
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 1215
Author: Newman
Version: 8/15/2022
Urgency: No
Consultant: Gabrielle Meindl

Hearing Date: 8/24/2022
Fiscal: Yes

SUBJECT: Responsible Battery Recycling Act of 2022

DIGEST: Expands the Electronic Waste Recycling Act (EWRA) to include battery-embedded products.

ANALYSIS:

Existing law:

- 1) Pursuant to the Electronic Waste Recycling Act of 2003 (Act):
 - a) Establishes processes for consumers to return, recycle, and ensure the safe and environmentally sound disposal of video display devices, such as televisions and computer monitors that are hazardous wastes when discarded.
 - b) Requires fees collected on covered products to be deposited in the Electronic Waste Recovery and Recycling Account for specified purposes, including, but not limited to, paying covered electronic waste recycling fee refunds and making electronic waste recovery and recycling payments.
 - c) Imposes certain obligations on a manufacturer of a covered electronic device (CED), including, but not limited to, requiring a manufacturer to submit a report to the Department of Resource Recovery and Recycling (CalRecycle), as provided, and to make information available to consumers that describes where and how to return, recycle, and dispose of the CED. Defines “manufacturer” as either a person who manufactures a CED sold in the state or a person who sells a CED in the state under that person’s brand name.

- 2) Requires the Department of Toxic Substances Control (DTSC) to adopt regulations that prohibit an electronic device from being sold or offered for sale in California if the electronic device is prohibited from being sold or offered for sale in the European Union (EU) on and after its date of manufacture, to the extent that Directive 2002/95/EC, adopted by the European Parliament and the Council of European Union on January 27, 2003, as amended by the Commission of European Communities, prohibits that sale due to the presence

of certain heavy metals.

- 3) Requires DTSC to adopt regulations to identify electronic devices that DTSC determines are presumed to be, when discarded, a hazardous waste. Requires a manufacturer of an electronic device that is identified in those regulations to send to any retailer that sells that electronic device a notice that identifies the electronic device and informs the retailer that the electronic device is subject to the covered electronic waste recycling fee.
- 4) Establishes the Cell Phone Recycling Act of 2004 prohibits the sale of a cell phone in this state to a consumer unless the retailer of that cell phone has in place a take-back system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal.
- 5) Establishes the Rechargeable Battery Recycling Act of 2006 to require every retailer, as defined, to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal.

This bill:

- 1) Expands the definition of “covered electronic device” to include a “covered battery-embedded product,” thereby expanding the scope of the EWRA.
- 2) Defines "covered battery-embedded product" as a new or refurbished product containing a battery that is not intended to be easily removed from the product by the consumer with no more than commonly used household tools.
- 3) Provides that "covered battery-embedded product" does not include a medical device (as defined), a covered electronic device, an energy storage system, or an electronic nicotine delivery system.
- 4) Requires the Department of Resources, Recycling and Recovery (CalRecycle), on or before October 1, 2025, and annually thereafter, to establish a covered electronic waste recycling fee for covered battery-embedded products based on the reasonable regulatory costs of administering the covered electronic waste recycling program.
- 5) Authorizes, beginning on August 1, 2028, CalRecycle, in collaboration with DTSC, to establish more than one covered electronic waste recycling fee for covered battery-embedded products based on categories of those products.
- 6) Creates the Covered Electronic Waste Recycling Fee Subaccount and the Covered Battery-Embedded Waste Recycling Fee Subaccount as continuously

appropriated funds in the Electronic Waste Recovery and Recycling Account.

