



House of Representatives

File No. 654

General Assembly

February Session, 2024 **(Reprint of File Nos. 195 and 608)**

Substitute House Bill No. 5226
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 3, 2024

***AN ACT ESTABLISHING AN EXTENDED PRODUCER
RESPONSIBILITY PROGRAM FOR CONSUMER BATTERIES.***

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

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) For purposes of this
2 section:

3 (1) "Department" means the Department of Energy and
4 Environmental Protection.

5 (2) "Battery-containing product" means a product sold, offered for
6 sale, or distributed in or into this state that contains or is packaged with
7 rechargeable or primary batteries that are covered batteries. "Battery-
8 containing product" does not include a covered electronic product
9 subject to the requirements of sections 22a-629 to 22a-640, inclusive, of
10 the general statutes.

11 (3) "Battery stewardship organization" means a producer that directly
12 implements a battery stewardship plan required under this section or a

13 nonprofit organization designated by a producer or group of producers
14 to implement a battery stewardship plan required under this section.

15 (4) "Collection rate" means a percentage, by weight, that a battery
16 stewardship organization collects that is calculated by dividing the total
17 weight of primary and rechargeable batteries collected by the battery
18 stewardship organization during the previous calendar year by the
19 average annual weight of primary and rechargeable batteries that were
20 estimated to have been sold in the state during the previous three
21 calendar years by all producers participating in an approved battery
22 stewardship plan.

23 (5) "Covered battery" means a portable battery, beginning January 1,
24 2026, or a portable or medium format battery, beginning January 1, 2028.
25 "Covered battery" does not include: (A) A battery contained within a
26 medical device, as specified in 21 USC 321(h) as it existed as of the
27 effective date of this section, that is not designed and marketed for sale
28 or resale principally to consumers for personal use; (B) a battery that
29 contains an electrolyte as a free liquid; (C) a lead acid battery weighing
30 greater than eleven pounds; (D) a motor vehicle battery subject to the
31 provisions of section 22a-256h of the general statutes; (E) a battery
32 recalled by the producer for safety reasons; (F) a battery in a battery-
33 containing product that is not intended or designed to be easily
34 removable from the battery-containing product; or (G) a battery subject
35 to the provisions of sections 22a-629 to 22a-640, inclusive, of the general
36 statutes.

37 (6) "Easily removable" means designed by the manufacturer to be
38 removable by the user of the product with not more than commonly
39 used household tools.

40 (7) "Environmentally sound management practices" means practices
41 that: (A) Comply with all applicable federal, state and local regulatory
42 requirements to protect workers, public health and the environment; (B)
43 provide for recordkeeping, tracking and documenting of the fate of
44 materials within the state and outside of the state in accordance with the

45 requirements of this section; and (C) include comprehensive liability
46 coverage for the battery stewardship organization, including
47 environmental liability coverage that is commercially practicable.

48 (8) "Medium format battery" means the following primary or
49 rechargeable covered batteries:

50 (A) For rechargeable batteries, a battery weighing more than eleven
51 pounds but not more than twenty-five pounds or that has a rating of
52 more than three hundred watt hours but not more than two thousand
53 watt hours, or both;

54 (B) For primary batteries, a battery weighing more than four pounds
55 and six ounces but not more than twenty-five pounds.

56 (9) "Portable battery" means the following primary or rechargeable
57 covered batteries:

58 (A) For rechargeable batteries, a battery weighing not more than
59 eleven pounds and that has a rating of not more than three hundred
60 watt hours;

61 (B) For primary batteries, a battery weighing not more than four
62 pounds and six ounces.

63 (10) "Primary battery" means a nonrechargeable battery, including,
64 but not limited to, alkaline, silver oxide, zinc air, carbon-zinc and
65 lithium metal batteries.

66 (11) "Producer" means:

67 (A) For covered batteries sold, offered for sale, or distributed in or
68 into this state:

69 (i) If the battery is sold, offered for sale, or distributed in or into this
70 state under the brand of the battery manufacturer, the producer is the
71 person that manufactures the battery;

72 (ii) If the battery is sold, offered for sale, or distributed in or into this
73 state under a retail brand or under a brand owned by a person other
74 than the manufacturer, the producer is the brand owner;

75 (iii) If there is no person to which subparagraph (A)(i) or (A)(ii) of this
76 subdivision applies, the producer is the person that is the licensee of a
77 brand or trademark under which the battery is sold, offered for sale, or
78 distributed in or into this state, whether or not the trademark is
79 registered in this state;

80 (iv) If there is no person described in subparagraphs (A)(i) to (A) (iii),
81 inclusive, of this subdivision within the United States, the producer is
82 the person who is the importer of record for the battery into the United
83 States;

84 (v) If there is no person described in subparagraphs (A)(i) to (A)(iv),
85 inclusive, of this subdivision with a commercial presence within the
86 state, the producer is the person who first sells, offers for sale or
87 distributes the battery in or into this state;

88 (B) For battery-containing products containing one or more covered
89 batteries sold, offered for sale or distributed in or into this state:

90 (i) If the battery-containing product is sold, offered for sale, or
91 distributed in or into this state under the brand of the product
92 manufacturer, the producer is the person that manufactures the
93 product;

94 (ii) If the battery-containing product is sold, offered for sale, or
95 distributed in or into this state under a retail brand or under a brand
96 owned by a person other than the manufacturer, the producer is the
97 brand owner;

98 (iii) If there is no person to which subparagraph (B)(i) or (B)(ii) of this
99 subdivision applies, the producer is the person that is the licensee of a
100 brand or trademark under which the product is used in a commercial
101 enterprise, sold, offered for sale, or distributed in or into this state,

102 whether or not the trademark is registered in this state;

103 (iv) If there is no person described in subparagraphs (B)(i) to (B)(iii),
104 inclusive, of this subdivision within the United States, the producer is
105 the person who is the importer of record for the product into the United
106 States;

107 (v) If there is no person described in subparagraphs (B)(i) to (B)(iv),
108 inclusive, of this subdivision with a commercial presence within the
109 state, the producer is the person who first sells, offers for sale or
110 distributes the product in or into this state;

111 (C) A person is the producer of a covered battery or battery-
112 containing product containing one or more covered batteries sold,
113 offered for sale, or distributed in or into this state, as defined in
114 subparagraph (A) of this subdivision, except where another party has
115 contractually accepted responsibility as a responsible producer and has
116 joined a registered battery stewardship organization as the producer for
117 that covered battery or battery-containing product containing one or
118 more covered batteries under this section.

119 (12) "Program" means a program implemented by a battery
120 stewardship organization consistent with an approved battery
121 stewardship plan.

122 (13) "Rechargeable battery" means a battery that contains one or more
123 voltaic or galvanic cells, electrically connected to produce electric
124 energy, that is designed to be recharged.

125 (14) "Recycling" means recycling, reclamation or reuse as defined in
126 section 22a-207 of the general statutes. For purposes of this section,
127 recycling does not include: (A) Combustion; (B) incineration; (C) energy
128 generation; (D) fuel production; or (E) beneficial reuse in the
129 construction and operation of a solid waste landfill, including use as
130 alternative daily cover.

131 (15) "Recycling efficiency rate" means the ratio of the weight of

132 covered battery components and materials recycled by a program
133 operator from covered batteries to the weight of covered batteries as
134 collected by the program operator.

135 (16) "Retailer" means a person who sells covered batteries or battery-
136 containing products containing one or more covered batteries in or into
137 this state or offers, or otherwise makes available, covered batteries or
138 battery-containing products containing one or more covered batteries to
139 a customer, including other businesses, in this state.

