



General Assembly

January Session, 2021

Raised Bill No. 6386

LCO No. 2784



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

***AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY
FOR TIRES, SMOKE DETECTORS AND CERTAIN GAS CYLINDERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective from passage*) Not later than January 1, 2022, the
2 Commissioner of Energy and Environmental Protection shall submit a
3 report, in accordance with the provisions of section 11-4a of the general
4 statutes, to the joint standing committee of the General Assembly
5 having cognizance of matters relating to the environment concerning:
6 (1) Current best practices for residents of the state to dispose of or
7 recycle residential smoke detectors, (2) any hazardous waste concerns
8 that arise from the disposal or recycling of residential smoke detectors,
9 (3) achieved or estimated current state rates for the proper disposal or
10 recycling of residential smoke detectors, (4) the efficacy of extended
11 producer responsibility programs to yield higher rates of proper
12 disposal or recycling of residential smoke detectors than are currently
13 achieved or estimated in the state, (5) legislative recommendations
14 concerning the disposal or recycling of residential smoke detectors,
15 including, but not limited to, components of any recommended
16 extended producer responsibility program for such smoke detectors

17 and any consumer awareness efforts for the proper disposal or recycling
18 of residential smoke detectors. For purposes of this section, "residential
19 smoke detector" means any battery operated or plug-in smoke detector
20 intended for use in a residential dwelling, any carbon monoxide
21 detector intended for use in a residential dwelling and any smoke
22 detector and carbon monoxide detector combination intended for use in
23 a residential dwelling.

24 Sec. 2. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this
25 section:

26 (1) "Brand" means a name, symbol, word or mark that attributes a gas
27 cylinder to the producer of such gas cylinder;

28 (2) "Commissioner" means the Commissioner of Energy and
29 Environmental Protection;

30 (3) "Covered entity" means any political subdivision of the state,
31 permitted transfer station, state park or state or private campground
32 that possesses a discarded gas cylinder that was discarded in this state
33 or at a temporary event, including such events at public and private
34 schools, colleges and universities where thirty or more cylinders are
35 generated;

36 (4) "Department" means the Department of Energy and
37 Environmental Protection;

38 (5) "Discarded gas cylinder" means any gas cylinder that a consumer
39 discarded, intends to discard or abandoned;

40 (6) "Gas cylinder" or "cylinder" means any nonrefillable and refillable
41 cylinder supplied with any type of flammable pressurized gas, helium
42 or carbon dioxide, of any size greater than a water capacity of two
43 pounds and up to and including cylinders with a water capacity of fifty
44 pounds, including, but not limited to, seamless cylinders and tubes,
45 welded cylinders and insulated cylinders intended to contain helium,
46 carbon dioxide or any flammable materials such as propane, acetylene,

47 butane, hydrogen, ethylene and all other flammable compressed gases.
48 "Gas cylinder" does not include any cylinder, tube or container intended
49 to deliver a product that is not a compressed gas;

50 (7) "Gas cylinder recycling council" or "council" means the nonprofit
51 organization created by producers or created by any trade association
52 that represents producers who account for a majority of gas cylinder
53 production in the United States to design, submit and implement the
54 gas cylinder stewardship program described in this section;

55 (8) "Gas cylinder stewardship program" or "program" means the
56 state-wide program described in this section and implemented pursuant
57 to the gas cylinder stewardship plan;

58 (9) "Performance goal" means a metric proposed by the council to
59 measure, on an annual basis, the performance of the gas cylinder
60 stewardship program, taking into consideration technical and economic
61 feasibilities, in achieving continuous, meaningful improvement in the
62 rate of gas cylinder recycling in the state and any other specified goal of
63 the program;

