

CHAPTER 222

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

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

C.13:1E-99.81a Short title.

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

C.13:1E-99.81b Definitions.

2. As used in this act:

"Authorized propulsion battery recycler" means an entity or facility that is authorized by the department or an equivalent agency in another state to collect, sort, separate, and refine the elemental components of end-of-life propulsion batteries, or battery materials, and to refine the elemental components back to usable battery chemicals that include, but are not limited to, nickel sulfates, cobalt sulfate, and lithium salts. "Authorized propulsion battery recycler" does not include entities or facilities that are engaged only in the collection or logistics of moving materials for recycling.

"Authorized propulsion battery transporter" means a person that is authorized, under a battery management plan developed and approved pursuant to sections 6 and 7 of this act, to transport propulsion batteries for the purpose of recycling.

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

"Battery management plan" means a plan for the collection, transportation, remanufacturing, reuse, recycling and disposal, using environmentally sound management practices, of used propulsion batteries prepared pursuant to section 6 of this act.

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

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

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

"Producer" means a person responsible for a propulsion battery, as provided pursuant to subsection b. of section 6 of this act.

"Propulsion battery" means an electrical energy storage device, consisting of one or more individual battery modules or battery cells, which are used to supply power to propel an electric or hybrid road vehicle. "Propulsion battery" includes, but is not limited to, lithium-ion batteries and nickel-metal hydride batteries, and includes batteries that have been removed from a vehicle and batteries that are still embedded in a vehicle. "Propulsion battery" does not include a starter battery or a battery used for, or embedded in, products for industrial applications.

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

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

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

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

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

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

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

C.13:1E-99.81c Propulsion battery, permanent label, information.

3. Commencing January 1, 2027, a propulsion battery sold in the State, whether embedded in a vehicle or not, shall include a permanent label providing information about the battery, in accordance with rules and regulations adopted by the department. Any person who remanufactures or repurposes a propulsion battery shall relabel the remanufactured or repurposed propulsion battery pursuant to the labeling standard adopted by the department prior to selling, importing, or distributing the propulsion battery for use in the State.

C.13:1E-99.81d Needs assessment, availability, authorize propulsion battery recyclers, infrastructure, related, implementation; report, Governor, Legislature.

4. a. No later than six months after the effective date of this act, the department shall commence a needs assessment to determine the availability of authorized propulsion battery recyclers and related infrastructure, both public and private, needed to implement the provisions of this act, in addition to any other necessary information, as identified by the department.

b. The department may use a qualified third-party organization to perform the needs assessment required by this section.

c. The needs assessment shall be completed no later than 18 months after the effective date of this act.

d. The department shall transmit a report of the completed needs assessment to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than two months after the needs assessment is completed.

e. The department shall publish the completed needs assessment on its Internet website.

f. The department shall use the results of the needs assessment to assist in the implementation of this act.

C.13:1E-99.81e Disposal, propulsion battery, module, cell, restrictions.

5. a. Commencing three years after the effective date of this act, no person shall dispose of a propulsion battery, or any battery module or battery cell thereof, as solid waste, unless authorized to do so by the department.

b. Commencing three years after the effective date of this act, no solid waste collector registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and C.13:1E-5) and holding a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and C.48:13A-9) shall knowingly collect a propulsion battery, or any module or cell thereof, placed for collection and disposal as solid waste, unless authorized

to do so by the department. A solid waste collector may refuse to collect a solid waste container containing a propulsion battery, or any module or cell thereof.

c. Commencing three years after the effective date of this act, no solid waste facility in this State shall knowingly accept for disposal a propulsion battery, or any module or cell thereof, or a truckload or roll-off container of solid waste containing a propulsion battery, or any module or cell thereof, unless authorized to do so by the department. The owner or operator of a solid waste facility may refuse to accept for disposal a propulsion battery, or any module or cell thereof, or any truckload or roll-off container of solid waste containing a propulsion battery, or any module or cell thereof.

C.13:1E-99.81f Rules, regulations; battery management plan; end-of-life management, propulsion battery, responsibility.