140 (17) "Commissioner" means the Commissioner of Energy and
141 Environmental Protection.

142 (b) On or before January 1, 2026, for portable batteries, and on or
143 before January 1, 2028, for medium format batteries:

144 (1) Each producer selling, offering for sale, or distributing covered
145 batteries or battery-containing products containing one or more covered
146 batteries in or into the state shall participate in an approved battery
147 stewardship plan through participation in and the funding of a battery
148 stewardship organization; and

149 (2) A producer that does not participate in a battery stewardship
150 organization and battery stewardship plan may not sell covered
151 batteries or battery-containing products covered by this section in or
152 into this state.

153 (c) (1) On and after July 1, 2026, for portable batteries, and on and
154 after July 1, 2028, for medium format batteries, no retailer shall sell, offer
155 for sale, distribute, or otherwise make available for sale a covered
156 battery or battery-containing product containing one or more covered
157 batteries unless the producer of the covered battery or battery-
158 containing product is identified as a participant in a battery stewardship
159 organization whose plan has been approved by the commissioner.

160 (2) No retailer shall be in violation of the requirements of subdivision
161 (1) of this subsection if the web site made available by the department

162 pursuant to this section lists, as of the date a product is made available
163 for retail sale, a producer or brand of covered battery or battery-
164 containing product containing one or more covered batteries sold by the
165 retailer as being a participant in an approved battery stewardship plan
166 or the implementer of an approved battery stewardship plan.

167 (3) Retailers of covered batteries or battery-containing products
168 containing one or more covered batteries shall not be required to make
169 retail locations available to serve as collection sites for a battery
170 stewardship program operated by a battery stewardship organization.
171 Retailers that serve as a collection site shall comply with the
172 requirements for collection sites in accordance with the provisions of
173 this section.

174 (4) No retailer shall sell, offer for sale, distribute, or otherwise make
175 available for sale covered batteries, unless such batteries are marked
176 consistent with the requirements of this section. Each producer of a
177 battery-containing product containing a covered battery shall verify to
178 the retailers of such product that the battery contained in the battery-
179 containing product is marked consistent with the requirements of this
180 section. A retailer may rely on such verification for purposes of
181 compliance with this section.

182 (5) Any retailer selling or offering covered batteries or battery-
183 containing products containing one or more covered batteries for sale in
184 this state may provide information to consumers that is provided to the
185 retailer by the battery stewardship organization regarding available
186 end-of-life management options for covered batteries collected by the
187 battery stewardship organization. Any such information that a battery
188 stewardship organization makes available to retailers shall include, but
189 not be limited to, in-store signage, written materials and other
190 promotional materials that retailers may use to inform customers of the
191 available end-of-life management options for covered batteries collected
192 by the battery stewardship organization.

193 (6) No retailer, producer or battery stewardship organization shall

194 charge a specific point-of-sale fee to consumers to cover the
195 administrative or operational costs of the battery stewardship
196 organization or the battery stewardship program.

197 (d) (1) On or before January 1, 2025, each producer of covered
198 portable batteries or such producer's designee, including, but not
199 limited to, a battery stewardship organization, shall notify the
200 Commissioner of Energy and Environmental Protection, in writing,
201 whether the producer will act individually or jointly with other
202 producers to submit a stewardship plan to the commissioner for the
203 establishment of a state-wide battery stewardship program. On or
204 before January 1, 2027, each producer of covered medium format
205 batteries, or such producer's designee, including, but not limited to, a
206 battery stewardship organization, shall notify the Commissioner of
207 Energy and Environmental Protection, in writing, whether the producer
208 will act individually or jointly with other producers to submit a
209 stewardship plan to the commissioner for the establishment of a state-
210 wide battery stewardship program.

211 (2) Not later than July 1, 2025, each battery stewardship organization
212 shall submit a plan for covered portable batteries to the commissioner
213 for approval. Not later than July 1, 2027, each battery stewardship
214 organization shall submit a plan for covered medium format batteries
215 to the commissioner for approval. A battery stewardship organization
216 may submit a plan at any time to the commissioner for review and
217 approval. The commissioner shall review and may approve a plan based
218 on whether it contains each of the following components:

219 (A) Contact information for each producer, battery brand and
220 battery-containing product brand covered in the plan;

221 (B) A performance goals proposal consistent with this section,
222 including establishing performance goals for each of the next three
223 calendar years of program implementation;

224 (C) A description of how the battery stewardship organization will
225 make retailers aware of their obligation to sell only covered batteries

226 and battery-containing products containing one or more covered
227 batteries of producers participating in an approved battery stewardship
228 plan;

229 (D) A description of the education and communications strategy
230 being implemented to effectively promote participation in the approved
231 covered battery stewardship program and provide the information
232 necessary for effective participation of consumers, retailers and others;

233 (E) A description of how the battery stewardship organization will
234 make available to collection sites, for voluntary use, signage, written
235 materials, and other promotional materials that collection sites may use
236 to inform consumers of the available end-of-life management options
237 for covered batteries collected by the battery stewardship organization;

238 (F) Promotional activities to be undertaken, and the identification of
239 consumer awareness goals and strategies that the battery stewardship
240 program will employ to achieve such goals after the program is
241 implemented;

242 (G) Collection site safety training procedures related to covered
243 battery collection activities at collection sites, including operating
244 protocols to reduce risks of spills or fires and response protocols in the
245 event of a spill or fire, and a protocol for safe management of damaged
246 batteries that are returned to collection sites;

247 (H) A description of the method to establish and administer a means
248 for fully funding the program in a manner that equitably distributes the
249 program's costs among the producers that are part of the battery
250 stewardship organization. For producers that elect to meet the
251 requirements of this section individually, without joining a battery
252 stewardship organization, the plan shall describe the proposed method
253 to establish and administer a means for fully funding such battery
254 stewardship program;

255 (I) A description of the financing methods used to implement the
256 battery stewardship plan, consistent with the provisions of this section;

257 (J) A description of how the battery stewardship program will collect
258 all covered battery brands on a free, continuous, convenient, visible and
259 accessible basis, including a description of how the program will
260 provide for convenient collection for any municipality with a
261 population of one hundred thousand or more people;

262 (K) A description of the criteria to be used in the battery stewardship
263 program to determine whether an entity may serve as a collection site
264 for discarded batteries under the program;

265 (L) Collection goals for each of the first three years of implementation
266 of the battery stewardship program that are based on the estimated total
267 weight of primary and rechargeable covered batteries that have been
268 sold in the state in the previous three calendar years by the producers
269 participating in the battery stewardship plan;

270 (M) Identification of proposed sorters, transporters, processors and
271 facilities to be used by the battery stewardship program for the final
272 disposition of batteries and how environmentally sound management
273 practices will be applied throughout the management of collected
274 batteries;

275 (N) Details of how the battery stewardship program will achieve a
276 recycling efficiency rate, calculated consistent with this section of not
277 less than sixty per cent for rechargeable batteries and not less than
278 seventy per cent for primary batteries; and

279 (O) Goals for increasing public awareness of the program and
280 descriptions of how the public education and outreach components of
281 the battery stewardship program will be implemented.

282 (3) Each battery stewardship organization shall submit a new plan to
283 the commissioner for approval upon request of the commissioner. The
284 commissioner may identify the types of significant changes that require
285 a new plan to be submitted to the commissioner for approval.

