

[First Reprint]

SENATE, No. 3723

STATE OF NEW JERSEY

220th LEGISLATURE

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Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

"Electric and Hybrid Vehicle Battery Management Act."

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on May 15, 2023, with amendments.



1 AN ACT concerning electric vehicle batteries and supplementing
2 Title 13 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Electric
8 ¹and Hybrid¹ Vehicle Battery Management Act."

9

10 2. As used in this act:

11 "Battery cell" means the basic electrochemical component of a
12 battery, which provides a source of electrical energy and which
13 consists of an assembly of a cathode, an anode, and an electrolyte.

14 ¹"Battery management plan" means a plan for the collection,
15 transportation, remanufacturing, reuse, recycling and disposal,
16 using environmentally sound management practices, of used
17 propulsion batteries prepared pursuant to section 5 of this act.¹

18 "Battery module" means an array of multiple battery cells
19 connected in series or parallel and encased in one structure.

20 "Commissioner" means the Commissioner of Environmental
21 Protection.

22 "Department" means the Department of Environmental
23 Protection.

24 ¹**["Electric vehicle" means a vehicle that derives all or part of its**
25 **power from electricity supplied by the electric grid, and that has a**
26 **battery or equivalent energy storage device that can be charged**
27 **from an electricity supply external to the vehicle with an electric**
28 **plug. "Electric vehicle" includes a plug-in hybrid vehicle.**

29 "Electric vehicle battery" means a rechargeable battery that is
30 used to power the electric motors that propel an electric vehicle.
31 "Electric vehicle battery" includes, but is not limited to, lithium-ion
32 batteries and nickel-metal hydride batteries.]

33 "Environmentally sound management practices" mean the
34 policies and procedures for the collection, transportation, reuse, and
35 recycling or disposal of used electric vehicle batteries, implemented
36 by a producer to ensure compliance with all applicable federal,
37 State, and local laws, rules, regulations, and ordinances, to protect
38 human health, safety, and the environment, and to provide for the
39 adequate recordkeeping, tracking, and documentation of the
40 disposal of used propulsion batteries within the State.

41 "Producer" means a propulsion battery manufacturer,
42 remanufacturer, or importer, a person who repurposes propulsion
43 batteries, or a motor vehicle manufacturer, brand or trademark
44 licensee, or importer, who manufactures, sells, offers for sale, or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted May 15, 2023.

1 imports a propulsion battery in or into the State, as provided
2 pursuant to subsection b. of section 5 of this act.

3 "Propulsion battery" means an electrical energy storage device,
4 consisting of one or more individual battery modules or battery
5 cells, which are used to supply power to propel an electric or hybrid
6 road vehicle. "Propulsion battery" includes, but is not limited to,
7 lithium-ion batteries and nickel-metal hydride batteries.
8 "Propulsion battery" does not include a starter battery or a battery
9 used for, or embedded in, products for industrial applications.¹

10 "Recycling center" means the same as the term is defined in
11 section 2 of P.L.1987, c.102 (C.13:1E-99.12).

12 ¹"Remanufacture" means any repair or modification to a
13 propulsion battery that results in the complete battery, or any
14 battery modules or battery cells thereof, being used for the same
15 purpose or application as the one for which the battery was
16 originally designed.

17 "Repurpose" means any operation to a propulsion battery that
18 results in the complete battery, or any battery modules or battery
19 cells thereof, being used for a different purpose or application than
20 the one for which the battery was originally designed.

21 "Reuse" means the use of a propulsion battery in another vehicle
22 of the same type, which does not require modification to the
23 battery.¹

24 "Solid waste" means the same as the term is defined in section 3
25 of P.L.1970, c.39 (C.13:1E-3).

26 "Solid waste facility" means the same as the term is defined in
27 section 3 of P.L.1970, c.39 (C.13:1E-3).

28 "Vehicle recycler" means the same as the term is defined in
29 section 3 of P.L.2005, c.54 (C.13:1E-99.84).

30

31 3. ¹**[An electric vehicle]** A propulsion¹ battery sold in the State
32 shall include a permanent label providing information about the
33 battery. Pursuant to P.L.2003, c.266 (C.26:2C-8.15), the label shall
34 conform to the provisions of the California Low Emission Vehicle
35 program.

36

37 4. a. No person shall dispose of ¹**[an electric vehicle]** a
38 propulsion¹ battery, or any battery module or battery cell thereof, as
39 solid waste.

