

37 (3) If the Attorney General establishes in the name of the  
 38 people of the State of California that any money, property, or  
 39 benefit was obtained by a contractor as a result of violating this  
 40 section, the court may, in addition to any other remedy, order the

- 1 disgorgement of the unlawfully obtained money, property, or
- 2 benefit in the interest of justice.

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