64 (10) "Producer" means: (1) Any person who manufactures and uses
65 in a commercial enterprise, sells, offers for sale or distributes any
66 cylinder in the state under the brand of the manufacturer; (2) any person
67 who is not the manufacturer of the cylinder but who is the owner or
68 licensee of a trademark under which the cylinder is used in a
69 commercial enterprise, sold, offered for sale or distributed in the state,
70 whether or not the trademark is registered; or (3) any person who
71 imports any cylinder into the state for use in a commercial enterprise or
72 for the commercial sale, offer for sale or distribution in the state;

73 (11) "Recycling" means any process in which discarded cylinders,
74 components and by-products may lose their original identity or form as
75 they are transformed into new, usable or marketable materials.
76 "Recycling" does not include the use of incineration for energy recovery;

77 (12) "Refurbish" means to restore for the purposes of refilling a

78 cylinder;

79 (13) "Retailer" means any person who sells gas cylinders in this state
80 or offers gas cylinders for sale in this state to a consumer; and

81 (14) "Sale" means the transfer of title of a gas cylinder for
82 consideration, including, but not limited to, the use of a sales outlet,
83 catalog, Internet web site or similar electronic means.

84 (b) On or before July 1, 2022, each producer, or such producer's
85 designee, shall join the gas cylinder recycling council and such council
86 shall submit a plan, for the Commissioner of Energy and Environmental
87 Protection's approval, to establish a state-wide gas cylinder stewardship
88 program, as described in this subsection. Retailers may participate in
89 said council. Such gas cylinder stewardship program shall, to the extent
90 it is technologically feasible and economically practical: (1) Minimize
91 public sector involvement in the management of discarded gas
92 cylinders; (2) provide for free, convenient and accessible state-wide
93 opportunities for the receipt of discarded gas cylinders from any person
94 in the state with a discarded gas cylinder that was discarded in the state,
95 including, but not limited to, participating covered entities that
96 accumulate and segregate a minimum of thirty discarded gas cylinders
97 for collection at one time; (3) provide for free collection of discarded gas
98 cylinders from municipal transfer stations that accumulate and
99 segregate fewer than thirty gas cylinders, provided the transfer station
100 requires such collection due to space or permit requirements; (4)
101 provide for council-financed end-of-life management for discarded gas
102 cylinders collected pursuant to subdivisions (2) and (3) of this
103 subsection; (5) provide for reasonable state administrative fees; and (6)
104 provide suitable storage containers at, or make other mutually agreeable
105 storage and transport arrangements for, permitted municipal transfer
106 stations for segregated, discarded gas cylinders, at no cost to such
107 municipality, provided any such municipal transfer station shall make
108 space available for such purpose and shall not impose any fee for
109 placement of such storage container on the municipal transfer station's
110 premises.

111 (c) The plan submitted pursuant to subsection (b) of this section shall:
112 (1) Identify each producer participating in the program; (2) describe the
113 fee structure for the program; (3) establish performance goals for the
114 first two years of the program; (4) identify proposed facilities to be used
115 by the program; (5) detail how the program will promote the recycling
116 of discarded gas cylinders; and (6) include a description of the public
117 education program that will be used to promote consumer knowledge
118 of such program. The fee structure described in subdivision (2) of this
119 subsection shall not include a fee charged to consumers at the point of
120 sale.

121 (d) The council shall establish and implement a fee structure that
122 covers, but does not exceed, the costs of developing the plan described
123 in subsection (c) of this section, operating and administering the
124 program described in subsection (b) of this section and maintaining a
125 financial reserve sufficient to operate the program over a multiyear
126 period of time in a fiscally prudent and responsible manner. The council
127 shall maintain all records relating to the program for a period of not less
128 than three years.

129 (e) Pursuant to the program, recycling shall be required for gas
130 cylinders and residual gases recovered for reuse.