40 b. No solid waste collector registered pursuant to sections 4 and
41 5 of P.L.1970, c.39 (C.13:1E-4 and C.13:1E-5) and holding a
42 certificate of public convenience and necessity pursuant to sections
43 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and C.48:13A-9) shall
44 knowingly collect ¹**[an electric vehicle]** a propulsion¹ battery, or
45 any module or cell thereof, placed for collection and disposal as
46 solid waste. A solid waste collector may refuse to collect a solid

1 waste container containing ¹~~an electric vehicle~~ a propulsion¹
2 battery, or any module or cell thereof.

3 c. No solid waste facility in this State shall knowingly accept for
4 disposal ¹~~an electric vehicle~~ a propulsion¹ battery, or any module
5 or cell thereof, or a truckload or roll-off container of solid waste
6 containing ¹~~an electric vehicle~~ a propulsion¹ battery, or any
7 module or cell thereof. The owner or operator of a solid waste
8 facility may refuse to accept for disposal ¹~~an electric vehicle~~ a
9 propulsion¹ battery, or any module or cell thereof, or any truckload
10 or roll-off container of solid waste containing ¹~~an electric vehicle~~
11 a propulsion¹ battery, or any module or cell thereof.

12

13 ¹~~5.~~ a. If an electric vehicle's battery, or any battery module or
14 battery cell thereof, is replaced, and the vehicle remains in service,
15 the person performing the replacement shall provide for the proper
16 reuse, repurposing, or recycling of the battery, module, or cell. The
17 person performing the replacement shall use a core deposit
18 program, or other similar system, to ensure that electric vehicle
19 batteries, battery modules, and battery cells are properly managed
20 and tracked.

21 b. For an electric vehicle that is taken out of service, a vehicle
22 recycler who takes ownership of the end-of-life vehicle shall
23 provide for the proper reuse, repurposing, or recycling of the
24 battery. In the event that the electric vehicle is not transferred to a
25 vehicle recycler, the person who assumes ownership of vehicle after
26 it has been taken out of service shall provide for the proper reuse,
27 repurposing, or recycling of the battery.]¹

28

29 ¹~~5.~~ a. No later than 180 days after the effective date of this act,
30 each producer of propulsion batteries sold within the State, either
31 individually or as a part of a group of producers, shall, in
32 consultation with the department, develop and submit a battery
33 management plan to the department for review and approval
34 pursuant to section 6 of this act. The plan shall provide for
35 producers to be responsible for the collection and management of
36 the producer's used propulsion batteries that are offered to the
37 producer for take-back by the current battery owner.

38 b. A producer shall be deemed responsible for the end-of-life
39 management of a propulsion battery pursuant to this act as follows:

40 (1) for a propulsion battery embedded in a vehicle that is sold in
41 the State, or sold or distributed in or into the State via remote sale
42 or distribution;

43 (a) if the battery is sold in a vehicle under the vehicle
44 manufacturer's own brand, the vehicle manufacturer shall be
45 responsible for the battery;

46 (b) if the battery is sold in a vehicle under a different brand than
47 that of the vehicle manufacturer, the person that is the licensee of

- 1 the brand or trademark under which the vehicle is sold, offered for
2 sale, or distributed in or into the State, whether or not the trademark
3 is registered in the State, shall be responsible for the battery; and
- 4 (c) if there is no person described by subparagraphs (a) or (b) of
5 this paragraph within the United States, the person that imports the
6 battery-containing vehicle into the United States for sale, offering
7 for sale, or distribution in the State shall be responsible for the
8 battery; and
- 9 (2) for a propulsion battery that is sold in the State, or sold or
10 distributed in or into the State via remote sale or distribution, and
11 which is not embedded in a vehicle:
- 12 (a) if the battery was manufactured in the United States, and has
13 not been remanufactured or repurposed, the battery manufacturer
14 shall be responsible for the battery.
- 15 (b) if the battery has been remanufactured or repurposed in the
16 United States, the person that remanufactures or repurposes the
17 battery shall be responsible for the battery, except as provided in
18 subsection c. of this section; and
- 19 (c) if there is no person described by subparagraphs (a) or (b) of
20 this paragraph within the United States, the producer is the person
21 that imports the battery into the United States for sale, offering for
22 sale, or distribution in the State shall be responsible for the battery.
- 23 c. Notwithstanding the provisions of subsection b. of this section
24 to the contrary, the original producer of a propulsion battery shall
25 not be responsible for the management of a battery that a secondary
26 producer has remanufactured or repurposed, unless:
- 27 (1) the secondary producer is in a contractual relationship with
28 the original producer, which provides for the retention of
29 responsibility for the end-of-life management of the battery by the
30 primary producer; and
- 31 (2) the contract has been provided to the department as part of a
32 battery management plan or through another means approved by the
33 department.
- 34 d. A battery management plan prepared and submitted pursuant
35 to this section shall include, at a minimum:
- 36 (1) methods that will be used to collect and store the used
37 propulsion batteries returned to the producer, including proposed
38 collection services;
- 39 (2) methods that will be utilized to transport used propulsion
40 batteries to authorized recycling facilities, including the name and
41 location of all authorized recyclers to be directly utilized pursuant
42 to the plan;
- 43 (3) processes and methods that will be utilized to remanufacture,
44 repurpose, or recycle propulsion batteries that have reached the end
45 of their service life, including, if necessary, a plan for final disposal
46 of such batteries, in accordance with environmentally sound
47 management practices;