6. a. No later than 18 months after the completion of the needs assessment required pursuant to section 4 of this act, the department shall adopt rules and regulations establishing standards and criteria for battery management plans submitted pursuant to this section. No later than 180 days after the adoption of rules and regulations pursuant to this section, each producer of propulsion batteries sold within the State, either individually or as a part of a group of producers, shall, in consultation with the department, develop and submit a battery management plan to the department for review and approval pursuant to section 7 of this act. The plan shall provide for producers to be responsible for the collection and management of the producer's used propulsion batteries that are offered to the producer for take-back by the current battery owner. The plan may include a complete vehicle take-back program, a battery take-back program, or any other such program approved by the department.

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

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

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

(b) if the battery is sold in a vehicle under a different brand than that of the vehicle manufacturer, the person that is the licensee of the brand or trademark under which the vehicle is sold, offered for sale, or distributed in or into the State, whether or not the trademark is registered in the State, shall be responsible for the battery; and

(c) if there is no person described by subparagraphs (a) or (b) of this paragraph within the United States, the person that imports the battery-containing vehicle into the United States for sale, offering for sale, or distribution in the State shall be responsible for the battery; and

(2) for a propulsion battery that is sold in the State, or sold or distributed in or into the State via remote sale or distribution, and which is not embedded in a vehicle:

(a) if the battery was manufactured in the United States, and has not been remanufactured or repurposed, the battery manufacturer shall be responsible for the battery.

(b) if the battery has been remanufactured or repurposed in the United States, the person that remanufactures or repurposes the battery shall be responsible for the battery, except as provided in subsection c. of this section; and

(c) if there is no person described by subparagraphs (a) or (b) of this paragraph within the United States, the person that imports the battery into the United States for sale, offering for sale, or distribution in the State shall be responsible for the battery.

c. Notwithstanding the provisions of subsection b. of this section to the contrary, the original producer of a propulsion battery shall not be responsible for the management of a battery that a secondary producer has remanufactured or repurposed, unless:

(1) the secondary producer is in a contractual relationship with the original producer, which provides for the retention of responsibility for the end-of-life management of the battery by the primary producer; and

(2) the contract has been provided to the department as part of a battery management plan or through another means approved by the department.

d. A battery management plan prepared and submitted pursuant to this section shall include, at a minimum:

(1) methods that will be used to accept and transport the used propulsion batteries or complete vehicles offered to the producer, including proposed collection services, and the role of vehicle recyclers and authorized propulsion battery recyclers;

(2) processes and methods that will be utilized to remanufacture, repurpose, or recycle propulsion batteries that have reached the end of their service life, including, as applicable, the identity of authorized propulsion battery recyclers to be utilized pursuant to the plan and a plan for final disposal of such batteries, in accordance with environmentally sound management practices;

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

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

(5) any other information, policies, or procedures that the department deems appropriate.

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

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

g. A battery management plan shall be reviewed and updated, as necessary, at least once every five years.

h. Each person or entity authorized to manage a used propulsion battery as part of a battery management plan, including, but not limited to, a vehicle repair facility, vehicle dismantler, authorized propulsion battery recycler, scrap yard, dealership, showroom, or used car lot, shall be required to manage the battery pursuant to an approved battery management plan.

i. If an organization is formed for the purposes of allowing a group of producers to submit a combined battery management plan pursuant to this act, the organization shall:

(1) be a tax-exempt, nonprofit organization;

(2) submit a battery management plan that achieves program goals established by the department; and

(3) submit an annual audit report and annual budget to the department.

C.13:1E-99.81g Complete battery management plan, approval, disapproval, timeline.

7. a. No later than one year after receipt by the department of a complete battery management plan, the department shall approve, approve in part, or disapprove of the plan. In

making a determination pursuant to this section, the department may solicit information from producers or other stakeholders as the department deems appropriate. The department may assess a producer a reasonable fee to cover the department's costs for plan review, program implementation, and enforcement costs pursuant to this act.