131 (f) The Commissioner of Energy and Environmental Protection shall
132 approve the plan for the establishment of the gas cylinder stewardship
133 program, provided such plan meets the requirements of subsections (b)
134 to (e), inclusive, of this section. Not later than ninety days after
135 submission of the plan pursuant to this section, the commissioner shall
136 make a determination whether to approve the plan. Prior to making
137 such determination, the commissioner shall post the plan on the
138 department's Internet web site and solicit public comments on the plan.
139 Such solicitation shall not be conducted pursuant to chapter 54 of the
140 general statutes. In the event that the commissioner disapproves the
141 plan because it does not meet the requirements of subsections (b) to (e),
142 inclusive, of this section, the commissioner shall describe the reasons for
143 the disapproval in a notice of determination that the commissioner shall

144 provide to the council. The council shall revise and resubmit the plan to
145 the commissioner not later than forty-five days after receipt of the
146 commissioner's notice of determination. Not later than forty-five days
147 after receipt of the revised plan, the commissioner shall review and
148 approve or disapprove the revised plan, and provide a notice of
149 determination to the council. The council may resubmit a revised plan
150 to the commissioner for approval on not more than two occasions. If the
151 council fails to submit a plan that is acceptable to the commissioner
152 because it does not meet the requirements of subsections (b) to (e),
153 inclusive, of this section, the commissioner shall modify a submitted
154 plan to make it conform to the requirements of subsections (b) to (e),
155 inclusive, of this section, and approve it. Not later than one hundred
156 twenty days after the approval of a plan pursuant to this section, or one
157 hundred eighty days, in the case of a plan modified by the
158 commissioner, the council shall implement the gas stewardship
159 program.

160 (g) (1) The council shall submit any proposed substantial change to
161 the program to the Commissioner of Energy and Environmental
162 Protection for approval. For the purposes of this subdivision,
163 "substantial change" means: (A) A change in the processing facilities to
164 be used for discarded gas cylinders collected pursuant to the program,
165 or (B) a material change to the system for collecting gas cylinders. If the
166 commissioner does not disapprove a proposed substantial change
167 within ninety days of receipt of notification of such proposed substantial
168 change, such proposed substantial change shall be deemed approved.

169 (2) Not later than October 1, 2025, the council shall submit updated
170 performance goals to the commissioner that are based on the experience
171 of the program during the first two years of the program.

172 (h) The council shall notify the Commissioner of Energy and
173 Environmental Protection of other material changes to the program on
174 an ongoing basis, without resubmission of the plan to the commissioner
175 for approval. Such changes shall include, but not be limited to, a change
176 in the composition, officers or contact information of the council.

177 (i) Any producer who fails to participate in the program shall not sell
178 gas cylinders in this state.

179 (j) Not later than October fifteenth of each year, the council shall
180 submit an annual report to the Commissioner of Energy and
181 Environmental Protection, on a form prescribed by the commissioner.
182 The commissioner shall post such annual report on the department's
183 Internet web site. Such report shall include: (1) The tonnage of gas
184 cylinders collected pursuant to the program from: (A) Municipal
185 transfer stations, (B) retailers, and (C) all other covered entities; (2) the
186 weight of gas cylinder materials recycled, as indicated by the weight of
187 each of the commodities sold to secondary markets; (3) the weight of gas
188 cylinders refurbished; (4) a summary of the public education program
189 that supports the program; (5) an evaluation of the effectiveness of
190 methods and processes used to achieve performance goals of the
191 program; and (6) recommendations for any changes to the program.

192 (k) Two years after the implementation of the program and every
193 three years thereafter, or upon the request of the Commissioner of
194 Energy and Environmental Protection but not more frequently than
195 once a year, the council shall cause an audit of the program to be
196 conducted by an auditor selected by the commissioner. Such audit shall
197 review the accuracy of the council's data concerning the program and
198 provide any other information requested by the commissioner,
199 consistent with the requirements of this section, provided such request
200 does not require the disclosure of any proprietary information or trade
201 or business secrets. Such audit shall be paid for by the council. The
202 council shall maintain all records relating to the program for not less
203 than three years.

204 (l) Upon implementation of the cylinder stewardship program
205 described in this section, any covered entity that participates in such
206 program shall not charge for the receipt of discarded gas cylinders that
207 are discarded in this state.