286 (4) Each battery stewardship organization shall provide plan

287 amendments to the commissioner for approval whenever:

288 (A) Changes are proposed to the performance goals of the battery
289 stewardship program based on performance of such program;

290 (B) There is a change to the method of financing the battery
291 stewardship plan implementation, including changes to the fees or fee
292 structure established in the battery stewardship plan; or

293 (C) There is an addition or removal of a sorter, processor or
294 transporter under the stewardship plan.

295 (5) The commissioner shall review a battery stewardship plan or
296 amendment for compliance with this section and shall approve,
297 disapprove or conditionally approve such plan, in writing, not later than
298 one hundred twenty days after receipt of such plan. If the commissioner
299 disapproves a battery stewardship plan submitted by a battery
300 stewardship organization, the commissioner shall explain how the
301 stewardship plan does not comply with this section. The battery
302 stewardship organization shall resubmit to the commissioner a revised
303 stewardship plan not later than sixty days after the date the written
304 notice was issued and the commissioner shall review the revised
305 stewardship plan not later than ninety days after resubmittal. In the
306 event that the commissioner disapproves the plan because it does not
307 meet the requirements of this section, the commissioner shall describe
308 the reasons for the disapproval in a notice of determination that the
309 commissioner shall provide to the producer, or producer's designee.
310 Such producer, or producer's designee, shall revise and resubmit the
311 plan to the commissioner not later than forty-five days after receipt of
312 the commissioner's notice of disapproval. Such producer, or producer's
313 designee, may resubmit a revised plan to the commissioner for approval
314 on not more than two occasions. If the producer, or producer's designee,
315 fails to submit a plan that is acceptable to the commissioner because it
316 does not meet the requirements of this section, the commissioner shall
317 modify a submitted plan to make it conform to the requirements of this
318 section and approve it.

319 (6) Whenever a battery stewardship plan or an amendment that
320 makes substantive changes to an approved plan is submitted under this
321 section, the commissioner shall make the proposed plan or amendment
322 available for public review and comment for not less than thirty days.

323 (7) Each battery stewardship organization shall provide written
324 notification to the commissioner not later than thirty days after a
325 producer begins or ends participation in a battery stewardship
326 organization.

327 (e) (1) Each battery stewardship plan shall include performance goals
328 that measure, on an annual basis, the achievements of the battery
329 stewardship program, including: (A) The collection rate for batteries in
330 the state; (B) the recycling efficiency rate of the battery stewardship
331 program; and (C) public awareness of the battery stewardship program.

332 (2) The performance goals established in each battery stewardship
333 plan shall include, but need not be limited to:

334 (A) Target collection rates for primary batteries and for rechargeable
335 batteries;

336 (B) Target recycling efficiency rates of not less than sixty per cent for
337 rechargeable batteries and not less than seventy per cent for primary
338 batteries; and

339 (C) Goals for public awareness, convenience and accessibility that
340 meet or exceed the minimum requirements established in this section.

341 (f) (1) Each battery stewardship organization shall ensure adequate
342 funding is available to fully implement an approved battery
343 stewardship plan, including the implementation of aspects of the plan
344 addressing: (A) Battery collection, transporting and processing; (B)
345 education and outreach; (C) program evaluation; and (D) payment of
346 the administrative fees to the department in accordance with the
347 provisions of this section.

348 (2) Each battery stewardship organization that implements a battery

349 stewardship plan on behalf of producers shall develop a system to
350 collect charges from participating producers to cover the costs of the
351 plan's implementation.

352 (3) (A) Each battery stewardship organization shall be responsible for
353 all costs of participating covered battery collection, transportation,
354 processing, education, administration, department reimbursement,
355 recycling and end-of-life management in accordance with the
356 requirements of this section.

357 (B) Each battery stewardship organization shall meet the collection
358 goals established in the approved battery stewardship plan.

359 (C) No battery stewardship organization shall reduce or cease
360 collection, education and outreach, or other activities implemented
361 under an approved battery stewardship plan based on achievement of
362 program performance goals.

363 (4) (A) Each battery stewardship organization shall reimburse local
364 governments for demonstrable costs incurred as a result of a local
365 government facility or solid waste handling facility serving as a
366 collection site for a battery stewardship program, including, but not
367 limited to, associated labor costs and other costs associated with
368 accessibility and collection site standards such as storage.

369 (B) Each battery stewardship organization shall, at a minimum,
370 provide collection sites with appropriate containers for covered
371 batteries subject to its battery stewardship program, training, signage,
372 safety guidance and educational materials, at no cost to the collection
373 sites.

374 (g) (1) Each battery stewardship organization that implements a
375 battery stewardship plan shall provide for the collection of all covered
376 batteries, including all chemistries and brands of covered batteries, on a
377 free, continuous, convenient, visible and accessible basis to any person,
378 business, government department or nonprofit organization. Except as
379 otherwise provided in this subsection, each battery stewardship plan

380 shall provide for the collection of each chemistry and brand of covered
381 battery from any person, business, government department or nonprofit
382 organization at each collection site that counts toward the satisfaction of
383 the collection site criteria described in this section.

384 (2) (A) For each collection site utilized by a battery stewardship
385 program, each battery stewardship organization shall provide suitable
386 collection containers for covered batteries that are segregated from other
387 solid waste or make mutually agreeable alternative arrangements for
388 the collection of batteries at the site. The location of collection containers
389 at each collection site used by the battery stewardship program shall be
390 within view of a responsible person and shall be accompanied by
391 signage made available to the collection site by the battery stewardship
392 organization that informs customers regarding the end-of-life
393 management options for batteries provided by the collection site under
394 this section. Each collection site shall meet applicable federal, state and
395 local regulatory requirements and adhere to the operations manual and
396 other safety information provided to the collection site by the battery
397 stewardship organization.

398 (B) Medium format batteries may only be collected at household
399 hazardous waste collection sites or other staffed collection sites that
400 meet applicable federal, state and local regulatory requirements to
401 manage medium format batteries.

402 (C) (i) Damaged and defective batteries shall be collected at collection
403 sites, other than retail locations, that are staffed by persons trained to
404 handle and ship such batteries.

405 (ii) Each battery stewardship organization shall provide for collection
406 of damaged and defective batteries at each permanent household
407 hazardous waste facility in the state, at each household hazardous waste
408 collection event and at any participating permitted transfer stations that
409 are staffed by persons trained to handle and ship such batteries.

410 (iii) As used in this subparagraph, "damaged and defective batteries"
411 means batteries that have been damaged or identified by the

412 manufacturer as being defective for safety reasons and that have the
413 potential of producing a dangerous evolution of heat, fire or short
414 circuit, as referred to in 49 CFR 173.185(f) as of January 1, 2023, or as
415 updated by the department by regulations adopted in accordance with
416 the provisions of chapter 54 of the general statutes to maintain
417 consistency with federal standards.

418 (3) Each battery stewardship organization that implements a battery
419 stewardship plan shall ensure state-wide collection opportunities for all
420 covered batteries. Battery stewardship organizations shall coordinate
421 activities with other program operators, including covered battery
422 collection and recycle programs and electronic waste recyclers, with
423 regard to the proper management or recycling of collected covered
424 batteries, for purposes of providing the efficient delivery of services and
425 avoiding unnecessary duplication of effort and expense. State-wide
426 collection opportunities shall be determined by geographic information
427 modeling that considers permanent collection sites. A battery
428 stewardship program may rely, in part, on collection events to
429 supplement the permanent collection services required in this
430 subsection, provided only permanent collection services specified in
431 this subsection shall qualify toward the satisfaction of the requirements
432 of this subsection.