- 7) Requires, on and after January 1, 2026, a consumer to pay a covered electronic waste recycling fee upon the purchase of a new or refurbished covered battery-embedded product.
- 8) Requires a retailer to collect the covered electronic waste recycling fee from the consumer and remit it to the California Department of Tax and Fee Administration (CDTFA).
- 9) Prohibits, on and after January 1, 2026, a person from selling or offering for sale in California a new or refurbished covered battery-embedded product unless the product is labeled with the name of the manufacturer or the manufacturer's brand label.
- 10) Requires a manufacturer of a covered battery-embedded product to provide a notice to any retailer that sells the covered battery-embedded product and CalRecycle. The notice shall identify the covered battery-embedded product by brand and model number and inform the retailer that the covered battery-embedded product is subject to the electronic waste recycling fee.
- 11) Requires, on or before July 1, 2027 and annually thereafter, a manufacturer of a covered battery embedded product to submit to CalRecycle a report including the number of covered electronic devices sold by the manufacturer during the previous year; the chemistry of the battery contained within the covered electronic devices sold by the manufacturer; a baseline showing the total estimated amount of recycled materials contained in covered electronic devices sold in that year; and, a list of retailers to which the manufacturer provided a notice required under the EWRA.
- 12) Requires that any information submitted to CalRecycle that is proprietary in nature or a trade secret be protected under state laws and regulations governing that information.
- 13) Requires a manufacturer of a covered electronic device to maintain and keep accessible for a minimum of 3 years all records required to be kept or submitted pursuant to the Act and, upon request, provide those records to CalRecycle. Requires all reports and records provided to CalRecycle pursuant to the Act be provided under penalty of perjury.
- 14) Requires the manufacturer to make information available to consumers that describes where and how to return, recycle, and dispose of covered battery-

embedded products, through a toll-free phone number, internet website, information on the label or in the package of the product, or information accompanying the sale of the product.

Background:

- 1) *Universal waste*. Universal wastes are hazardous wastes that are widely produced by households and many different types of businesses. Universal wastes include televisions, computers, other electronic devices, batteries, fluorescent lamps, mercury thermostats, and other mercury containing equipment, among others.

California's Universal Waste Rule (California Code of Regulations, Title 22, Division 4.5, Chapter 11, Section 66261.9) allows individuals and businesses to transport, handle, and recycle certain common hazardous wastes, termed universal wastes, in a manner that differs from the requirements for most hazardous wastes. The more relaxed requirements for managing universal wastes were adopted to ensure that they are managed safely and are not disposed of in the trash. To increase compliance, the universal waste requirements are also less complex and easier to comply with.

- 2) *Regulation of batteries*. The state's Hazardous Waste Control Law, prohibits the disposal of batteries in the trash or household recycling collection bins intended to receive other non-hazardous waste and/or recyclable materials. Many types of batteries, regardless of size, exhibit hazardous characteristics and are considered hazardous waste when they are discarded. These include single use alkaline and lithium batteries and rechargeable lithium metal, nickel cadmium, and nickel metal hydride batteries of various sizes (AAA, AA, C, D, button cell, 9-Volt) and small sealed lead-acid batteries.

Many batteries are sold within products, such as lithium-ion batteries, which are widely used in portable electronics like laptops, smart phones, digital cameras, game consoles, and cordless power tools. These products would be considered "covered battery-embedded products" under SB 1215, if the battery is not designed to be removed from the product by the consumer.

- 3) *Electronic waste (E-Waste)*. E-waste refers to any unwanted electronic device and is classified as universal waste. E-waste frequently contains hazardous materials, predominantly lead and mercury, and is produced by households, businesses, governments, and industries. Each year in California, hundreds of thousands of computers, monitors, copiers, fax machines, printers, televisions, and other electronic items become "obsolete" in the eyes of consumers. Rapid advances in technology and an expanding demand for new features accelerate

the generation of ("E-waste"). The result is a growing challenge for businesses, residents, and local governments as they search for ways to reuse, recycle, or properly dispose of this equipment. To meet this challenge, California enacted the Electronic Waste Recycling Act of 2003 (SB 20 Sher, Chapter 526, Statutes of 2003), which established the covered electronic waste recycling program to offset the cost of compliantly handling certain unwanted electronic devices.

In the 19 years since the passage of SB 20, approximately 2.2 billion pounds of covered video display devices have been recycled. However, to ensure the continued success of electronic device recycling in California, the law needs to be updated to include more devices and address other issues. Current law covers only a fraction of the types of electronic devices sold in California. Electronics technology is rapidly evolving and electronics are becoming more intricate, specialized, and ubiquitous. Automation, sensors, and artificial intelligence are transforming all industries. The limited scope of devices addressed in SB 20 does not accommodate this flood of innovations.