208 (m) Not later than three years after the approval of the cylinder

209 stewardship plan pursuant to this section, the Commissioner of Energy
210 and Environmental Protection shall submit a report, in accordance with
211 the provisions of section 11-4a of the general statutes, to the joint
212 standing committee of the General Assembly having cognizance of
213 matters relating to the environment. Such report shall provide an
214 evaluation of the gas cylinder stewardship program and establish a goal
215 for the amount of discarded cylinders managed under the program.

216 (n) Each producer and the council shall be immune from liability for
217 any claim of a violation of antitrust law or unfair trade practice, if such
218 conduct is a violation of antitrust law, to the extent such producer or
219 council is exercising authority pursuant to the provisions of this section.

220 (o) The Commissioner of Energy and Environmental Protection may
221 seek civil enforcement of the provisions of this section pursuant to
222 chapter 439 of the general statutes.

223 (p) Whenever, in the judgment of the Commissioner of Energy and
224 Environmental Protection, any person has engaged in or is about to
225 engage in any act, practice or omission that constitutes, or will
226 constitute, a violation of any provision of this section, the Attorney
227 General may, at the request of the commissioner, bring an action in the
228 superior court for the judicial district of New Britain for an order
229 enjoining such act, practice or omission. Such order may require
230 remedial measures and direct compliance with the provisions of this
231 section. Upon a showing by the commissioner that such person has
232 engaged in or is about to engage in any such act, practice or omission,
233 the court may issue a permanent or temporary injunction, restraining
234 order or other order, as appropriate.

235 (q) Any action brought by the Attorney General pursuant to this
236 section shall have precedence in the order of trial, as provided in section
237 52-191 of the general statutes.

238 (r) In the event that another state implements a gas cylinder recycling
239 program, the council may collaborate with such state to conserve efforts
240 and resources used in carrying out the gas cylinder stewardship

241 program, provided such collaboration is consistent with the
242 requirements of this section.

243 Sec. 3. (*Effective from passage*) The Commissioner of Energy and
244 Environmental Protection shall identify beneficial end uses for
245 discarded tires in this state that result in the recycling of such tires rather
246 than the burning of such tires for fuel. In identifying such beneficial end
247 uses, the commissioner shall consider, but need not be limited to, the
248 viability of establishing a tire stewardship program that provides for the
249 recycling of discarded tires for the purpose of transforming such
250 discarded tires into such beneficial end uses. Not later than January 1,
251 2022, the commissioner shall submit a report, in accordance with section
252 11-4a of the general statutes, to the joint standing committee of the
253 General Assembly having cognizance of matters relating to the
254 environment. Such report shall include, but need not be limited to, a
255 discussion of any such identified beneficial end uses and any
256 recommendations for legislation concerning discarded tires in this state.

257 Sec. 4. (NEW) (*Effective from passage*) Not later than July 1, 2022, the
258 Commissioner of Energy and Environmental Protection shall establish
259 a tire hauler license. Such tire hauler license shall be required of any
260 person who engages in the commercial hauling of discarded tires in this
261 state. Nothing in this section shall be construed to require such licensure
262 for any person transporting used tires in this state for verifiable personal
263 use. In establishing such license, the commissioner may establish a
264 reasonable fee for such license. Any such license shall require that such
265 licensee maintain a manifest, does not illegally dump such tires and only
266 delivers such tires to facilities that store, dispose of or use such
267 discarded tires in a manner that protects the public health and the
268 environment. The commissioner may prescribe the form and manner of
269 application for such license. In developing such tire hauler license
270 requirements, the commissioner may review and consider the tire
271 hauler license and permit requirements of other states, including, but
272 not limited to, the states of Michigan, Maryland and Texas. The
273 commissioner may adopt regulations, in accordance with the provisions
274 of chapter 54 of the general statutes, to implement the provisions of this

275 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2021</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

Statement of Purpose:

To manage and divert items such as tires, smoke detectors and gas cylinders within the state's solid waste stream.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]