



THE COUNCIL

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A Local Law to amend the administrative code of the city of New York, in relation to requiring a recycling program for all rechargeable batteries.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative Intent and findings. The Council finds and declares that the presence of toxic metals in discarded rechargeable batteries is a matter of great concern in light of their adverse effect on groundwater quality when disposed of in landfills and their presence in emissions or residual ash when incinerated at a resource recovery facility; that cadmium, lead and mercury found in rechargeable batteries, on the basis of available scientific and medical evidence, are of particular concern; that it is desirable to reduce the toxicity of waste materials in the solid waste streams directed to resource recovery and sanitary landfill facilities; that the removal of used rechargeable batteries containing high levels of cadmium, lead or mercury from the solid waste stream can have a significant beneficial impact on the quality of the emissions and residual ash resulting from the incineration of solid waste at resource recovery facilities, and on groundwater quality in those regions where solid waste is disposed at sanitary landfill facilities; and that the most effective and appropriate method to promote the reduction of toxic metals from rechargeable battery disposal is to require the battery industry to accept the financial responsibility for the environmentally sound collection, transportation and recycling or proper disposal of discarded rechargeable batteries.

The Council therefore determines that it is in the public interest of the city of New York to maximize the removal of used rechargeable batteries from the solid waste stream by banning the disposal of used rechargeable batteries from the solid waste stream and requiring manufacturers of rechargeable batteries to take back and recycle the used rechargeable batteries that are sold or disposed of in the city of New York.

This law is purposefully structured to fit into current rechargeable battery initiatives, especially the Rechargeable Battery Recycling Corporation's call2recycle program. This program currently uses volunteer retailers, and provides them with collection boxes with pre-paid postage that can be mailed directly to existing recycling centers, to collect and recycle rechargeable batteries and cell phones of all varieties. The program also does public outreach and advertising to increase its recycling rates. The program is paid for by over 350 manufacturers and marketers of products that use rechargeable batteries and has over 37,000 participating retail partners, including approximately 350 retailers throughout the city, such as Radio Shack, Home Depot and Verizon Wireless. The Council finds that making this existing voluntary program mandatory would strengthen its effectiveness in the city of New York.

§2. Title sixteen of the administrative code of the city of New York is amended by adding a new chapter four to read as follows:

CHAPTER 4

§16-401 Short title.

§16-402 Declaration of policy

§16-403 Definitions

§16-404 Rechargeable battery disposal ban.

§16-405 Rechargeable battery recycling program.

§16-406 Penalties.

§16-401 Short title. This chapter shall be known as and may be called the "New York City Rechargeable Battery Law".

§16-402 Declaration of policy. It is hereby declared to be the public policy of the city of New York to reduce environmental pollution, to reduce the toxicity of waste materials in the solid waste stream directed to resource recovery and sanitary landfill facilities, and to maximize the removal of used rechargeable batteries and products that contain rechargeable batteries and encourage their recycling by entities that manufacture rechargeable batteries by banning the disposal of used rechargeable batteries from the solid waste stream and requiring manufacturers of rechargeable batteries to take back and recycle the used rechargeable batteries sold or disposed of in the city of New York.

§16-403 Definitions. When used in this chapter:

a. "Battery manufacturer" means every person, firm or corporation that: (i) produces rechargeable batteries sold or distributed in the city of New York, or packages such batteries for sale in the city of New York, 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 city of New York, 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 city of New York.

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

c. "Place of business" means the location at which a retailer sells or offers for sale to consumers, rechargeable batteries, or products containing such batteries at the time of sale.

d. "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 in an electronic device.

e. "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 city of New York, 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".

f. "Food Store" means a store selling primarily food and food products for consumption or use off the premises that occupies less than 14,000 square feet of display space.

§16-404 Rechargeable battery disposal ban. a. No person shall knowingly dispose of rechargeable batteries as solid waste at any time in the city of New York.

§16-405 Rechargeable battery recycling program. a. Rechargeable batteries shall be returned to a retailer that sells such batteries that are similar in shape, size and function to those to be disposed of. Rechargeable batteries contained in electronic products must be removed prior to disposal of such product.

