

NEW YORK STATE RECHARGEABLE BATTERY LAW OVERVIEW

The “New York State Rechargeable Battery Law” was signed into law by Governor George Paterson on Friday, December 10, 2010. This law is nearly identical to the New York City rechargeable battery recycling ordinance, which will be preempted by this law in one year.

Overview

Beginning on June 8, 2011, retailers that sell “rechargeable batteries” in New York State will be required to collect used batteries of the same type from customers for recycling. New York’s new law covers most dry cell, non-vehicular rechargeable batteries weighing less than twenty-five pounds, regardless of chemistry. Disposal of rechargeable batteries as solid waste also will be prohibited after December 5, 2011.

The law requires battery collection by both local retailers and direct sellers of rechargeable batteries (i.e., catalog, telephone, or internet sales). Smaller food stores that sell rechargeable batteries explicitly are not required to collect used batteries.

Non-compliance with these requirements is subject to potential civil penalties of up to five thousand dollars.

Key Provisions by Effective Date (Definitions Are Set Forth Below)

March 10, 2011:

By this date, every battery manufacturer, working individually or together, must:

- Submit a battery management plan to the Department of Environmental Conservation for approval that identifies the methods by which battery manufacturers will arrange, and pay for, the safe collection, transportation, and recycling of rechargeable batteries collected by retailers;
- Educate the citizens of New York State regarding the appropriate ways to recycle rechargeable batteries;
- Provide retailers with information on the safe handling and storage of rechargeable batteries.

On June 8, 2011:

On and after this date, every retailer must:

- Accept used batteries from consumers (up to as many new batteries that a customer purchases, or up to ten per day from others) that are similar in shape and size to those sold;
- Conspicuously post and maintain near the store entrance a legible sign, not less than 8½ inches by 11 inches in size, stating:

“It is illegal to dispose of rechargeable batteries in the State of New York as solid waste. We accept used rechargeable batteries for return to the manufacturer.”
- Conspicuously maintain at a location convenient to consumers collection boxes or other suitable receptacles, supplied by the manufacturer, for consumers to deposit used rechargeable batteries; and
- Direct sellers must provide (at the time of purchase or delivery) notice of an opportunity for consumers to return at no cost used rechargeable batteries for reuse or recycling.

By and after this date, (or once the State approves a manufacturer’s recycling plan) every battery manufacturer, working individually or together, must:

- Arrange for and pay the costs of collecting and recycling all used rechargeable batteries returned to retailers.



Recharging the planet. Recycling your batteries.™

December 5, 2011:

On and after this date, no person shall:

- Knowingly dispose of rechargeable batteries as solid waste at any time in the State. Rechargeable batteries contained in electronic products must be removed prior to disposal of such products.

Date unspecified (to be implemented by the rule):

Every battery manufacturer, working individually or together, must:

- Submit annual reports concerning the amount of rechargeable batteries collected in New York State for recycling either by number or by weight; the costs of such efforts; and any other relevant information as required by the Department.

Note: The Department must analyze the annual reports provided by battery manufacturers and report to the Governor and legislature every two years.

Key Definitions

“*Battery manufacturer*” means every person, firm or corporation that: (i) produces rechargeable batteries sold or distributed in the State, or packages such batteries for sale in the State, except that if such production or packaging is for a distributor having the right to produce or otherwise package that same brand of battery in the State, then such distributor shall be deemed to be the battery manufacturer; or (ii) imports rechargeable batteries into the United States that are sold or distributed in the State.

“*Consumer*” means any person who purchases one or more rechargeable batteries, or products containing such batteries at the time of sale, for personal use.

“*Rechargeable battery*” means any rechargeable nickel-cadmium, sealed lead, lithium ion, nickel metal hydride battery, or any other such dry cell battery capable of being recharged weighing less than twenty-five pounds, or battery packs containing such batteries; but shall not include a battery used as the principal electric power source for a vehicle, such as, but not limited to, an automobile, boat, truck, tractor, golf cart or wheelchair; for storage of electricity generated by an alternative power source, such as solar or wind-driven generators; or for memory backup that is an integral component of an electronic device.

“*Retailer*” means a person, firm or corporation that engages in the sale of rechargeable batteries, or products containing such batteries, to a consumer in the State, including, but not limited to, transactions conducted through sales outlets, catalogs, by mail, telephone or the internet. For the purposes of this section retailer shall not include a “food store” that occupies less than 14,000 square feet of display space.

How to Comply

Participation by battery manufacturers and retailers in the RBRC Call2Recycle[®] program would be one way to meet all the requirements of the New York State law. Manufacturers who are not RBRC licensees would have to participate in an alternative group or individual program. Retailers making use of Call2Recycle[®] boxes and complying with that program’s requirements would meet their obligations.