



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2241

PRINTER'S NO. 3223

PRIME SPONSOR: Siegel

COST / (SAVINGS)

FUND	FY 2024/25	FY 2025/26
General Fund	See Fiscal Impact	See Fiscal Impact
Recycling Fund	See Fiscal Impact	See Fiscal Impact

SUMMARY: HB 2241 PN 3223 establishes a battery stewardship program. This legislation takes effect in 60 days.

ANALYSIS: This legislation amends Title 27 (Environmental Protection) to create Chapter 67 (Portable Battery Stewardship) to require certain battery producers or products containing batteries, covered under the legislation, to take part in an approved stewardship plan through participation in a battery stewardship organization (BSO). Producers who do not participate would be barred from selling or distributing batteries or products in Pennsylvania, covered under this legislation. Provisions include:

Section 6703 (Definitions)

This section includes the following definitions:

- “Battery-containing product” – a product containing or packaged with rechargeable or primary batteries. The term does not include a covered device as defined by Section 102 within Act 108 of 2010 (Covered Device Recycling Act), generally includes TVs and computers.
- “Battery Stewardship Organization” or BSO – a producer or a nonprofit organization designated by a producer(s), that implements a battery stewardship plan required under this chapter.
- “Covered battery” – a portable battery or a medium format battery (beginning in 2028), which does not include:
 - Medical devices under 21 U.S.C. § 321(h), not designed for personal use
 - Batteries containing an electrolyte as a free liquid
 - Lead acid battery
 - A battery in a product that is not intended or designed to be removed from the product
 - An EV battery
 - A solar storage battery
- “Medium format battery”
 - Rechargeable battery weighing between 11 to 25 pounds or having a rating between 300 to 2,000 watt-hours
 - Primary battery weighing between 4.4 to 25 pounds
- “Portable battery”
 - Rechargeable battery weighing less than 11 pounds and having a rating of no more than 300 watt-hours
 - Primary battery weighing less than 4.4 pounds

- “Producer”
 - For primary batteries, the:
 - Manufacturer, Brand owner, Licensee of the brand or trademark under which the battery is used, sold, or distributed
 - Importer, or a person who sells or distributes the battery
 - For covered battery-containing product, the:
 - Manufacturer, Brand owner, Licensee of the brand or trademark under which the battery is used, sold, or distributed
 - Importer, or a person who sells or distributes the battery
 - A person manufacturing, selling, or distributing a battery-containing product would not be considered a producer if the only batteries used in the product are supplied by a producer that has already joined a BSO
- “Retailer” - person who sells, offers or otherwise makes available covered batteries or battery-containing products in PA to a customer, including other businesses

Section 6705 (Retailers)

- Bars retailers from selling batteries or products containing batteries, covered under this chapter, without certification that the producer is participating in a BSO, as follows:
 - Beginning July 1, 2026, for portable batteries
 - Beginning July 1, 2028, for medium format batteries
 - Covered batteries sold by retailers would need to be:
 - made by a producer listed on the department's database as being a participant in an approved stewardship plan; and
 - in compliance with marking requirements.
- Provides that retailers are not required to make their locations available as collection sites.
- Prohibits retailers, producers, or BSOs from charging a fee to cover administrative or operational costs of the BSO or the stewardship program.

Section 6706 (Stewardship Plan Requirements)

- Requires the battery stewardship organization (BSO) to submit a plan for portable batteries to Department of Environmental Protection (DEP) for approval by July 1, 2025, and for medium format batteries by July 1, 2027, for batteries covered under this chapter.
- DEP’s plan approval would be a function of whether it includes information regarding implementation, financing, goals, program evaluation criteria, and public education. Language further requires DEP to review plans and make determination within 120 days of receipt, including:
 - A producer under a stewardship plan would not be in compliance until the plan is approved by the department.
 - If DEP disapproves a plan, the department must explain how the plan does not comply with the act and provide written notice to the BSO within 30 days.
 - The BSO may resubmit a revised plan within 60 days, and the department shall review the revised plan within 90 days of re-submittal.
- Requires BSO to submit a new plan:
 - No less than every five years
 - If there are significant changes not provided for in the plan. The department shall determine what constitutes a significant change
 - To address the inclusion of medium format batteries
- Requires BSO to provide plan amendments to DEP for approval:
 - When proposing changes to performance goals
 - If there is a change in financing methods

- Requires BSOs to notify DEP on quarterly basis if a producer begins or ceases to participate in a BSO
- Requires stewardship plans to include annual performance goals, including:
 - Collection rate, target collection rates for primary and rechargeable batteries;
 - Recycling efficiency rate, including target rates of at least 60 percent for rechargeable batteries and 70% for primary batteries; and
 - Public convenience and accessibility, including goals that exceed minimum requirements.
- Bars BSOs from reducing or ceasing activities based on achievement of these goals

Section 6708 (Funding)

- Requires adequate funding from BSOs to ensure fully implementation of stewardship plans.
- Requires the development of a system to collect charges from participating producers for implementation costs. Each BSO:
 - Is responsible for all costs to comply with the requirements of the act; and
 - Must reimburse local governments and solid waste/recycling facilities for costs incurred by serving as a collection site.