1. Retailers having a place of business in the city of New York shall accept from consumers at any time during normal business hours rechargeable batteries of a similar size and shape as the retailer offers for sale. Retailers shall take up to ten such batteries per day from any person regardless of whether such person purchases replacement batteries, and retailers shall also accept as many such batteries as a consumer purchases from the retailer. Retailers shall conspicuously post and maintain, at or near the point of entry to the place of business, a legible sign, not less than 8 ½ inches by 11 inches in size, stating that used rechargeable batteries of the size and shape sold or offered for sale by the retailer may not enter the solid waste stream, and that the retail establishment is a collection site for recycling such batteries. Such sign shall state the following in letters at least one-inch in height: "It is illegal to dispose of rechargeable batteries in the city of New York as solid waste. We accept used rechargeable batteries for return to the manufacturer."

2. Retailers that sell rechargeable batteries to consumers in the city of New York through non-retail outlets such as through catalogs, or by mail, telephone or the internet shall provide at the time of purchase or delivery to the consumer notice of an opportunity to return used rechargeable batteries at no cost to the consumer for reuse or recycling.

3. Retailers in the city of New York shall conspicuously maintain, at a location

within the retail establishment convenient for use by consumers, collection boxes or other suitable receptacles, supplied by the manufacturer, into which consumers may deposit used rechargeable batteries.

b. Every battery manufacturer, or any combination of battery manufacturers working together, shall, at the battery manufacturer's own expense, arrange for the return of, and recycle, all used rechargeable batteries collected by retailers. Battery manufacturers shall be responsible for, at a minimum, the following:

1. Every battery manufacturer, or any combination of battery manufacturers working together, shall, within six months of the passage of this law, submit a plan to the commissioner, or any other person responsible for the city of New York's recycling programs, that identifies the methods by which battery manufacturers will collect, transport, and recycle rechargeable batteries collected by retailers at the expense of the battery manufacturer.

2. Every battery manufacturer, or any combination of battery manufacturers working together, shall submit annual reports concerning the amount of rechargeable batteries received and recycled within the city of New York, either by number or by weight; the costs of such efforts; and any other relevant information to the commissioner or any other person responsible for the city of New York's recycling programs.

3. Every battery manufacturer, or any combination of battery manufacturers working together, shall undertake efforts to educate the citizens of the city of New York regarding the appropriate ways to recycle rechargeable batteries.

c. The commissioner, or any other person responsible for the city of New York's recycling programs, shall approve or reject any battery manufacturer's collection, transportation, and recycling plans described in paragraph one of subdivision (b) of this section within thirty days of submission and, if rejected, inform the battery manufacturer in writing as to any deficiencies in the plan. Battery manufacturers shall amend and resubmit any rejected plans for reconsideration within sixty days of notification of the rejection of said plan. The commissioner or any other person responsible for the city of New York's recycling programs shall approve or reject said plan within thirty days of resubmission.

d. The commissioner, or any other person responsible for the city of New York's recycling programs, shall analyze the information provided by battery manufacturers pursuant to paragraph two of subdivision (b) of this section and report to the Mayor and the City Council every two years.

e. The commissioner, or any other person responsible for the city of New York's recycling programs, shall promulgate any rules needed to implement this law.

§16-406 Penalties. a. Any person who violates section 16-404 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of fifty dollars for the first violation, one hundred dollars for a second violation committed within twelve months of a prior violation and two hundred dollars for a third or subsequent violation committed within twelve months of any prior violation.

b. Any retailer who violates section 16-405 of this chapter shall be liable for a civil penalty in a proceeding before the environmental control board in the amount of two hundred dollars for the first violation, four hundred dollars for a second violation committed within twelve months of a prior violation, and five hundred dollars for a third or subsequent violation committed within twelve months of any prior violation.

c. Any battery manufacturer who violates section 16-405 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of two thousand dollars for the first violation, four thousand dollars for a second violation committed within twelve months of a prior violation, and five thousand dollars for a third or subsequent violation committed within twelve months of any prior violation

§3. This local law shall take effect one year after its enactment into law, except that section 16-406 of the administrative code of the city of New York, as added by section two of this title, shall not take effect until eighteen months after its enactment into law.

CJC, DA, AS 10/13/ 2005