433 (4) (A) Each battery stewardship program shall use existing public
434 and private waste collection services and facilities, including battery
435 collection sites that are established through other battery collection
436 services, transporters, consolidators, processors and retailers, where
437 such use is cost effective, mutually agreeable and otherwise practicable.

438 (B) (i) Any municipality, solid waste management facility or
439 household hazardous waste facility that meets the criteria for collection
440 sites in the approved stewardship plan shall be included in the program
441 upon the submission of a request to the battery stewardship
442 organization to serve as a collection site. Each battery stewardship
443 program shall use as a collection site for covered batteries any retailer
444 or wholesaler that meets the criteria for collection sites in the approved

445 battery stewardship plan up to the minimum number of sites required
446 for compliance with the approved plan, upon the submission of a
447 request by an entity to the battery stewardship organization to serve as
448 a collection site. Each battery stewardship program may use additional
449 collection sites in excess of the minimum required in this subsection, as
450 may be agreed between the battery stewardship organization and the
451 collection site.

452 (ii) Each battery stewardship program shall use as a site for a
453 collection event for covered batteries any retailer, wholesaler,
454 municipality, solid waste management facility, household hazardous
455 waste facility, or other entity that meets the criteria for collection events
456 in the approved plan upon the submission of a request by the entity to
457 the battery stewardship organization to serve as a site for a collection
458 event. Each battery stewardship program may use additional sites for
459 collection events in excess of the minimum required in this subsection,
460 as may be agreed between the battery stewardship organization and the
461 collection site.

462 (C) Each battery stewardship organization may issue a warning to
463 suspend or terminate a collection site or service that does not adhere to
464 the collection site criteria in the approved battery stewardship plan or
465 that poses an immediate health and safety concern.

466 (5) (A) No battery stewardship program shall be required to provide
467 for the collection of battery-containing products.

468 (B) No battery stewardship program shall be required to provide for
469 the collection of batteries that: (i) Are not easily removable from the
470 product other than by the manufacturer; and (ii) remain contained in a
471 battery-containing product at the time of delivery to a collection site.

472 (C) Each battery stewardship program shall provide for the collection
473 of loose batteries.

474 (h) (1) Each battery stewardship organization shall carry out
475 promotional activities in support of the battery stewardship plan

476 implementation, including, but not limited to, the development and (A)
477 maintenance of a web site; (B) distribution of periodic press releases and
478 articles; (C) placement of advertisements for use on social media or
479 other relevant media platforms; (D) distribution of promotional
480 materials about the battery stewardship program and the restriction on
481 the disposal of covered batteries to be used by persons, including, but
482 not limited to, retailers, government agencies, waste and recycling
483 collectors and nonprofit organizations; (E) distribution of collection site
484 safety training procedures that are in compliance with state law to
485 collection sites to help ensure proper management of covered batteries
486 at collection sites; and (F) implementation of outreach and educational
487 resources that are conceptually, linguistically and culturally accurate for
488 the communities served and that reach the state's diverse ethnic
489 populations, including through meaningful consultation with
490 communities that bear disproportionately higher levels of adverse
491 environmental and social justice impacts.

492 (2) Each battery stewardship organization shall provide:

493 (A) Consumer-focused educational promotional materials to each
494 collection site used by the battery stewardship program and that are
495 accessible by customers of retailers that sell covered batteries or battery-
496 containing products containing one or more covered batteries; and

497 (B) Safety information related to covered battery collection activities
498 to the operator of each collection site, including appropriate protocols
499 to reduce risks of spills or fires, response protocols in the event of a spill
500 or fire, and response protocols in the event of detection of a damaged or
501 defective battery.

502 (3) (A) Each battery stewardship organization shall provide
503 educational materials to the operator of each collection site for the
504 management of recalled batteries, which are not intended to be part of
505 collection, to help facilitate transportation and processing of recalled
506 batteries.

507 (B) Each battery stewardship organization may seek reimbursement

508 from the producer of the recalled battery for expenses incurred in the
509 collection, transportation or processing of such batteries.

510 (4) Upon request by a retailer or other potential collector, the battery
511 stewardship organization shall provide the retailer or other potential
512 collector educational materials describing collection opportunities for
513 batteries.

514 (5) If multiple battery stewardship organizations are implementing
515 plans approved by the commissioner, the battery stewardship
516 organizations shall coordinate in carrying out their education and
517 outreach responsibilities under this section and shall include in their
518 annual reports to the commissioner a summary of their coordinated
519 education and outreach efforts.

520 (6) During the first year of a battery stewardship program's
521 implementation and every five years thereafter, each battery
522 stewardship organization shall carry out a survey of public awareness
523 regarding the requirements of the battery stewardship program
524 established under this section. Each battery stewardship organization
525 shall share the results of such public awareness surveys with the
526 commissioner.

527 (i) (1) Not later than June 1, 2027, and each June first thereafter, each
528 battery stewardship organization shall submit an annual report to the
529 commissioner covering the preceding calendar year of the battery
530 stewardship program. Such report shall include:

531 (A) An independent financial audit of the battery stewardship
532 program implemented by the battery stewardship organization,
533 including a breakdown of the program's expenses, such as collection
534 costs, recycling costs, education costs and overhead;

535 (B) A summary financial statement that documents the financing of
536 the battery stewardship organization's program and an analysis of
537 program costs and expenditures, including an analysis of the program's
538 expenses, such as collection costs, transportation costs, recycling costs,

539 education costs and administrative overhead costs. Each summary
540 financial statement shall be sufficiently detailed to provide transparency
541 as to whether funds collected from producers as a result of their
542 activities in the state are spent on program implementation in the state.
543 Each battery stewardship organization that implements similar battery
544 stewardship programs in multiple states may submit a financial
545 statement including all covered states, provided the statement breaks
546 out financial information pertinent to this state;

547 (C) The weight, by chemistry, of covered batteries collected under the
548 battery stewardship program;

549 (D) The weight of materials recycled from covered batteries collected
550 under the program, in total, and by method of battery recycling;

551 (E) A calculation of the recycling efficiency rates;

552 (F) A list of all facilities used in the processing or disposition of
553 batteries, including identification of the facility's location and whether
554 the facility is located domestically, in an organization for economic
555 cooperation and development country, or in a country that meets
556 organization for economic cooperation and development operating
557 standards. For domestic facilities, such report shall provide a summary
558 of any violations of environmental laws and regulations over the
559 previous three years at each such facility;

560 (G) For each facility used for the final disposition of batteries, a
561 description of how the facility recycled or otherwise disposed of
562 batteries and battery components;

563 (H) The weight and chemistry of batteries sent to each facility used
564 for the final disposition of batteries. Such information may be
565 approximated for program operations in the state based on
566 extrapolations of national or regional data for programs in operation in
567 multiple states;

568 (I) The collection rate achieved under the program, including a

569 description of how the collection rate was calculated and how it
570 compares to the collection rate goals established in this section;

571 (J) The estimated aggregate sales, by weight and chemistry, of
572 batteries and batteries contained in or with battery-containing products
573 sold in the state by participating producers for each of the previous three
574 calendar years;

575 (K) A description of the manner in which the collected batteries were
576 managed and recycled, including a discussion of best available
577 technologies and the recycling efficiency rate;

578 (L) A description of education and outreach efforts supporting plan
579 implementation including, but not limited to, a summary of education
580 and outreach provided to consumers, collection sites, manufacturers,
581 distributors and retailers by the battery stewardship program operator
582 for the purpose of promoting the collection and recycling of covered
583 batteries, a description of how that education and outreach met the
584 requirements of this section, samples of education and outreach
585 materials, a summary of coordinated education and outreach efforts
586 with any other battery stewardship organizations implementing a
587 battery stewardship plan approved by the commissioner, and a
588 summary of any changes made during the previous calendar year to
589 education and outreach activities;

590 (M) A list of all collection sites and an address for each listed site
591 including an up-to-date map indicating the location of all collection sites
592 used to implement the program, with links to appropriate web sites if
593 there are existing web sites associated with a site;

594 (N) A description of methods used to collect, transport and recycle
595 covered batteries by the battery stewardship organization;

596 (O) A summary on progress made toward the program performance
597 goals established under this section and an explanation of why
598 performance goals were not met, if applicable; and

599 (P) An evaluation of the effectiveness of education and outreach
600 activities.