CalRecycle's 2017 report, *Future of Electronic Waste Management in California*, notes under its key recommendations that California's current e-waste management program only covers a portion of the devices that can cause harm to public health and environmental safety. Without a change in the current program, millions of devices will continue to be illegally disposed of or improperly managed.

- 4) *This bill.* SB 1215 adds covered battery-embedded products to the EWRA and requires CalRecycle to establish a fee, paid by consumers on new or refurbished covered battery-embedded products, that covers the reasonable regulatory costs to properly manage and recycle the covered battery-embedded products and to administer the EWRA. This bill is a companion to AB 2440 (Irwin) that establishes an extended producer responsibility program for the collection and recycling of loose batteries, those batteries in products that are intended to be removed from a product by the consumer. The goal, between the two bills, is to improve the safe collection and recycling of batteries both in products and not in products.

Comments:

- 1) *Purpose of Bill.* According to the author, "Because of the hazardous metals and corrosive materials that batteries contain, California classifies batteries as hazardous waste and bans them from solid waste landfills. When improperly discarded, lithium-ion (Li-ion) batteries in particular pose serious fire, health and safety hazards. In a world where batteries are increasingly powering everything, we still haven't solved for how to safely dispose of them.

Currently, an estimated 75-92% of lithium-ion batteries are disposed of improperly.

“The influx of these batteries into our waste stream has resulted in an alarming number of fires in our material recovery facilities, waste collection trucks, and landfills – fires that pose serious toxic threats to the health and safety of workers, firefighters and the surrounding community. SB 1215 will replace the current, labyrinthine and unsafe process for battery disposal with a safe, convenient, and accessible system for consumers to safely dispose of depleted batteries. SB 1215 requires the producers of batteries and battery-embedded products sold in California to develop, finance, and implement this program in collaboration with CalRecycle to recover and recycle their products.”

Related/Prior Legislation:

AB 2440 (Irwin) establishes the Responsible Battery Recycling Act of 2022 to create a stewardship program for the collection and recycling of covered batteries as defined. This bill is pending on the Senate Floor.

SB 289 (Newman, 2021) would have established the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021 to require producers to establish a stewardship program for batteries and battery-embedded products. That bill was held in the Senate Appropriations Committee.

SUPPORT:

California Product Stewardship Council (sponsor)
Californians Against Waste (sponsor)
Rethinkwaste (sponsor)
Active San Gabriel Valley
Association of Home Appliance Manufacturers
California Professional Firefighters
California Resource Recovery Association
California Retailers Association
California State Association of Counties (CSAC)
California Waste Haulers Council
Central Contra Costa Sanitary District
City of Los Angeles
City of Roseville
City of Thousand Oaks

Clean Water Action
Consumer Technology Association
Cr&r, INC.
Delta Diablo
Environmental Working Group
League of California Cities
Los Angeles County Sanitation Districts
Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force
Marin Household Hazardous Waste Facility
Monterey Regional Waste Management District
Napa Recycling & Waste Services
Northern California Recycling Association
Product Stewardship Institute
Recyclesmart
Republic Services - Western Region
Republic Services INC.
Resource Recovery Coalition of California
Rural County Representatives of California (RCRC)
San Diego; County of
Santa Clara County Recycling and Waste Reduction Commission
Sea Hugger
Stopwaste
The Toy Association
Urban Counties of California
Western Placer Waste Management Authority (WPWMA)
Zero Waste Company
Zero Waste Sonoma

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the Consumer Technology Association, the California Retailers Association, the Toy Association, and the Association of Home and Appliance Manufacturers, “SB 1215 builds on nearly two decades of success for the e-waste program and is an approach that California consumers will be familiar with. It is our belief that this familiarity with the existing e-waste program will only help consumers understand what to do with their covered battery-embedded products at the end of life. By adding battery-embedded products to the existing e-waste program, SB 1215 avoids the confusion of a new system that would overlap with current collection and recycling practices.

Additionally, it is consistent with many existing e-waste program collectors who already voluntarily manage many battery-embedded products, like smart phones.”

ARGUMENTS IN OPPOSITION: None received

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