

Senate Bill 320

Sponsored by Senator DINGFELDER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits persons from knowingly disposing of rechargeable batteries as solid waste. Requires retailers and battery manufacturers to establish recycling program and to fulfill certain other requirements relating to rechargeable batteries. Establishes civil penalties for violation of provisions relating to recycling of rechargeable batteries.

Becomes operative on July 1, 2010.

A BILL FOR AN ACT

1 Relating to recycling of rechargeable batteries.

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3 Whereas the Legislative Assembly finds and declares that the presence of toxic metals in dis-
4 carded rechargeable batteries is a matter of great concern in light of their adverse effect on ground
5 water quality when disposed of in sanitary landfill facilities and their presence in emissions or res-
6 idual ash when incinerated at resource recovery facilities; and

7 Whereas cadmium, lead and mercury found in rechargeable batteries, on the basis of available
8 scientific and medical evidence, are of particular concern; and

9 Whereas it is desirable to reduce the toxicity of waste materials in the solid waste streams di-
10 rected to resource recovery and sanitary landfill facilities; and

11 Whereas the removal of used rechargeable batteries containing high levels of cadmium, lead or
12 mercury from the solid waste stream can have a significant beneficial impact on the quality of the
13 emissions and residual ash resulting from the incineration of solid waste at resource recovery fa-
14 cilities and on ground water quality in those regions where solid waste is disposed of in sanitary
15 landfill facilities; and

16 Whereas the most effective and appropriate method to promote the reduction of toxic metals
17 from rechargeable battery disposal is to require the battery industry to accept financial responsi-
18 bility for the environmentally sound collection, transportation and recycling or proper disposal of
19 used rechargeable batteries; and

20 Whereas the Legislative Assembly therefore determines that it is in the best interests of all
21 Oregonians to maximize the removal of used rechargeable batteries from the solid waste stream by
22 banning the disposal of used rechargeable batteries into the solid waste stream and requiring man-
23 ufacturers of rechargeable batteries to take back and recycle the used rechargeable batteries that
24 are sold or disposed of in the State of Oregon; now, therefore,

25 **Be It Enacted by the People of the State of Oregon:**

DECLARATION OF POLICY

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29 **SECTION 1. The Legislative Assembly declares that it is the policy of this state:**

30 **(1) To reduce environmental pollution;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) To reduce the toxicity of waste materials in the solid waste stream directed to re-
2 source recovery and sanitary landfill facilities;

3 (3) To maximize the removal of used rechargeable batteries and products that contain
4 rechargeable batteries, and encourage the recycling of used rechargeable batteries by man-
5 ufacturers of rechargeable batteries, by banning the disposal of used rechargeable batteries
6 into the solid waste stream; and

7 (4) To require manufacturers of rechargeable batteries to take back and recycle used
8 rechargeable batteries sold or disposed of in Oregon.

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10 **DEFINITIONS**

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12 **SECTION 2. As used in sections 1 to 5 of this 2009 Act:**

13 (1) "Battery manufacturer" means every person that:

14 (a) Produces rechargeable batteries sold or distributed in Oregon;

15 (b) Packages rechargeable batteries sold or distributed in Oregon;

16 (c) Distributes rechargeable batteries produced or packaged for sale in Oregon;

17 (d) Has the right to produce or package rechargeable batteries for sale or distribution in
18 Oregon; or

19 (e) Imports into the United States rechargeable batteries that are sold or distributed in
20 Oregon.

21 (2) "Consumer" means any individual who purchases one or more rechargeable batteries,
22 or products containing rechargeable batteries at the time of sale, for personal use.

23 (3) "Place of business" means the location at which a retailer sells or offers for sale to
24 consumers rechargeable batteries or products containing rechargeable batteries at the time
25 of sale.

26 (4)(a) "Rechargeable battery" means:

27 (A) Any rechargeable nickel-cadmium battery, sealed lead-acid battery, lithium-ion bat-
28 tery or nickel-metal hydride battery;

29 (B) A battery pack containing batteries specified in subparagraph (A) of this paragraph;
30 and

31 (C) Any other dry cell battery weighing less than 25 pounds and capable of being re-
32 charged.

33 (b) "Rechargeable battery" does not include a battery used as the principal electric power
34 source for automobiles, boats, trucks, tractors, golf carts or motorized wheelchairs, for
35 storage of electricity generated by solar or wind-driven generators or for memory backup in
36 an electronic device.

37 (5)(a) "Retailer" means a person that engages in the sale of rechargeable batteries, or
38 products containing rechargeable batteries, to consumers in Oregon, through transactions
39 conducted through sales outlets or catalogs or by mail, telephone or the Internet.

40 (b) "Retailer" does not include a store selling primarily food and food products for con-
41 sumption or use off the premises and occupying less than 14,000 square feet of display space.

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43 **RECHARGEABLE BATTERY DISPOSAL BAN**

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45 **SECTION 3. A person may not knowingly dispose of rechargeable batteries as solid waste**

1 at any time in Oregon.

