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**SENATE BILL 6319**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senator Stanford

AN ACT Relating to improving the end-of-life management of electric vehicle batteries; amending RCW 70A.205.505 and 70A.555.010; reenacting and amending RCW 43.21B.110 and 43.21B.300; adding a new chapter to Title 70A RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) In addition to the findings described in RCW 70A.555.005, the legislature finds that:

(a) In 2023, the legislature enacted producer responsibility requirements for most types of smaller and medium-sized batteries, but elected to further study how to best manage electric vehicle batteries prior to establishing producer responsibility requirements for such batteries;

(b) In January of 2024, the state of New Jersey enacted the nation's first producer responsibility law focused on electric vehicle batteries; and

(c) The state of California has taken important steps that will facilitate electric vehicle battery recycling, including by establishing requirements for electric vehicle battery labeling.

(2) Therefore, it is the intent of the legislature to make producers responsible for the end-of-life management of electric vehicle batteries, in order to ensure economically and environmentally beneficial use of the valuable resources contained in electric vehicle batteries.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Authorized propulsion battery recycler" means an entity or facility 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, without limitation, nickel sulfates, cobalt sulfate, and lithium salts.

(b) "Authorized propulsion battery recycler" does not include entities or facilities that are engaged only in the collection or logistics of moving materials for recycling.

(2) "Authorized propulsion battery transporter" means a person authorized, under a battery management plan developed and approved under sections 5 and 6 of this act, to transport propulsion batteries for the purpose of recycling.

(3) "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.

(4) "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 under section 6 of this act.

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

(6) "Department" means the department of ecology.

(7) "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 adequate recordkeeping, tracking, and documentation of the disposal of used propulsion batteries within the state.

(8) "Producer" means a person responsible for a propulsion battery, as provided in section 5 of this act.

(9)(a) "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.

(b) "Propulsion battery" includes, without limitation, lithium-ion batteries and nickel-metal hydride batteries.

(c) "Propulsion battery" does not include a starter battery or a battery used for, or embedded in, products for industrial applications.

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

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

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

(13) "Solid waste" has the same meaning as provided in RCW 70A.205.015.

(14) "Solid waste collection company" has the same meaning as defined in RCW 70A.205.160.

(15) "Solid waste handling facility" means a facility required to obtain a solid waste handling permit consistent with RCW 70A.205.125.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2027, a producer may not sell a new propulsion battery in or into the state, whether embedded in a vehicle or not, unless the propulsion battery includes a permanent label providing information about the battery, in accordance with rules adopted by the department.

(2) Any person who remanufactures or repurposes a propulsion battery must relabel the remanufactured or repurposed propulsion battery in accordance with the labeling standards adopted by the department prior to selling, importing, or distributing the propulsion battery for use in or into the state.

NEW SECTION. **Sec.**  (1) Beginning June 1, 2028, unless authorized by the department, a solid waste collection company or solid waste handling facility must not knowingly accept for disposal, a propulsion battery, or any module or cell of such a battery, or a truckload or roll-off container of solid waste containing a propulsion battery, or any module or cell of such a battery.

(2) The owner or operator of a solid waste handling facility may refuse to accept for disposal, a propulsion battery, or any module or cell of such a battery, or any truckload or roll-off container of solid waste containing a propulsion battery, or any module or cell of such a battery.

NEW SECTION. **Sec.**  (1) By June 1, 2026, the department must adopt rules establishing standards and criteria for battery management plans submitted under this section.

(2) By January 1, 2027, each producer of propulsion batteries sold within the state, either individually or as a part of a group of producers must, in consultation with the department, develop and submit a battery management plan to the department for review and approval under section 6 of this act. The plan must 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 return by the current propulsion battery owner. The plan may include a complete vehicle return program, a propulsion battery return program, or any other such program approved by the department.

(3) A producer is responsible for the end-of-life management of a propulsion battery under this act as follows:

(a) For a propulsion battery embedded in a vehicle that is sold in the state, or sold or distributed in or into the state by remote sale or distribution:

(i) If the propulsion battery is sold in a vehicle under the vehicle manufacturer's own brand, the vehicle manufacturer is responsible for the battery;

(ii) If the propulsion 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, is responsible for the battery;

(iii) If there is no person described in (a)(i) or (ii) of this subsection within the United States, the person that imports the propulsion battery-containing vehicle into the United States for sale, offering for sale, or distribution in or into the state is responsible for the battery; and

(iv) If there is no person described in (a)(i) through (iii) of this subsection, the person that first distributes the propulsion battery in or into this state is responsible for the battery.

(b) For a propulsion battery that is sold in the state, or sold or distributed in or into the state by remote sale or distribution, and which is not embedded in a vehicle:

(i) If the propulsion battery was manufactured in the United States, and has not been remanufactured or repurposed, the battery manufacturer is responsible for the battery;

(ii) Except as provided in (b)(iii) of this subsection, if the propulsion battery has been remanufactured or repurposed in the United States, the person that remanufactures or repurposes the battery is responsible for the battery;

(iii) If there is no person described in (b)(i) or (ii) of this subsection, the person that imports the propulsion battery into the United States for sale, offering for sale, or distribution in or into the state is responsible for the battery; and

(iv) If there is no person described in (b)(i) through (iii) of this subsection, the person that first distributes the propulsion battery in or into this state is responsible for the battery.