1 (4) a strategy for informing consumers, vehicle repair facilities,
2 and vehicle dismantlers in the State about the requirement to
3 properly manage propulsion batteries, the environmental impact of
4 the improper handling or disposal of used propulsion batteries, and
5 the mechanisms for the management of propulsion batteries that are
6 available pursuant to the plan;

7 (5) the means that will be used to implement and finance the
8 battery management plan; and

9 (6) any other information, policies, or procedures that the
10 department deems appropriate.

11 e. A battery management plan shall, to the extent practicable,
12 utilize existing recycling infrastructure. Where existing recycling
13 infrastructure is not utilized, the electric vehicle battery
14 management plan shall include the reasons for establishing a
15 separate infrastructure.

16 f. A propulsion battery management plan shall provide for the
17 financing of the collection, transportation, remanufacturing, reuse,
18 recycling, or disposal of used propulsion batteries. When a
19 producer is required to provide for the management of used
20 propulsion batteries, the costs of such financing shall be borne by
21 the producer of that propulsion battery.

22 g. Any entity that becomes a producer after the effective date of
23 this act shall receive approval from the department of its battery
24 management plan prior to manufacturing, selling, offering for sale,
25 or importing a propulsion battery in or into the State, and shall
26 otherwise comply with the provisions of this act.

27 h. A battery management plan shall be reviewed and updated, as
28 necessary, at least once every five years.¹

29
30 ¹6. a. No later than 120 days after receipt by the department of
31 a complete battery management plan, the department shall approve,
32 approve in part, or disapprove of the plan. In making a
33 determination pursuant to this section, the department may solicit
34 information from producers or other stakeholders as the department
35 deems appropriate. The department may assess a producer a
36 reasonable fee to cover the department's costs for plan review,
37 program implementation, and enforcement costs pursuant to this
38 act.

39 b. If the department approves the battery management plan, the
40 producer shall implement the plan within 90 days after receipt of
41 approval from the department or as otherwise agreed to by the
42 department.

43 c. If the department approves in part the battery management
44 plan, the department shall indicate those portions of the plan that do
45 not comply with the requirements of this act and the rules and
46 regulations adopted pursuant thereto. The producer shall implement
47 the components of the plan, as approved, within 90 days after
48 receipt of approval by the department or as otherwise agreed to by

1 the department, and submit a revised battery management plan
2 within 30 days after receipt of notification of the approval in part by
3 the department in order to bring the entire plan into compliance
4 with the requirements of this act and any rules and regulations
5 adopted pursuant thereto. The department shall review and
6 approve, conditionally approve, or disapprove a revised battery
7 management plan within 30 days after receipt of the revised plan.

8 d. If the battery management plan is disapproved, the
9 department shall inform the producer of the reasons for the
10 disapproval. The producer shall have 30 days thereafter to submit a
11 revised battery management plan to the department.

12 e. If, at the conclusion of the time period ending 120 days after
13 receipt by the department of a complete battery management plan,
14 the department has not approved, approved in part, or disapproved
15 the battery management plan pursuant to subsections b. through d.
16 of this section, the battery management plan shall be deemed to be
17 conditionally approved. A producer, subject to any modifications
18 required by the department, shall implement a conditionally
19 approved battery management plan within 90 days after the plan
20 has been deemed conditionally approved by the department.

21 f. The department may impose additional plan requirements, at
22 the conclusion of the time period ending 240 days after the effective
23 date of this act for any portion of a battery management plan that
24 does not comply with the requirements of this act, and any rules and
25 regulations adopted pursuant thereto, for a plan component that has
26 not been approved pursuant to this section.

27 g. The department may review a battery management plan
28 approved pursuant to this section and recommend modifications
29 thereto at any time upon a finding that the approved battery
30 management plan, as implemented, is deficient.