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

c. If the department approves in part the battery management plan, the department shall indicate those portions of the plan that do not comply with the requirements of this act and the rules and regulations adopted pursuant thereto. The producer shall implement the components of the plan, as approved, within 90 days after receipt of approval by the department or as otherwise agreed to by the department, and submit a revised battery management plan within 30 days after receipt of notification of the approval in part by the department in order to bring the entire plan into compliance with the requirements of this act and any rules and regulations adopted pursuant thereto. The department shall review and approve, conditionally approve, or disapprove a revised battery management plan within 30 days after receipt of the revised plan.

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

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

f. The department may impose additional plan requirements for any portion of a battery management plan that does not comply with the requirements of this act, and any rules and regulations adopted pursuant thereto, for a plan component that has not been approved pursuant to this section.

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

h. Within 90 days after the department's approval of a battery management plan submitted in accordance with section 5 of this act, or any revisions thereto, the department shall post, at a publicly accessible location on its Internet website, each battery management plan and a list identifying each of the producers participating in a battery management plan. A producer may provide a redacted version of its battery management plan to the department for the purposes of its posting on the department's Internet website, which removes any proprietary or confidential information.

C.13:1E-99.81h Locations to deliver unwanted propulsion battery.

8. a. A person seeking to discard an unwanted propulsion battery may deliver the battery or the vehicle that contains the battery, or may otherwise arrange for the collection and delivery of the battery or vehicle as provided in the producer's battery management plan, to:

(1) a location designated by the producer of the battery, as specified in the producer's battery management plan;

(2) a vehicle recycler that has been authorized by the department to handle, transport, and properly manage used propulsion batteries, provided that the authorized vehicle recycler adheres to the battery management plan approved by the department for that propulsion battery; or

(3) an authorized propulsion battery recycler, provided that the employees of the authorized propulsion battery recycler undergo mandatory safety training to ensure the proper management and recycling of such batteries. The department may require, develop, or select appropriate training modules for this purpose or may allow a recycler to submit its own safety training plan for approval.

b. No producer of propulsion batteries may refuse to recover a used propulsion battery that it has manufactured, branded, imported, or imbedded into a product in New Jersey, if the battery is collected from a location or using a mechanism designated by the producer in its battery management plan. The producer shall provide for the proper reuse, remanufacturing, repurposing, or recycling of a propulsion battery returned pursuant to this subsection. The provisions of this subsection shall not apply to the original producer of a propulsion battery that has been remanufactured, repurposed, branded, imported, retailed, or embedded into a product application by a secondary producer, unless the secondary producer is in a contractual relationship with the original producer pursuant to subsection c. of section 5 of this act.

C.13:1E-99.81i Battery management plan, collection services, educational materials for consumers.

9. a. In implementing a battery management plan approved pursuant this act, a producer shall provide consumers with educational materials related to the producer's approved battery management plan and the collection services that are available. The educational materials shall include, but need not be limited to, information identifying the end-of-life management options that are available for propulsion batteries through the battery management plan, and a notice that, in New Jersey, the costs of the services will be covered by the producer.

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

C.13:1E-99.81j Violations, recourse.

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

b. The department shall have the right to enter, at any time during normal business hours and upon presentation of appropriate credentials, the premises of a recycling center, vehicle recycler, or producer of propulsion batteries in order to determine compliance with the provisions of this act.

C.13:1E-99.81k Propulsion battery producer, register, Department of Environmental Protection.

11. Each producer shall register with the department. A producer operating in the State on the effective date of this act shall register with the department no later than 12 months after the effective date of this act. The department shall establish an online registration program for the purposes of this section on its Internet website.

C.13:1E-99.81l Propulsion battery producer, report, number sold, offered for sale, distributed in New Jersey, Department of Environmental Protection.

12. a. Commencing 24 months after the effective date of this act, and each year thereafter, each producer shall report to the department, in a form and manner prescribed by the department, the number of propulsion batteries sold, offered for sale, or distributed in or into the State by the producer.

b. The annual report may include additional information, as required by the department.

c. The department shall maintain a public non-compliance list of producers that do not comply with the provisions of this section.

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

14. This act shall take effect immediately.

Approved January 8, 2024.