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3 **RECHARGEABLE BATTERY RECYCLING PROGRAM**

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5 **SECTION 4. (1)(a) Rechargeable batteries must be returned to a retailer that sells re-**
6 **chargeable batteries that are similar in shape, size and function to those to be disposed of.**

7 **(b) Rechargeable batteries contained in electronic products must be removed prior to**
8 **disposal of the electronic products.**

9 **(2)(a) A retailer having a place of business in Oregon must accept from consumers during**
10 **normal business hours used rechargeable batteries of a similar shape, size and function as**
11 **the rechargeable batteries that the retailer offers for sale.**

12 **(b)(A) A retailer must accept up to 10 used rechargeable batteries per day from any in-**
13 **dividual regardless of whether the individual purchases replacement batteries; and**

14 **(B) A retailer must accept as many used rechargeable batteries as a consumer purchases**
15 **from that retailer.**

16 **(c) A retailer shall conspicuously post and maintain, at or near the point of entry to the**
17 **retailer's place of business, a legible sign, not less than 8.5 inches by 11 inches in size, stating**
18 **that used rechargeable batteries of the shape, size and function sold or offered for sale by**
19 **the retailer may not enter the solid waste stream and that the retailer's place of business**
20 **is a collection site for recycling of used rechargeable batteries. The sign shall state the**
21 **following in letters at least one inch in height: "It is illegal to dispose of rechargeable bat-**
22 **teries in Oregon as solid waste. We accept used rechargeable batteries for return to the**
23 **manufacturer."**

24 **(3) A retailer that sells rechargeable batteries through catalogs or by mail, telephone or**
25 **the Internet shall provide at the time of purchase or delivery to the consumer notice of an**
26 **opportunity to return used rechargeable batteries for recycling at no cost to the consumer.**

27 **(4) A retailer in Oregon shall conspicuously maintain, at a location within the place of**
28 **business that is convenient for use by consumers, collection boxes or other suitable recep-**
29 **tales, supplied by battery manufacturers, into which consumers may deposit used re-**
30 **chargeable batteries.**

31 **(5) A battery manufacturer, or any group of battery manufacturers working together,**
32 **shall be responsible for:**

33 **(a) At the battery manufacturer's or group's own expense, arranging for the return and**
34 **recycling of all used rechargeable batteries collected by retailers.**

35 **(b) By January 31 of each calendar year, submitting a plan to the Director of the De-**
36 **partment of Environmental Quality that identifies the methods by which the battery man-**
37 **ufacturer or group will collect, transport and recycle used rechargeable batteries collected**
38 **by retailers at the expense of the battery manufacturer or group.**

39 **(c) By January 31 of each calendar year, submitting a report concerning the amount of**
40 **used rechargeable batteries received and recycled within Oregon during the preceding cal-**
41 **endar year, either by number or by weight, the costs of such efforts and any other infor-**
42 **mation required pursuant to rule adopted by the Environmental Quality Commission.**

43 **(d) Undertaking efforts to educate residents of Oregon about the importance of recycling**
44 **used rechargeable batteries.**

45 **(6) The Director of the Department of Environmental Quality shall:**

1 (a) Approve or reject any battery manufacturer's or group's collection, transportation
2 and recycling plan described in this section within 30 days of submission and, if rejected, in-
3 form the battery manufacturer or group in writing as to any deficiencies in the plan. A
4 battery manufacturer or group shall amend and resubmit any rejected plan for reconsider-
5 ation within 60 days of notification of the rejection of the plan. The director shall approve
6 or reject the plan within 30 days of resubmission.

7 (b) Analyze the information provided by battery manufacturers pursuant to subsection
8 (5) of this section and report by February 28 of each odd-numbered year to the Legislative
9 Assembly as provided in ORS 192.245.

10 (7) The Environmental Quality Commission may adopt rules as necessary to implement
11 sections 1 to 5 of this 2009 Act.

12 PENALTIES

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15 **SECTION 5.** (1) Any person that violates section 3 of this 2009 Act is subject to a civil
16 penalty in the amount of \$50 for the first violation, \$100 for a second violation committed
17 within 12 months of a prior violation and \$200 for each subsequent violation committed
18 within 12 months of any prior violation.

19 (2) Any retailer that violates section 4 of this 2009 Act is subject to a civil penalty in the
20 amount of \$200 for the first violation, \$400 for a second violation committed within 12 months
21 of a prior violation and \$500 for each subsequent violation committed within 12 months of
22 any prior violation.

23 (3) Any battery manufacturer that violates section 4 of this 2009 Act is subject to a civil
24 penalty in the amount of \$2,000 for the first violation, \$4,000 for a second violation committed
25 within 12 months of a prior violation and \$5,000 for each subsequent violation committed
26 within 12 months of any prior violation.

27 (4) Civil penalties under this section shall be imposed by the Department of Environ-
28 mental Quality in the manner provided by ORS 183.745.

29 MISCELLANEOUS

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32 **SECTION 6.** (1) Except as provided in subsection (2) of this section, sections 1 to 5 of this
33 2009 Act become operative on July 1, 2010.

34 (2) The Environmental Quality Commission may adopt rules and take any other actions
35 necessary to implement sections 1 to 5 of this 2009 Act prior to the operative date of sections
36 1 to 5 of this 2009 Act.

37 **SECTION 7.** The unit captions used in this 2009 Act are provided only for the convenience
38 of the reader and do not become part of the statutory law of this state or express any leg-
39 islative intent in the enactment of this 2009 Act.