601 (2) The weight of batteries or recovered resources from such batteries
602 shall only be counted once and may not be counted by more than one
603 battery stewardship organization.

604 (3) If a battery stewardship organization has disposed of covered
605 batteries through energy recovery, incineration or landfilling during the
606 preceding calendar year of program implementation, the annual report
607 shall specify the steps that the battery stewardship organization will
608 take to make the recycling of covered batteries cost effective, where
609 possible, or to otherwise increase battery recycling rates achieved by the
610 battery stewardship organization.

611 (4) Any proprietary information submitted to the commissioner
612 under this section shall be exempt from disclosure under chapter 14 of
613 the general statutes.

614 (j) The Commissioner of Energy and Environmental Protection may
615 assess a reasonable annual fee to any battery stewardship organization
616 that shall not exceed fifty thousand dollars annually for the
617 administration and enforcement of this section.

618 (k) The department shall maintain an Internet web site that lists
619 producers and their brands that are participating in an approved plan,
620 and make available to the public each plan, plan amendment and annual
621 report received by the commissioner after the approval or receipt of
622 notice from a battery stewardship organization of changes to the
623 producers and brands participating under an approved battery
624 stewardship plan.

625 (l) (1) Any person who violates any provision of this section shall be
626 liable for a civil penalty of seven thousand dollars per violation, except
627 that the failure to pay a fee under the provisions of this section shall
628 cause the person who fails to pay such fee to be liable for a civil penalty
629 that is double the applicable fee.

630 (2) The penalties provided for in this subsection may be recovered in
631 a civil action brought by the Attorney General.

632 (3) The Attorney General may institute a civil action for the
633 enforcement of any provision of this section.

634 (4) The penalties and injunctions provided in this subsection are in
635 addition to any penalties, injunctions or other relief provided under any
636 other provision of the general statutes. Nothing in this subsection shall
637 be construed to prohibit a cause of action by the state for any other
638 penalty, injunction or other relief provided by any other provision of
639 law.

640 (5) Any person who knowingly makes a false, fictitious or fraudulent
641 material written statement, under oath, related to or required by this
642 section or any rule adopted under this section, shall be guilty of a Class
643 A misdemeanor.

644 (6) Notwithstanding the provisions of this subsection, no penalty
645 may be assessed against an individual for the improper disposal of
646 covered batteries in a noncommercial or residential setting.

647 (m) (1) On and after January 1, 2027, each producer or retailer may
648 only sell, offer for sale or distribute in or into the state a covered battery
649 or battery-containing product containing one or more covered batteries
650 if the battery is marked with an identification of the producer of the
651 battery, unless the battery is less than one-half inch in diameter or does
652 not contain a surface that exceeds one-half inch. On and after January 1,
653 2029, such battery shall be marked with proper labeling to ensure proper
654 collection and recycling, by identifying the chemistry of the battery and
655 including an indication that the battery should not be disposed of as
656 household waste.

657 (2) Each producer shall verify to its customers, or to the retailer if the
658 retailer is not the customer, that the requirements of this subsection have
659 been met.

660 (n) (1) Any battery stewardship organization that implements an
661 approved battery stewardship plan in compliance with the
662 requirements of this section may bring a civil action against a producer
663 for damages when:

664 (A) Such organization incurs more than one thousand dollars in
665 actual costs from collecting, handling, recycling and properly disposing
666 of the defendant producer's batteries sold or offered for sale in the state;
667 and

668 (B) The defendant producer is not in compliance with the
669 requirements of this section.

670 (2) For the purposes of this subsection, "damages" includes:

671 (A) The actual costs a plaintiff battery stewardship organization
672 incurs in collecting, handling, recycling or properly disposing of
673 batteries reasonably identified as having originated from another
674 battery producer or battery stewardship organization; and

675 (B) Reasonable attorneys' fees and costs associated with bringing
676 such civil action.

677 (o) Each producer and battery stewardship organization shall be
678 immune from liability for any claim of a violation of antitrust law or
679 unfair trade practice if such conduct is a violation of antitrust law, to the
680 extent such producer or battery stewardship organization is exercising
681 authority pursuant to the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Department of Energy and Environmental Protection	GF - Cost/Revenue Gain	Minimal	Minimal
Judicial Dept. (Probation)	GF - Potential Cost	None	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	None	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	Potential Savings	None	See Below

Explanation

The bill requires certain battery producers to join or create a battery stewardship organization in order to sell batteries in the state, beginning January 1, 2026 for portable batteries and January 1, 2028 for certain other batteries. The Department of Energy and Environmental Protection (DEEP) will oversee the organizations. The bill is expected to result in the fiscal impacts described below.

Program Administration by DEEP

The bill may result in a revenue gain to DEEP as the department may assess a fee of up to \$50,000 annually on each stewardship organization to cover the costs of program administration. Fee revenue may begin to be collected in either late FY 25 or FY 26, depending on DEEP's decision

regarding timing. Total revenue is expected to be minimal annually, subject to the number of stewardship organizations and the fee set by DEEP.

There will additionally be annual costs to DEEP, starting during the second half of FY 25, for administration of the statewide battery stewardship program. Costs are expected to be minimal given the limited scope of DEEP responsibilities in the bill.

Penalties

The bill creates a new class A misdemeanor for making certain false statements to the Commissioner of DEEP (related to the bill's battery stewardship requirements). This results in a potential cost to the Judicial Department for incarceration or probation and a potential revenue gain from fines. On average, the marginal cost for supervision in the community is less than \$800 each year for adults.¹

The bill additionally allows DEEP and the Attorney General to enforce battery stewardship requirements through fines. This is not anticipated to result in a fiscal impact as it is expected that battery producers will comply with the program, based on experience from existing paint and mattress stewardship programs.

Municipal Impacts

The bill results in a potential savings to municipalities, beginning in FY 26, as fewer batteries would be a part of municipal solid waste (MSW). Current average tipping fees for MSW are approximately \$110 per ton. Any savings to municipalities would be dependent on the volume of batteries being disposed of in the MSW stream.

The bill also allows municipalities to serve as a collection site for the

¹Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

battery stewardship program. Any costs to municipalities for serving as a collection site would be reimbursed by the battery stewardship organization.

House "A" makes a technical change regarding liability of battery producers and battery stewardship organizations that results in no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the fee set by DEEP, the number of battery stewardship organizations, and the number of violations. Revenues and costs to DEEP, and potentially the bill's other fiscal impacts, will grow in the out years as producers of larger batteries become subject to certain stewardship program requirements beginning in FY 27.

OLR Bill Analysis**sHB 5226 (as amended by House "A")******AN ACT ESTABLISHING AN EXTENDED PRODUCER RESPONSIBILITY PROGRAM FOR CONSUMER BATTERIES.*****SUMMARY**

This bill establishes a framework for statewide stewardship programs to manage the collection and recycling of certain batteries. It prohibits battery and battery-containing product producers who fail to participate in a program from selling or distributing the batteries or products in Connecticut.