(c) The original producer of a propulsion battery is not responsible for the management of a battery that a secondary producer has remanufactured or repurposed unless:

(i) 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 propulsion battery by the primary producer; and

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

NEW SECTION. **Sec.**  (1) A producer must prepare and submit a battery management plan under this section, which must include, at a minimum:

(a) 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;

(b) 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 under the battery management plan and a plan for final disposal of such batteries, in accordance with environmentally sound management practices;

(c) 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 under the plan;

(d) The methods that will be used to implement and finance the battery management plan; and

(e) Any other information, policies, or procedures the department deems appropriate.

(2) A battery management plan must 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 the used propulsion batteries, the costs of such financing must be borne by the producer of that propulsion battery.

(3) Any entity that becomes a producer after the effective date of this section must 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 must otherwise comply with this chapter.

(4) A battery management plan must be reviewed and updated at least once every five years, or as necessary.

(5) Each person or entity authorized to manage a used propulsion battery as part of a battery management plan including, without limitation, a vehicle repair facility, vehicle dismantler, authorized propulsion battery recycler, scrapyard, dealership, showroom, or used car lot, must be required to manage the propulsion battery under an approved battery management plan.

(6) If an organization is formed for the purposes of allowing a group of producers to submit and implement a combined battery management plan under this chapter, the organization must:

(a) Be a tax exempt, nonprofit organization;

(b) Submit and implement a battery management plan that achieves program goals established by the department; and

(c) Submit an annual audit report and annual budget to the department.

(7) No later than 90 days after the department receives a complete battery management plan, it must approve, approve in part, or deny the plan. In making a determination under this subsection, 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 under this chapter.

(8)(a) If the department approves a battery management plan, the producer must implement the plan within 90 days after receipt of approval from the department or as otherwise agreed to by the department.

(b)(i) If the department approves a battery management plan in part, the department must indicate those portions of the plan that do not comply with the requirements of this chapter or any rules adopted under this chapter.

(ii) The producer must implement the components of the plan, as approved, within six months 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 the receipt of notification of the approval in part by the department to bring the entire plan into compliance with the requirements of this chapter or any rules adopted under this chapter.

(iii) The department must review and approve, conditionally approve, or deny a revised battery management plan within 30 days after receipt of the revised plan.

(c)(i) If the department denies a battery management plan, the department must inform the producer of the reasons for denial.

(ii) The producer must have 30 days after receipt of the denial to submit a revised battery management plan to the department.

(9) The department may impose additional plan requirements for any portion of a battery management plan that does not comply with the requirements of this chapter or any rules adopted under this chapter, for a plan component that has not been approved under this section.

(10) The department may review a battery management plan approved under this section and recommend modifications at any time upon finding that the approved battery management plan, as implemented, is deficient.

(11)(a) Within 90 days after the department's approval of a battery management plan submitted in accordance with section 5 of this act, the department must post, at a publicly accessible location on its internet website, each battery management plan and a list identifying each of the producers participating in the battery management plan.

(b) A producer that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec.**  (1) A person seeking to discard an unwanted propulsion battery may deliver the battery or the battery-containing vehicle, or may otherwise arrange for the collection and delivery of the battery or vehicle as provided in the producer's battery management plan, to:

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

(b) A vehicle recycler that has been authorized by the department to handle, transport, and properly manage used propulsion batteries, if the authorized vehicle recycler complies with the battery management plan approved by the department for that propulsion battery; or

(c) An authorized propulsion battery recycler, if the employees of the authorized propulsion battery recycler receive 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.

(2)(a) No producer of propulsion batteries may refuse to recover a used propulsion battery that it has manufactured, branded, imported, or embedded into a product in the state, if the battery is collected from a location or using a mechanism designated by the producer in its battery management plan.

(b) A producer must provide for the proper reuse, remanufacturing, repurposing, or recycling of a propulsion battery returned under this section in accordance with standards adopted by the department by rule.

(c) This subsection does not apply to the original producer of a propulsion battery that has been remanufactured, repurposed, branded, imported, retailed, or embedded into a product by a secondary producer, unless the secondary producer is in a contractual relationship with the original producer in accordance with section 5(3)(c) of this act.

NEW SECTION. **Sec.**  (1) In implementing a battery management plan approved under section 5 of this act, a producer must provide consumers with educational materials related to the producer's approved battery management plan and the collection services that are available. The educational materials must include, without limitation, information identifying the end-of-life management options that are available for propulsion batteries through the battery management plan, and a notice that, in Washington, the costs of the services must be covered by the producer.

(2) The department must establish a forum for the filing of consumer complaints, which may include a complaint form on the department's website or a telephone hotline, and a public education program to ensure the widespread dissemination of information concerning the purpose and requirements of this chapter.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2025, a producer operating in the state must register with the department, or after such date, within 30 days of becoming a producer under this chapter.

(2) The department must establish an online registration program for the purposes of this section on its internet website.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2026, and each following January 1st, each producer must 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.

