

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN ASSEMBLY JUNE 1, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1125**

**Introduced by Assembly Member Pavley**

**(Coauthors: Assembly Members Hancock, Koretz, Laird, Leno,  
Levine, Lieber, and Saldana)**

~~(Coauthor: Senator Kuehl)~~ *Coauthors: Senators Kuehl and Torlakson*

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 Rechargeable Battery Recycling Act.~~

~~Existing law authorizes the California Integrated Waste Management Board to conduct a study on the disposal and recyclability of household batteries~~ *requires rechargeable batteries to be appropriately labeled and requires the instruction manual for a rechargeable consumer product to include information regarding the proper recycling and disposal of the rechargeable battery. Existing also regulates the management of federally regulated batteries, as defined.*

This bill would enact the ~~Household Rechargeable Battery Recycling Act of 2006~~ and would define terms for purposes of the act, including “~~household rechargeable battery~~.”

The act would require, on and after July 1, 2006, a retailer of ~~household rechargeable~~ batteries sold in this state to have in place a system for the acceptance and collection of used ~~household~~

*rechargeable* batteries for reuse, recycling, or proper disposal with specified elements, including the take-back at no cost to the consumer of a used ~~household~~ *rechargeable* battery, the type or brand of which the retailer sold or previously sold.

The bill would prohibit the sale of a ~~household~~ *rechargeable* battery to a consumer in this state after 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 July 1, 2007, and each July 1 thereafter, to post on its Web site an estimated California recycling rate for *all types of hazardous 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~~ RECHARGEABLE BATTERY  
6 RECYCLING ACT 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~~ *Rechargeable* 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~~ *rechargeable* batteries should be  
16 prohibited. A regulation authorizing a temporary householder  
17 exemption to this prohibition will expire, by its own terms, in  
18 February 2006.

19 (2) The purpose of this chapter is to enact a comprehensive  
20 and innovative system for the reuse, recycling, and proper and

1 legal disposal of previously used ~~household~~ *rechargeable*  
2 batteries.

3 (3) It is the further purpose of this chapter to enact a law that  
4 establishes a program that is convenient for consumers and the  
5 public to return, recycle, and ensure the safe and environmentally  
6 sound disposal of used ~~household~~ *rechargeable* batteries, and  
7 that provides for a system that does not charge the consumer  
8 when a ~~household~~ *rechargeable* battery is returned.

9 (4) It is the intent of the Legislature that the cost associated  
10 with the handling, recycling, and disposal of used ~~household~~  
11 *rechargeable* batteries be the responsibility of the producers and  
12 consumers of ~~household~~ *rechargeable* batteries, and not local  
13 government or their service providers, state government, or  
14 taxpayers.

15 (5) In order to reduce the likelihood of illegal disposal of  
16 hazardous materials, it is the intent of this chapter to ensure that  
17 all costs associated with the proper management of used  
18 ~~household~~ *rechargeable* batteries is internalized by the producers  
19 and consumers of ~~household~~ *rechargeable* batteries at or before  
20 the point of purchase, and not at the point of discard.

21 (6) Manufacturers and retailers of ~~household~~ *rechargeable*  
22 batteries, in working to achieve the goals and objectives of this  
23 chapter, should have the flexibility to partner with each other and  
24 with those private and nonprofit business enterprises that  
25 currently provide collection and processing services to develop  
26 and promote a safe and effective used ~~household~~ *rechargeable*  
27 battery recycling system for California.

28 (7) The producers of ~~household~~ *rechargeable* batteries should  
29 reduce and, to the extent feasible, ultimately phase out the use of  
30 hazardous materials in ~~household~~ *rechargeable* batteries.

31 (8) ~~Household-Rechargeable~~ batteries, to the greatest extent  
32 feasible, should be designed for extended life and reuse.

33 (9) The purpose of this chapter is to provide for the safe, cost  
34 free, and convenient collection, reuse, and recycling of 100  
35 percent of the ~~household~~ *rechargeable* batteries discarded or  
36 offered for recycling in the state.

37 (10) In establishing a cost-effective system for the recovery,  
38 reuse, recycling, and proper disposal of used ~~household~~  
39 *rechargeable* batteries, it is the intent of the Legislature to  
40 encourage manufacturers and retailers to build on the retailer

1 take-back systems initiated by the Rechargeable Battery  
2 Recycling Coalition and others.

3  
4 Article 2. Definitions

5  
6 42452. For the purposes of this chapter, the following terms  
7 have the following meanings, unless the context clearly requires  
8 otherwise:

9 (a) “Consumer” means a purchaser or owner of a ~~household~~  
10 *rechargeable* battery. “Consumer” also includes a business,  
11 corporation, limited partnership, nonprofit organization, or  
12 governmental entity, but does not include an entity involved in a  
13 wholesale transaction between a distributor and retailer.

14 (b) “Department” means the Department of Toxic Substances  
15 Control.