Under the bill, producers must, either on their own or with other producers, be part of a stewardship organization that develops a plan for and implements a battery stewardship program. The Department of Energy and Environmental Protection (DEEP) is responsible for reviewing and deciding to approve a plan. These plans must be submitted by July 1, 2025, for portable batteries, and by July 1, 2027, for medium format batteries.

The bill authorizes DEEP to assess an annual fee of up to \$50,000 on an organization for administration and enforcement of the bill's requirements. It requires the collection of loose batteries; it does not require collecting battery-containing products. The bill also sets requirements on retail battery sales, establishing collection sites, educational and promotional efforts, and annual reporting to DEEP.

The bill (1) generally makes a violation of the bill's requirements subject to a \$7,000 civil fine, (2) authorizes the attorney general to enforce the bill's requirements in court, (3) gives the stewardship organizations a private right of action against certain noncompliant producers, and (4) immunizes producers and organizations from claims of antitrust or unfair trade practice violations under certain

circumstances.

*House Amendment "A" adds a provision immunizing producers and organizations from antitrust and unfair trade practice violation claims.

EFFECTIVE DATE: October 1, 2024

BATTERY STEWARDSHIP REQUIREMENTS

Producer Participation

Beginning January 1, 2026, for portable batteries, and January 1, 2028, for medium format batteries, the bill requires each producer selling, offering for sale, or distributing covered batteries or battery-containing products in or into the state to participate in an approved battery stewardship plan (i.e., by participating in and funding a battery stewardship organization, as described below). The bill prohibits non-participating producers from selling the batteries or products in or into the state.

(Because plans for portable batteries must be submitted for DEEP's approval by July 1, 2025, (and by July 1, 2027, for medium format batteries), and DEEP has up to 120 days to review them for approval or disapproval and additional days apply for resubmitting and rereviewing, it is unclear if there will be approved plans by these dates when plans are not approved during the initial 120-day period.)

Batteries and Battery Products Involved

The bill applies to the management of "covered batteries" and "battery-containing products." Covered batteries include portable batteries and medium format batteries, but not the following:

1. batteries in a medical device that are not designed or marketed for sale or resale to consumers for personal use,
2. batteries with a free liquid electrolyte,
3. lead acid batteries weighing over 11 pounds,

4. motor vehicle batteries,
5. batteries recalled for safety reasons by their producer,
6. batteries in battery-containing products that are not intended or designed by the manufacturer to be removable with common household tools, and
7. batteries covered by the state's electronic waste recycling law.

"Portable batteries" include (1) nonrechargeable batteries (e.g., alkaline, silver oxide, zinc air, carbon-zinc, and lithium metal) of up to four pounds, six ounces and (2) rechargeable batteries (e.g., with at least one voltaic or galvanic cells, electrically connected to produce electric energy) of up to 11 pounds and a maximum rating of 300 watt hours.

"Medium format batteries" are (1) nonrechargeable batteries weighing more than four pounds, six ounces, but no more than 25 pounds and (2) rechargeable batteries weighing more than 11 pounds, but no more than 25 pounds, or with a rating over 300 watt hours, but no more than 2,000 watt hours.

Products that are sold, offered for sale, or distributed that contain or are packaged with the above batteries are "battery-containing products," unless they are already subject to the state's electronic waste recycling law.

Producers

The bill applies to "producers." For batteries that are sold, offered for sale, or distributed in or into the state under the battery manufacturer's brand, the producer is the battery manufacturer. But if they are under a retail brand or a brand owned by a person that is not the manufacturer, it is the brand owner. And if there is no person meeting the above criteria, then the following, in order, would be the producer:

1. the licensee of a brand or trademark under which the battery is sold, offered for sale, or distributed in or into Connecticut,

- regardless of whether the trademark is registered in this state;
2. the importer of record for the battery into the United States; or
 3. the person who first sells, offers for sale, or distributes the battery in or into Connecticut, if no person has a commercial presence in the state.

The bill largely applies the same hierarchy for determining a producer with respect to battery-containing products, though brand or trademark licensees may be deemed the producers if the product is used in a commercial enterprise, in addition to being sold, offered for sale, or distributed in the state as described above.

The bill allows another party to contractually accept the responsibility as a producer and join a stewardship organization as the producer.

RESTRICTIONS ON SALES OR DISTRIBUTION

Retailers

Beginning July 1, 2026, for portable batteries, and July 1, 2028, for medium format batteries, the bill generally prohibits retailers from selling, offering for sale, distributing, or otherwise making available for sale (including to other businesses) the covered battery or battery-containing product of a producer that is not participating in an approved battery stewardship plan. This ban does not apply if, at the time the product is made available for sale, DEEP's website lists a producer or brand of covered battery or battery-containing product sold by the retailer as participating in or implementing an approved plan.

The bill also prohibits retailers from selling, offering for sale, distributing, or otherwise making available for sale covered batteries unless the batteries are properly marked (see *Identification Markings*, below). It requires battery-containing product producers to verify to retailers that the battery in the product is properly marked, which retailers may rely on for compliance reasons.

Lastly, the bill prohibits retailers, producers, and battery stewardship organizations from charging consumers a specific fee during a sale to cover the organizations' or their programs' administrative or operational costs.

Identification Markings

Beginning January 1, 2027, the bill generally prohibits producers and retailers from selling, offering for sale, or distributing in or into Connecticut a covered battery or battery-containing product without an identification mark of the battery's producer. Exempt from the ban are batteries with diameters of less than ½ inch or surfaces that do not exceed ½ inch. Beginning January 1, 2029, these batteries must be marked with labels to ensure that they are properly collected and recycled by identifying their chemistry and having an indication that the battery should not be disposed of as household waste.

The bill requires producers to verify to their customers and retailers that the above requirements were met.

Consumer Information

The bill allows retailers selling or offering covered batteries or battery-containing products for sale to give consumers the information that a battery stewardship organization gave to the retailer about available end-of-life management options for batteries the organization collects. The bill specifies that this information must include things like signs and written or other promotional materials.

PLAN DEVELOPMENT AND SUBMISSION

By January 1, 2025, the bill requires each producer of covered portable batteries, or its designee (e.g., a battery stewardship organization), to notify the DEEP commissioner in writing of whether it will individually or jointly submit a plan to establish a statewide battery stewardship program. Producers of covered medium format batteries, or their designees, must similarly do this by January 1, 2027.

Under the bill, each battery stewardship organization must submit its

plan for covered portable batteries by July 1, 2025, to DEEP for review and approval. A plan for covered medium format batteries must similarly be submitted to DEEP by July 1, 2027. A battery stewardship organization may then submit a plan to DEEP at any time for its review and approval.

Required Plan Contents

Under the bill, the plan must include the following information:

1. contact information for each producer, battery brand, and battery-containing product brand covered in the plan;
2. a performance goals proposal, including goals for each of the next three program years (see *Performance Goals*, below);
3. promotional activities and consumer awareness goals and strategies to meet the program's goals;
4. collection site safety training procedures for battery collection, including protocols to reduce spill or fire risk, respond to a spill or fire, and safely manage damaged batteries;
5. collection goals for each of the program's first three years that are based on the estimated total weight of nonrechargeable and rechargeable covered batteries sold in the state during the previous three years;
6. goals for increasing public awareness; and
7. proposed sorters, transporters, processors, and facilities that the program will use for final battery disposition and how environmentally sound management practices will be used when managing collected batteries.