(2) The annual report may include additional information, as required by the department.

(3) The department must maintain a public list of producers that do not comply with the provisions of this chapter.

NEW SECTION. **Sec.**  (1)(a) The department may administratively impose a civil penalty on a person who violates this chapter in an amount of up to $1,000 per violation per day.

(b) The department may administratively impose a civil penalty of up to $10,000 per violation per day on a person for repeated violations of this chapter.

(c) Penalties incurred under this section may be appealed to the pollution control hearings board created in chapter 43.21B RCW.

(d) Penalties imposed under this section must be deposited into the model toxics control operating account created in RCW 70A.305.180.

(2) The department has 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 to determine compliance with this chapter.

NEW SECTION. **Sec.**  The department must adopt rules as necessary to implement this chapter.

**Sec.**  RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20, 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, section 12 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**Sec.**  RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and 2023 c 135 s7 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.555.110, 70A.560.020, section 12 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) 30 days after receipt of the notice imposing the penalty;

(b) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090, 70A.555.110, ((~~and~~)) 70A.560.020, and section 12 of this act, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

**Sec.**  RCW 70A.205.505 and 2020 c 20 s 1197 are each amended to read as follows:

(1) No person may knowingly dispose of a vehicle battery except by delivery to: A person or entity selling lead acid batteries, a person or entity authorized by the department to accept the battery, or to a secondary lead smelter.

(2) No owner or operator of a solid waste disposal site shall knowingly accept for disposal used vehicle batteries except when authorized to do so by the department or by the federal government.

(3) Any person who violates this section shall be subject to a fine of up to ((~~one thousand dollars~~)) $1,000. Each battery will constitute a separate violation. Nothing in this section and RCW 70A.205.510 through 70A.205.530 shall supersede the provisions under chapter 70A.300 RCW.

(4) ((~~For purposes of this section and RCW 70A.205.510 through 70A.205.530, "vehicle~~)) The definitions in this subsection apply throughout this section and RCW 70A.205.510 through 70A.205.530 unless the context clearly requires otherwise.

(a) "Vehicle battery" means batteries capable for use in any vehicle, having a core consisting of elemental lead, and a capacity of six or more volts; and

(b) "Vehicle battery" does not include a "propulsion battery" as defined in section 2 of this act.

**Sec.**  RCW 70A.555.010 and 2023 c 434 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Battery-containing product" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries.

(b) A "battery-containing product" does not include a covered electronic product under an approved plan implemented under chapter 70A.500 RCW.

(2) "Battery management hierarchy" means a management system of covered batteries prioritized in descending order as follows:

(a) Waste prevention and reduction;

(b) Reuse, when reuse is appropriate;

(c) Recycling, as defined in this chapter; and

(d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

(3) "Battery stewardship organization" means a producer that directly implements a battery stewardship plan required under this chapter or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

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

(5)(a) "Covered battery" means a portable battery or, beginning January 1, 2029, a medium format battery.

(b) "Covered battery" does not include:

(i) A battery contained within a medical device, as specified in Title 21 U.S.C. Sec. 321(h) as it existed as of July 23, 2023, that is not designed and marketed for sale or resale principally to consumers for personal use;

(ii) A battery that contains an electrolyte as a free liquid;

(iii) A lead acid battery weighing greater than 11 pounds;

(iv) A battery subject to the provisions of RCW 70A.205.505 through 70A.205.530; ((~~and~~))

(v) A battery in a battery-containing product that is not intended or designed to be easily removable from the battery-containing product; and

(vi) A "propulsion battery" as defined in section 2 of this act.

(6) "Department" means the department of ecology.

(7) "Easily removable" means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.

(8) "Environmentally sound management practices" means practices that: (a) Comply with all applicable laws and rules to protect workers, public health, and the environment; (b) provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and (c) include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

(9) "Final disposition" means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for use, and any residues handled as wastes in accordance with applicable law.

(10) "Large format battery" means:

(a) A rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours; or

(b) A primary battery that weighs more than 25 pounds.

(11) "Medium format battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours;

(b) For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

(12) "Portable battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) For primary batteries, a battery weighing no more than 4.4 pounds.

(13) "Primary battery" means a battery that is not capable of being recharged.

(14)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(i) For covered batteries:

(A) If the battery is sold under the brand of the battery manufacturer, the producer is the person that manufactures the battery;

(B) If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(i)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state;

(E) If there is no person described in (a)(i)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

(ii) For covered battery-containing products:

(A) If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person that manufactures the product;

(B) If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(ii)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(ii)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state;

(E) If there is no person described in (a)(ii)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state;

(F) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

(b) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined a registered battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

(15) "Program" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

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

(17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

(a) Combustion;

(b) Incineration;

(c) Energy generation;

(d) Fuel production; or

(e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

(18) "Recycling efficiency rate" means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.

(19) "Retailer" means a person who sells covered batteries or battery-containing products in or into this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.

(20) "Urban area" means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.

NEW SECTION. **Sec.**  This act may be known and cited as the electric vehicle battery management act.

NEW SECTION. **Sec.**  Sections 1 through 12 and 17 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**