16 ~~(e) (1) “Household battery” means a device consisting of one~~  
17 ~~or more electrically connected electrochemical cells that is~~  
18 ~~designed to receive, store, and deliver electric energy. For~~  
19 ~~purposes of this subdivision, “electrochemical cell” means a~~  
20 ~~system consisting of an anode, cathode, and an electrolyte, plus~~  
21 ~~those electrical and mechanical connections that may be needed~~  
22 ~~to allow the cell to deliver or receive electrical energy.~~

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

25 ~~(3) “Household battery” does not include a spent lead-acid~~  
26 ~~battery that is managed under Article 10.5 (commencing with~~  
27 ~~Section 25215) of Chapter 6.5 of Division 20 of the Health and~~  
28 ~~Safety Code. A small sealed lead-acid storage battery is not a~~  
29 ~~lead-acid battery for purposes of this section. A battery sold by a~~  
30 ~~retailer to a consumer that the retailer installs in a device and that~~  
31 ~~is not handled by the consumer at the point of purchase, is not a~~  
32 ~~household battery.~~

33 *(c) “Rechargeable battery” means a small, nonvehicular,*  
34 *rechargeable nickel-cadmium or sealed lead-acid battery, or a*  
35 *battery pack containing these types of batteries.*

36 (d) “Retailer” means a person who sells a ~~household~~  
37 *rechargeable* battery in the state to a consumer, including a  
38 manufacturer of a ~~household~~ *rechargeable* battery who sells that  
39 ~~household~~ *rechargeable* battery directly to a consumer. A sale  
40 includes, but is not limited to, transactions conducted through

1 sales outlets, catalogs, or the Internet, or any other similar  
2 electronic means, but does not include a sale that is a wholesale  
3 transaction with a distributor or retailer. “Retailer” does not  
4 include a person who sells primarily food and is listed in the  
5 ~~Progressive Grocers Guide~~ *Progressive Marketing Grocers*  
6 *Guidebook*. “Retailer” does not include a person who has less  
7 than one million dollars (\$1,000,000) annually in gross sales.

8 (e) (1) “Sell” or “sale” means a transfer for consideration of  
9 title or of the right to use, by lease or sales contract, including,  
10 but not limited to, transactions conducted through sales outlets,  
11 catalogs, or the Internet or any other similar electronic means,  
12 but does not include a wholesale transaction with a distributor or  
13 a retailer.

14 (2) For purposes of this subdivision and subdivision (d),  
15 “distributor” means a person who sells a ~~household~~ *rechargeable*  
16 battery to a retailer.

17 (f) “Used ~~household~~ *rechargeable* battery” means a ~~household~~  
18 *rechargeable* battery that has been previously used and is made  
19 available, by a consumer, for reuse, recycling, or proper disposal.

### 20 21 Article 3. Household Battery Recycling

22  
23 42453. (a) (1) On and after July 1, 2006, every retailer of  
24 ~~household~~ *rechargeable* batteries sold in this state shall have in  
25 place a system for the acceptance and collection of used  
26 ~~household~~ *rechargeable* batteries for reuse, recycling, or proper  
27 disposal.

28 (2) *A retailer is not subject to the requirements of this chapter*  
29 *for the sale of rechargeable batteries that are contained in or*  
30 *packaged with a battery operated device.*

31 (b) A system for the acceptance and collection of used  
32 ~~household~~ *rechargeable* batteries for reuse, recycling, or proper  
33 disposal shall, at a minimum, include all of the following  
34 elements:

35 (1) (A) The take-back at no cost to the consumer of a used  
36 ~~household~~ *rechargeable* battery, the type or brand of which the  
37 retailer sold or previously sold.

38 (B) *A retailer’s no-cost take-back obligation may be limited to*  
39 *a quantity equal to the number sold at the time of the take-back*  
40 *or previously sold to the consumer.*

1 (2) If the retailer ~~delivers a household battery directly~~ *sells a*  
2 *rechargeable battery* to a consumer in this state, ~~the system~~  
3 ~~provides the consumer through a catalog order, telephone order,~~  
4 ~~or other method that does not involve in-store sales, the retailer~~  
5 ~~shall provide the consumer with reasonable notice, at the time of~~  
6 ~~delivery, with a mechanism of the requirements and~~  
7 ~~opportunities for the return of used household rechargeable~~  
8 ~~batteries for reuse, recycling, or proper disposal, at no cost to the~~  
9 ~~consumer. That notice may include informational materials~~  
10 ~~packaged with the battery that direct consumers to a location in~~  
11 ~~their community where they can return used batteries at no cost~~  
12 ~~to the consumer, or a telephone number or an Internet Web site~~  
13 ~~where consumers can obtain community-specific information~~  
14 ~~about the opportunities for no-cost battery recycling.~~

15 (3) Making information available to consumers about  
16 ~~household rechargeable~~ battery recycling opportunities provided  
17 by the retailer and encouraging consumers to utilize those  
18 opportunities. This information may include, but is not limited to,  
19 one or more of the following:

20 (A) Signage that is prominently displayed and easily visible to  
21 the consumer.

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

24 (C) Reference to the ~~household rechargeable~~ batteries  
25 recycling opportunity in retailer advertising or other promotional  
26 materials, or both.

27 (D) Direct communications with the consumer at the time of  
28 purchase.

29 (c) *An individual retailer location that is actively participating*  
30 *in the Rechargeable Battery Recycling Coalition's battery*  
31 *take-back and recycling program, and has implemented one or*  
32 *more of the public education components described in paragraph*  
33 *(3) of subdivision (b) shall be deemed in compliance with this*  
34 *article.*

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

Article 4. Statewide Recycling Goals

42456. On or before July 1, 2007, and each July 1 thereafter, the department shall post on its Web site an estimated California recycling rate for *all types of hazardous* household batteries, the numerator of which shall be the estimated number of *each type of* household batteries returned for recycling in California during the previous calendar year, and the denominator of which is the number of *each type of* household batteries estimated to be sold in this state during the previous calendar year.

~~Article 5. State Agency Procurement~~

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

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

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

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

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

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

~~(3) If the Attorney General establishes in the name of the people of the State of California that any money, property, or benefit was obtained by a contractor as a result of violating this 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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