Section 6709 (Collection and Management Requirements)

- Requires BSOs to provide for the collection of all covered batteries on a free basis to any person, business, government agency or nonprofit organization.
- Requires each BSO to implementing a battery stewardship plan provide the following:
 - Suitable collection containers for each collection site;
 - Medium format batteries may only be collected at household hazardous waste collection sites or other staffed collection sites;
 - Damaged and defective batteries may only be collected at sites staffed by persons who are trained accordingly, with sites or collection events in each county; and
 - Coordinating with other program operators regarding proper management of collected batteries to avoid duplicating efforts.
- Provides for collection site requirements as follows:
 - The number of portable battery collection sites would be determined on a county-by-county basis, based on population density, as follows:
 - 1 permanent collection site in each county with a population density less than 250 people per square mile.
 - 2 sites in counties with a population density between 250 and 500 per sq. mile.
 - 3 sites in counties with a population density between 500 and 750 per sq. mile.
 - 4 sites in counties with a population density between 570 and 1,000 per sq. mile.
 - 5 sites in a county with a population density between 1,000 and 5,000 per sq. mile.
 - Programs may supplement these requirements with collection events.
 - Philadelphia would be required to provide 10 additional permanent collection sites
 - For medium format batteries, BSOs are required to establish 10 permanent collection sites across PA, dispersed geographically. Following an initial 5-year period, BSOs would be required to establish a permanent collection site in each county with a population greater than 200,000. In addition, collection events must occur at least once every 3 years in each county without a permanent collection site.
 - BSOs must use existing public and private waste collection services and facilities for collection sites. In addition, for collection sites or collection events, BSOs must also use retailers, wholesalers, municipalities, solid waste management facilities, household waste hazardous facilities or other entities that meet the criteria for a collection site.

- BSOs may terminate a collection site or service if it does not adhere to the plan or poses an immediate health and safety concern.
- Requires battery stewardship programs to provide for the collection of loose batteries. Programs would not be required to provide for the collection of:
 - battery-containing products
 - batteries not easily removed from the product other than by the manufacturer
 - batteries contained in a product at the time of delivery to a collection site
 - batteries contained in a covered device under the Covered Device Recycling Act (CDRA)

Section 6711 (Reporting requirements)

- Requires BSOs to submit an annual report, beginning June 1, 2027, and each June 1 thereafter
- Requires BSOs to report information for each facility used in the processing or disposition of collected batteries:
 - Country where the facility is located; and
 - Summary of any environmental laws and regulations over the previous 3 years.
- Allows BSOs to request report contents be made confidential and available only DEP

Section 6712 (Fee and department role)

- Requires BSOs submitting a battery stewardship plan, revision or amendment to pay a fee to DEP. The fee would be limited to costs incurred by the department.
- Requires DEP to do the following:
 - Review submitted stewardship plans and make determinations
 - Review annual reports within 90 days of submission
 - Ensure public awareness
 - Provide technical assistance to producers and retailers

Section 6713 (Penalties and civil actions)

- Language provides for the following penalties:
 - \$2,500 penalty per violation of the act
 - A person who fails to pay a fee under this act would be liable for a civil penalty double the applicable fee
 - Penalties would not apply to an individual or resident for improper disposal of covered batteries in a noncommercial or residential setting
- Allows DEP to bring civil action for the recovery of penalties
- Requires for the deposit of penalties into the Recycling Fund to be used in accordance with the Act 101 of 1988 (Municipal Waste Planning, Recycling and Waste Reduction Act)

Section 6714 (Marking requirements for batteries)

- Beginning January 1, 2027, a producer or retailer may only sell, distribute, or offer for sale a medium format battery, covered battery or a battery-containing product, if the battery is marked with:
 - Marked with an identification
 - Beginning January 1, 2029, marked with proper labeling identifying the chemistry of the battery including the indication that it should not be disposed of as waste

Section 6715 (General battery disposal and collection requirements)

- Requires people to handle unwanted covered batteries by:
 - Delivering to collection sites established under this act
 - In a manner consistent with relevant Federal or state hazardous or solid waste laws

- Prohibits charging fees for delivering or collecting covered batteries for management.
- Prohibits people from placing covered batteries:
 - in waste containers for disposal at incinerators, waste-to-energy facilities or landfills
 - mixed with recyclables, unless done so in compliance with local government collection standards
- Requires solid waste facilities to post conspicuous signage stating that covered batteries must be managed through collection sites and are not accepted for disposal.
- Provides that a solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by the generator of the covered battery.

Section 6716 (Assessing battery-containing products)

- Requires BSOs to assess opportunities, challenges and adjustments to stewardship program requirements related to end-of-life management of batteries not intended to be removed by a customer, by June 1, 2027. This includes medical devices and electronics not covered by the Act 108 of 2010 (Covered Device Recycling Act).
- Requires DEP to submit a report containing assessment findings to the General Assembly by October 1, 2027.

Section 6717 (Antitrust)

Exempts producers and BSOs subject to regulations under this section from state antitrust laws.

Section 6718 (Other collection of batteries)

Allows other entities to perform fee-based household or mail collection for end-of-life covered batteries independent of a battery stewardship program, in coordination with a BSO.

FISCAL IMPACT: The fiscal impact of HB2241 would be a function of provisions related to the Department of Environmental Protection’s BSO plan review and approval, fee collections related to stewardship plan amendments or revision, penalty and civil fee collections related to violations, and staff time required for the preparation of an annual report. The fiscal impact on Commonwealth Funds would be realized within the General Fund and the Recycling Fund.

As it relates to the initial BSO plan review and approval and ongoing requirements for annual reporting, the department estimates personnel costs to be approximately \$254,000.

As it relates to fee collections regarding stewardship plan amendments or revisions and penalty or civil fee collections, the number of plan amendments or revisions or the amount of fee collections is unknown, thus the amount of fine or fee collections and the actual fiscal impact related to those provisions is indeterminate, however the impact would be realized within the Recycling Fund.

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House Appropriations Committee (D)

DATE: July 8, 2024

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.