31 h. Within 90 days after the department's approval of a battery
32 management plan submitted in accordance with section 5 of this act,
33 or any revisions thereto, the department shall post, at a publicly
34 accessible location on its Internet website, each battery management
35 plan and a list identifying each of the producers participating in a
36 battery management plan.¹

37

38 ¹~~6.~~ ¹7. ¹a. A person seeking to discard ¹~~an electric vehicle~~ ¹a
39 propulsion¹ battery may deliver the ¹battery or the vehicle that
40 contains the¹ battery to:

41 (1) a ¹~~retailer of electric vehicles or electric vehicle batteries~~ ¹
42 location designated by the producer of the battery, as specified in
43 the producer's battery management plan¹ ; or

44 (2) a Class D recycling center authorized to recycle electric
45 vehicle batteries by the department.

46 b. ¹~~A retailer of electric vehicles or electric vehicle batteries,~~
47 upon presentation at any time during business hours by a member of

1 the public, shall accept a minimum of one electric vehicle battery
2 derived from the person's private use, at no charge.

3 c. No distributor of electric vehicles or electric vehicle batteries
4 shall refuse to accept an electric vehicle battery, collected from a
5 member of the public pursuant to this section, from any retailer of
6 the distributor's products, or from any other retailer if the battery is
7 of a type that is, or was, distributed by the distributor.

8 d.]¹ No ¹["manufacturer"] producer¹ of ¹["electric vehicles or
9 electric vehicle"] propulsion¹ batteries may refuse to ¹["accept any
10 electric vehicle battery,"] recover a used propulsion battery that it
11 has manufactured, branded, imported, or imbedded into a product in
12 New Jersey, if the battery is¹ collected from a ¹["distributor pursuant
13 to this section, from a distributor of the manufacturer's products"]
14 location or using a mechanism designated by the producer in its
15 battery management plan¹ . The ¹["manufacturer"] producer¹ shall
16 provide for the proper reuse, ¹remanufacturing,¹ repurposing, or
17 recycling of ¹["an electric vehicle"] a propulsion¹ battery returned
18 pursuant to this subsection. ¹The provisions of this subsection shall
19 not apply to the original producer of a propulsion battery that has
20 been remanufactured, repurposed, branded, imported, retailed, or
21 embedded into a product application by a secondary producer,
22 unless the secondary producer is in a contractual relationship with
23 the original producer pursuant to subsection c. of section 5 of this
24 act.¹

25

26 ¹["7. A retailer of electric vehicles or electric vehicle batteries
27 shall conspicuously post and maintain, at or near the point of sale, a
28 legible notice to consumers, not less than 8 1/2 inches by 11 inches
29 in size and bearing the State recycling logo or symbol, containing
30 the following inscription: "Electric vehicle batteries can be
31 recycled here. It is illegal to discard an electric vehicle battery in
32 New Jersey. State law requires us to accept and recycle any used
33 electric vehicle battery returned to us by a member of the public.""]¹

34

35 8. a. ¹["The department shall develop and promulgate training
36 materials or courses for persons who handle electric vehicle
37 batteries before or at end-of-life of the battery. The materials shall
38 include clear, detailed guidelines on occupational safety and
39 storage, as well as shipping protocols and requirements."] In
40 implementing a battery management plan approved pursuant this
41 act, a producer shall provide consumers with educational materials
42 related to the producer's approved battery management plan and the
43 collection services that are available. The educational materials
44 shall include, but need not be limited to, information identifying the
45 end-of-life management options that are available for propulsion
46 batteries through the battery management plan, and a notice that, in

1 New Jersey, the costs of the services will be covered by the
2 producer.¹

3 b. The department shall establish a means of addressing
4 consumer complaints and a public education program to assure the
5 widespread dissemination of information concerning the purpose of
6 this act.

7
8 9. a. A violation of the provisions of this act shall be considered
9 a violation of the "Solid Waste Management Act," P.L.1970, c.39
10 (C.13:1E-1 et seq.), and the commissioner shall have recourse to
11 any of the actions ¹or penalties¹ provided for in section 9 of
12 P.L.1970, c.39 (C.13:1E-9), in order to ¹**remedy** address¹ the
13 violation.

14 b. The department shall have the right to enter, at any time
15 during normal business hours and upon presentation of appropriate
16 credentials, the premises of a recycling center, vehicle recycler, or
17 ¹**retailer, distributor, or manufacturer of electric vehicles or**
18 **electric vehicle** producer of propulsion¹ batteries in order to
19 determine compliance with the provisions of this act.

20
21 10. The Commissioner of Environmental Protection shall adopt,
22 pursuant to the provisions of the "Administrative Procedure Act,"
23 P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations
24 necessary to implement the provisions of this act.

25
26 11. Section 10 of this act shall take effect immediately, and the
27 remainder of the act shall take effect on the first day of the twelfth
28 month following enactment, except that the department may take
29 such administrative measures as may be necessary to prepare for its
30 timely implementation.