Under the bill, "environmentally sound management practices" comply with applicable federal, state, and local regulatory requirements to protect workers, public health, and the environment. They also (1) provide for recording, tracking, and documenting materials' final

disposition in the state and outside of it and (2) include comprehensive liability coverage for the stewardship organization with commercially practicable environmental liability coverage.

The plan must also describe the following:

1. how the organization will inform retailers about their obligation to only sell batteries and battery-containing products covered by an approved battery stewardship plan;
2. the education and communications strategy that will be used to effectively promote program participation, including the information needed for consumers, retailers, and others;
3. how the program's public education and outreach aspects will be implemented;
4. how the organization will provide collection sites with signs, written materials, and other promotional materials that they may, voluntarily, use to inform consumers about end-of-life management options for covered batteries (but the bill requires collection sites to post these signs, see *Collection Sites*, below);
5. a method for establishing and administering a way to fully fund the program so that it equitably distributes program costs among participating producers;
6. financing methods to implement the plan;
7. how the program will collect all covered battery brands on a free, continuous, convenient, visible, and acceptable basis, including providing for convenient collection in towns with populations of at least 100,000;
8. criteria for determining if an entity may serve as a collection site; and
9. how the program will reach recycling efficiency rates of at least

70% for nonrechargeable batteries and at least 60% for rechargeable batteries.

Under the bill, a “recycling efficiency rate” is a ratio of the weight of battery components and materials recycled by a program operator to the weight of batteries the operator collected. In calculating the rate, materials are not considered recycled if they are combusted, incinerated, or used in energy generation, fuel production, or for beneficial use in a solid waste landfill.

Performance Goals. The bill requires each plan to have performance goals that annually measure the program’s achievements on battery collection in the state, the recycling efficiency rate, and public awareness. Specifically, the goals must at least include the following:

1. target collection rates for nonrechargeable batteries and rechargeable batteries;
2. target recycling efficiency rates of at least 70% for nonrechargeable batteries and at least 60% for rechargeable batteries; and
3. goals for public awareness, convenience, and accessibility that at least meet the bill’s minimum requirements.

The bill prohibits a battery stewardship organization from reducing or stopping collection, education and outreach, or other activities due to meeting program performance goals.

The “collection rate” is a percentage, by weight, that is calculated by dividing the total weight of batteries collected by the organization during the prior year by the average annual weight of batteries estimated to have been sold in the state during the previous three years by all producers participating in an approved plan.

Review and Approval Process

The bill requires the DEEP commissioner to (1) review submitted

plans and (2) base her approval on whether the plan has the above information. The commissioner may approve, disapprove, or conditionally approve a plan, but must do so in writing within 120 days after receiving it. A disapproval must explain how the plan is noncompliant.

If a plan is disapproved, the battery stewardship organization must submit a revised plan within 60 days after DEEP's disapproval notice and DEEP then has 90 days to review it. If the commissioner disapproves it again, she must again explain why in a notice of determination to the producer or stewardship organization. The bill then requires revision and resubmission of the plan within 45 days after receipt of the last notice, but it limits resubmitting a revised plan for approval to two times.

Under the bill, if there is no acceptable plan submitted, the DEEP commissioner must modify a submitted plan to make it compliant and approve it.

Changes to a Plan

The bill sets out circumstances that require plan amendments or a new plan to be submitted for DEEP's approval. Under these circumstances, DEEP must make the plan or amendment available for public review and comment for at least 30 days.

The bill requires plan amendments for the following changes: (1) changes to performance goals due to program performance; (2) changes to the program financing method, including to the plan's fees or fee structure; and (3) an addition or removal of a sorter, processor, or transporter. It authorizes DEEP to identify other types of significant changes that would require submitting a new plan for approval and requires the submission of one if DEEP requests it. The bill also requires a stewardship organization to inform DEEP, in writing, within 30 days after a producer starts or ends participation in the organization.

PROGRAM FUNDING

Under the bill, a battery stewardship organization must ensure that there is adequate funding to fully implement its approved plan, including program evaluation. The bill makes it responsible for all the costs of covered battery collection, transportation, processing, education, administration, department reimbursement, recycling, and end-of-life management according to the bill's requirements. For an organization that implements a plan on producers' behalf, the bill requires it to develop a system to collect charges from the producers to cover plans' implementation costs.

The bill separately authorizes a stewardship organization to seek reimbursement from producers of recalled batteries for its expenses to collect, transport, or process them.

BATTERY COLLECTION

General Provisions

The bill requires each battery stewardship organization to meet the battery collection goals set out in its plan. It must have all covered batteries collected on a free, continuous, convenient, visible, and acceptable basis for individuals, businesses, government agencies, and nonprofits at each collection site it uses, with certain exceptions (see below).

Under the bill, a stewardship organization must have statewide collection opportunities. It must coordinate with other program operators, like battery collection and recycle programs and electronic waste recyclers, to efficiently deliver services and avoid unnecessary duplication of work and costs. Geographic information modeling must be used to consider permanent collection sites and determine statewide collection opportunities. The bill allows programs to rely on collection events to supplement permanent collection services, but only permanent services qualify to meet the bill's collection location requirements.

Under the bill, a battery stewardship program must use existing waste collection services and facilities, including battery collection sites,

transporters, consolidators, processors, and retailers, when doing so is cost effective, mutually agreeable, and otherwise practicable. However, the bill does not require retailers to make their locations available as collection sites; those that do must comply with all collection site requirements (see below).

The bill limits the collection of medium format batteries to household hazardous waste collection sites or other staffed locations that meet applicable federal, state, and local regulatory requirements for managing these batteries. It also specifies that programs are not required to collect (1) battery-containing products or (2) batteries that are not easily removable from a product except by the manufacturer and that stay in a battery-containing product when it is brought to a collection site.

Collection Sites

The bill requires a battery stewardship program to include the following entities as collection sites if they meet the associated plan's collection site criteria and they ask to be one: municipalities, solid waste management facilities, and household hazardous waste facilities. It similarly requires a program to use any retailer or wholesaler meeting the collection site criteria as a collection site if it asks to be one and having it as a site will help meet the plan's minimum number of required sites.

The bill also requires a program to use retailers, wholesalers, municipalities, solid waste management facilities, household hazardous waste facilities, or other entities meeting a plan's collection event criteria to serve as a collection event location if they ask to serve as one.

In the above circumstances, the bill allows a program to use additional collection sites, beyond the bill's minimum number of sites. (The bill, however, does not set minimum thresholds for collection sites.)

Under the bill, for each collection site it uses, a battery stewardship

organization must (1) provide suitable collection containers that are separated from other solid waste or (2) make mutually agreeable alternative arrangements to collect the batteries at a site. The organization must also provide the site with, at no cost, training, signs, safety guidance, and educational materials.

Collection sites must follow (1) applicable federal, state, and local regulatory requirements and (2) the operations manual and other safety information the stewardship organization gives them.

Collection Container Location. The bill requires the collection containers to (1) be within the view of someone responsible for them at the collection site and (2) have the signs the stewardship organization gave to the site to educate customers about the site's end-of-life management options for batteries.

Damaged or Defective Batteries. The bill requires the stewardship organizations to collect damaged or defective batteries at collection sites, other than retailers, with staff trained to handle and ship the batteries. The batteries must also be collected at all permanent household hazardous waste facilities, household hazardous waste collection events, and participating permitted transfer stations. Under the bill, these batteries are those that (1) are damaged or manufacturer-identified as defective for safety reasons and (2) may produce dangerous heat, fire, or short circuit. The bill allows DEEP to update this definition in regulations to maintain consistency with federal definitions of damaged or defective batteries (49 C.F.R. § 173.185(f)).

