

AMENDED IN SENATE JULY 6, 2005

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)
(Coauthors: Senators Kuehl and Torlakson)

February 22, 2005

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. Rechargeable Battery Recycling Act.

Existing law 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 *law* also regulates the management of federally regulated batteries, as defined.

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

The act would require, on and after July 1, 2006, a retailer—of, *defined as a person who sells* rechargeable batteries—~~sold to a consumer~~ in this state, to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or

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

The bill would prohibit the sale *by a retailer* of a rechargeable battery to a consumer ~~in this state~~ after July 1, 2006, unless the retailer ~~of that 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 *Internet* Web site an estimated California recycling rate for all types of hazardous household batteries.

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. ~~RECHARGEABLE BATTERY RECYCLING ACT~~
6 ~~OF 2006~~ RECHARGEABLE BATTERY RECYCLING ACT OF 2006

7
8 Article 1. General Provisions
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10 42451. (a) This chapter shall be known, and may be cited, as
11 the 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 and* rechargeable batteries should
16 be 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
21 legal disposal of previously used rechargeable batteries.

22 (3) It is the further purpose of this chapter to enact a law that
23 establishes a program that is convenient for consumers and the
24 public to return, recycle, and ensure the safe and environmentally
25 sound disposal of used rechargeable batteries, and that provides

1 for a system that does not charge the consumer when a
2 rechargeable battery is returned.

3 (4) It is the intent of the Legislature that the cost associated
4 with the handling, recycling, and disposal of used rechargeable
5 batteries be the responsibility of the producers and consumers of
6 rechargeable batteries, and not local government or their service
7 providers, state government, or taxpayers.

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

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

21 (7) The producers of *household and* rechargeable batteries
22 should reduce and, to the extent feasible, ultimately phase out the
23 use of hazardous materials in *household and* rechargeable
24 batteries.

25 (8) ~~Rechargeable~~ *Household and rechargeable* batteries, to the
26 greatest extent feasible, should be designed for extended life and
27 reuse.

28 (9) The purpose of this chapter is to provide for the safe, cost
29 free, and convenient collection, reuse, and recycling of 100
30 percent of the rechargeable batteries discarded or offered for
31 recycling in the state.

32 (10) In establishing a cost-effective system for the recovery,
33 reuse, recycling, and proper disposal of used rechargeable
34 batteries, it is the intent of the Legislature to encourage
35 manufacturers and retailers to build on the retailer take-back
36 systems initiated by the Rechargeable Battery Recycling
37 Coalition and others.

Article 2. Definitions

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

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

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

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

(d) “Retailer” means a person ~~who sells a rechargeable battery in the state to a consumer, including a~~ *who makes a retail sale of a rechargeable battery to a consumer in this state, including a* manufacturer of a rechargeable battery who sells that rechargeable battery directly to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer. “Retailer” does not include a person who sells primarily food and is listed in the Progressive Marketing Grocers Guidebook. “Retailer” does not include a person who has less than one million dollars (\$1,000,000) annually in gross sales.

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

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

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

1 Article 3. ~~Household~~ *Rechargeable* Battery Recycling

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3 42453. (a) (1) On and after July 1, 2006, every retailer of
4 ~~rechargeable batteries sold in this state~~ shall have in place a
5 system for the acceptance and collection of used rechargeable
6 batteries for reuse, recycling, or proper disposal.

7 (2) A retailer is not subject to the requirements of this chapter
8 for the sale of rechargeable batteries that are contained in or
9 packaged with a ~~battery-operated~~ *battery-operated* device.

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

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

16 (B) A retailer's no-cost take-back obligation may be limited to
17 a quantity equal to the number sold at the time of the take-back
18 or previously sold to the consumer.

19 (2) If the retailer sells a rechargeable battery ~~to a consumer in~~
20 ~~this state~~ through a catalog order, telephone order, or other
21 method that does not involve in-store sales, the retailer shall
22 provide the consumer with reasonable notice, at the time of
23 delivery, of the requirements and opportunities for the return of
24 used rechargeable batteries for reuse, recycling, or proper
25 disposal, at no cost to the consumer. That notice may include
26 informational materials packaged with the battery that direct
27 consumers to a location in their community where they can
28 return used batteries at no cost to the consumer, or a telephone
29 number or an Internet Web site where consumers can obtain
30 community-specific information about the opportunities for
31 no-cost battery recycling.

32 (3) Making information available to consumers about
33 rechargeable battery recycling opportunities provided by the
34 retailer and encouraging consumers to utilize those opportunities.
35 This information may include, but is not limited to, one or more
36 of the following:

37 (A) Signage that is prominently displayed and easily visible to
38 the consumer.

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

1 (C) Reference to the rechargeable batteries recycling
2 opportunity in retailer advertising or other promotional materials,
3 or both.

4 (D) Direct communications with the consumer at the time of
5 purchase.

6 (c) An individual retailer location that is actively participating
7 in the Rechargeable Battery Recycling Coalition’s battery
8 take-back and recycling program, and has implemented one or
9 more of the public education components described in paragraph
10 (3) of subdivision (b) shall be deemed in compliance with this
11 article.

12 42454. On and after July 1, 2006, it is unlawful *for a retailer*
13 to sell a rechargeable battery to a consumer ~~in this state~~ unless
14 the retailer ~~of that battery~~ complies with this chapter.

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16 Article 4. Statewide Recycling Goals
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18 42456. On or before July 1, 2007, and each July 1 thereafter,
19 the department shall post on its *Internet* Web site an estimated
20 California recycling rate for all types of hazardous household
21 batteries, the numerator of which shall be the estimated number
22 of each type of household batteries returned for recycling in
23 California during the previous calendar year, and the
24 denominator of which is the number of each type of household
25 batteries estimated to be sold in this state during the previous
26 calendar year.

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