Suspending or Ending a Collection Site. The bill allows a stewardship organization to issue a warning to suspend or end a collection site or service that does not follow the plan's collection site criteria or poses an immediate health and safety concern.

Local Reimbursement. The bill requires a stewardship organization to reimburse local governments for the demonstrable costs they incur from serving as a program collection site (e.g., like at a solid waste handling facility). The costs include things like labor or storage costs.

ADMINISTRATIVE FEE

The bill allows DEEP to assess a reasonable annual fee, capped at \$50,000, to each battery stewardship organization to administer and enforce the bill's requirements.

PROMOTIONAL EFFORTS, EDUCATION, AND OUTREACH***Stewardship Organization***

The bill requires a battery stewardship organization to develop and take part in promotion, education, and outreach activities to support its approved plan's implementation. If multiple battery stewardship organizations are implementing DEEP-approved plans, they must coordinate education and outreach efforts.

Under the bill, the promotion, education, and outreach activities must at least include the following:

1. maintaining a website;
2. distributing periodic press releases and articles;
3. advertising on social media or other relevant media platforms;
4. distributing promotional materials about the program and its restrictions on disposing of batteries for use by individuals, retailers, government agencies, waste and recycling collectors, and nonprofits;
5. distributing safety training procedures that comply with state law to collection sites to help properly manage batteries; and
6. implementing educational and outreach resources that are conceptually, linguistically, and culturally accurate for the communities the program serves and reach the state's diverse ethnic populations, such as through meaningful consultation with communities that are disproportionately affected by increased adverse environmental and social justice impacts.

For collection sites, the bill requires a stewardship organization to

provide (1) consumer-focused educational promotional materials; (2) safety information for the sites’ operators related to battery collection, including appropriate methods to reduce spill or fire risks and response protocols for when a spill or fire happens or there is a damaged or defective battery; and (3) educational materials for the operators to manage recalled batteries, including transportation and processing.

For retailers and other potential collectors that ask for them, the bill requires a stewardship organization to provide educational materials describing collection opportunities.

Additionally, during a program’s first year and then every five years, a stewardship organization must conduct a public awareness survey about the program’s requirements. It must share the surveys’ results with DEEP.

DEEP

The bill requires DEEP to maintain a website that lists participating producers and their brands. The department must also make publicly available each plan, plan amendment, and annual report it receives.

ANNUAL REPORT

Beginning by June 1, 2027, the bill requires each stewardship organization to report certain information in an annual report to DEEP that covers the previous calendar year. This information generally includes collected battery statistics, how batteries were managed, collection or recycling rates, educational and outreach efforts used, and certain financial information, as listed in the table below.

Table: Annual Report Information

General Report Topic	Required Information
Collected Materials*	<ul style="list-style-type: none"> • weight, by chemistry, of collected batteries • weight of materials recycled from collected batteries, in total and by recycling method • weight and chemistry of batteries sent to each disposal facility, which may be approximated based on extrapolations of national or regional data

General Report Topic	Required Information
	<ul style="list-style-type: none"> • program collection rate, including how it was calculated and compared to the bill's other collection rate goals
Battery Management	<ul style="list-style-type: none"> • description of battery collection, transport, and recycling methods used • list of and address for all collection sites, including a current map showing their locations with links to the sites' websites, if any • description of how collected batteries were managed and recycled, including best available technologies and the recycling efficiency rate • list of all facilities used to process or dispose of batteries, including their location (and if the location is in (1) the United States, (2) an organization for economic cooperation and development (OECD) country, or (3) a country that meets OECD's operating standards) • for domestically-located processing or disposal facilities, a summary of any violations of environmental laws and regulations for the prior three years • for each disposal facility, how it recycled or otherwise disposed of batteries and battery components • calculation of recycling efficiency rates • summary on progress to meet performance goals and if they were not met, an explanation as to why • if batteries are disposed of through energy recovery, incineration, or landfilling, steps that will be taken to make recycling cost effective, if possible, or to otherwise increase recycling rates
Education and Outreach	<ul style="list-style-type: none"> • description of (1) education and outreach efforts to consumers, collection sites, manufacturers, distributors, and retailers by the program operator to promote collection and recycling and (2) how the efforts met the bill's requirements • sample materials • summary of (1) coordinated efforts with other battery stewardship organizations with DEEP-approved plans and (2) changes to education and outreach activities • effectiveness evaluation of education and outreach activities
Financial	<ul style="list-style-type: none"> • for each of the three prior years, estimated total sales, by weight and chemistry, of batteries and batteries contained in or with battery-containing products sold in Connecticut by participating producers • independent financial audit implemented by the stewardship organization, including a breakdown of program expenses (e.g., collection, recycling, and education costs, and

<i>General Report Topic</i>	<i>Required Information</i>
	overhead) <ul style="list-style-type: none"> • summary financial statement showing the program's financing and an analysis of program costs and expenses (e.g., collection, transportation, recycling, education, and overhead costs) (must be detailed enough to be transparent as to if funds from producers with activity in Connecticut were spent on programs in the state, but may be submitted as a document covering programs in all states in which the organization operates if it breaks out Connecticut-specific information)

*The bill specifies that battery and recovered resources weights must only be counted once and only by one stewardship organization.

COURT ACTION AND PENALTIES

The bill allows for both criminal and civil actions related to certain violations of its provisions. It specifies that these actions and penalties and any court injunction are in addition to penalties, injunctions, or other relief state law already authorizes.

Criminal Penalty

The bill makes knowingly making a false, fictitious, or fraudulent material written statement under oath related to the bill's provisions a class A misdemeanor, punishable by up to 364 days in jail, a fine of up to \$2,000, or both.

Civil Action by the Attorney General

Under the bill, anyone who violates a provision of the bill is subject to a civil penalty of \$7,000 per violation, except that failing to pay a required fee makes the person subject to a civil penalty that is twice the amount of the applicable fee. The bill allows the state attorney general to recover these penalties or enforce any of the bill's requirements by bringing a civil action. However, it specifies that no penalty applies for those who improperly dispose of covered batteries in a noncommercial or residential setting.

Civil Action by a Stewardship Organization

The bill gives a battery stewardship organization that is implementing an approved stewardship plan in compliance with the

bill's provisions a private right of action for damages against a producer under certain circumstances.

Specifically, the right of action can be brought when the (1) organization incurs more than \$1,000 in actual costs to collect, handle, recycle, and properly dispose of the batteries the defendant producer sold or offered for sale in the state and (2) defendant producer is noncompliant with the bill's requirements. Under the bill, the damages available to the organization are (1) the actual costs to manage (e.g., collect, handle, recycle, or dispose of) batteries reasonably identified as coming from another battery producer or battery stewardship organization (presumably, limited to those of the defendant producer) and (2) reasonable attorney's fees and costs.

LIABILITY PROTECTION

Under the bill, to the extent a producer or stewardship organization is exercising authority under the bill's provisions, it is immune from liability for any antitrust or unfair trade practice claim based on a violation of antitrust law.

PROPRIETARY INFORMATION

Under the bill, any proprietary information submitted to DEEP as part of meeting the bill's requirements is exempt from disclosure under state freedom of information laws.

BACKGROUND

Legislative History

The House referred the bill (File 195) to the Judiciary Committee, which reported a substitute that eliminated provisions on (1) making a false statement knowingly on a DEEP form a misdemeanor, (2) DEEP generally not being a necessary party or required to help or participate in a producer's civil action for damages, and (3) antitrust liability protection.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/15/2024)

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 1 (04/12/2024)