

SENATE BILL No. 288

April 6, 1989, Introduced by Senators EHLERS and CHERRY and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to regulate the disposal of certain batteries; to prescribe the powers and duties of certain state agencies and officials and persons; to establish a fund and provide for the disposition of the fund; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Batteries" or "battery" means a device for generating
3 an electric current by chemical reaction and includes batteries
4 that are not rechargeable or primary batteries, and rechargeable
5 batteries or secondary batteries.

6 (b) "Department" means the department of natural resources.

7 (c) "Distributor" means a manufacturer and a person who
8 sells batteries to retailers in this state.

1 (d) "Fund" means the battery depository fund created in
2 section 7.

3 (e) "Manufacturer" means a person who produces batteries for
4 sale in this state.

5 (f) "Person" means an individual, partnership, corporation,
6 association, the state, a local unit of government, or any other
7 legal entity.

8 (g) "Retailer" means a person who sells or offers to sell
9 batteries to consumers within this state.

10 Sec. 2. (1) A person shall not dispose of a battery except
11 by delivery to 1 of the following:

12 (a) A retailer.

13 (b) A collection, recycling, or smelting facility approved
14 by the department.

15 (2) A retailer shall not dispose of used batteries except by
16 delivery to 1 of the following:

17 (a) A distributor or his or her authorized agent.

18 (b) A collection, recycling, or smelting facility approved
19 by the department.

20 Sec. 3. A retailer shall do all of the following:

21 (a) Accept, at or near the point at which batteries are
22 offered for sale, in a quantity at least equal to the number of
23 new batteries sold by the retailer, used batteries from custom-
24 ers, if offered by the customers.

25 (b) Post a written notice in a location that is readily vis-
26 ible to customers within the retail establishment that is at

1 least 8-1/2 inches by 11 inches in size and contains the
2 universal recycling symbol and all of the following:

3 (i) Recycle your used batteries.

4 (ii) It is illegal to discard a battery except by delivery
5 to a retailer or a collection, recycling, or smelting facility
6 approved by the department.

7 (iii) State law requires retailers to accept batteries for
8 recycling or proper disposal.

9 (c) The notice described in subdivision (b) shall also
10 include information pertaining to the required deposit for batte-
11 ries and the availability of refunds under this act.

12 Sec. 4. (1) The department shall produce, print, and make
13 available to retailers notices required by section 3.

14 (2) The failure to post a notice required by this act fol-
15 lowing warning by the department shall subject the retailer to a
16 civil fine of \$25.00 per day of violation.

17 (3) A default in the payment of a civil fine ordered under
18 this act may be remedied by any means authorized under the
19 revised judicature act of 1961, Act No. 236 of the Public Acts of
20 1961, being sections 600.101 to 600.9947 of the Michigan Compiled
21 Laws.

22 Sec. 5. (1) A distributor shall accept, at the point of
23 transfer, in a quantity at least equal to the number of new bat-
24 teries sold by the distributor, used batteries from retailers, if
25 offered by retailers.

1 (2) A distributor accepting batteries from a retailer as
2 required under this section shall remove the batteries from the
3 point of collection within 30 days of receiving the batteries.

4 (3) A distributor shall dispose of batteries by delivery to
5 a collection, recycling, or smelting facility.

6 Sec. 6. (1) By January 1, 1992, a manufacturer of lead acid
7 batteries shall emboss or by stamp, label or by other method
8 securely affix to or imprint upon each lead acid battery offered
9 for sale within this state the refund value of the battery and
10 the name of this state. The name of the state may be abbreviated
11 or in the form of a symbol that is approved by the department.

12 (2) By January 1, 1993, the manufacturer of all batteries
13 that are not lead acid batteries shall be subject to the require-
14 ment of subsection (1).

15 Sec. 7. (1) The battery depository fund is created as a
16 separate fund in the state treasury. The fund shall receive the
17 deposits paid to retailers from the sale of batteries as provided
18 in sections 8 and 9. The fund and the interest and earnings gen-
19 erated by the fund shall be utilized as follows:

20 (a) To reimburse retailers and collection, recycling, and
21 smelting facilities for refunds paid under sections 8 and 9.

22 (b) To pay the administrative costs of the department and
23 the department of treasury that are incurred under this act.

24 (c) If money remains in the fund after meeting actual and
25 anticipated obligations of the fund, the state treasurer may
26 authorize expenditures from the fund to the department to
27 encourage the recycling and proper disposal of used batteries.

1 (2) The department of treasury shall administer the fund,
2 and shall promulgate rules as determined to be necessary by the
3 state treasurer to assure that the battery deposit and refund
4 system provided in this act is properly managed and that the fund
5 remains financially strong. The rules may include verification
6 procedures and record requirements for retailers, manufacturers,
7 and collection, recycling, and smelting facilities.

8 (3) Money in the fund shall not lapse at the end of the
9 fiscal year, but shall remain in the fund to be expended as pro-
10 vided in this act.

11 Sec. 8. (1) Beginning on January 1, 1992, a person who pur-
12 chases a lead acid battery designated as being returnable under
13 section 6 from a retailer shall pay to the retailer a deposit of
14 \$6.00. Upon the return of a used battery designated as being
15 returnable under section 6 to a retailer or a collection, recycl-
16 ing, or smelting facility, the consumer shall be entitled to a
17 \$5.00 refund.

18 (2) A retailer shall forward each \$6.00 deposit received
19 under subsection (1) at least quarterly to the battery depository
20 fund created in section 7.

21 (3) A retailer and a collection, recycling, and smelting
22 facility that makes refunds to consumers shall maintain proper
23 records of used batteries that are returned and for which \$5.00
24 refunds are paid. A retailer and a collection, recycling, and
25 smelting facility is entitled to reimbursement from the fund in
26 the amount of \$5.75 for each \$5.00 refund properly made under

1 this section. Claims for reimbursement from the fund shall be
2 submitted to the fund at least quarterly.

3 Sec. 9. (1) Beginning on January 1, 1993, a person who pur-
4 chases a battery designated as being returnable under section 6
5 that is not a lead acid battery shall pay to the retailer a
6 deposit of 15 cents. Upon the return of a used battery desig-
7 nated as being returnable under section 6 to a retailer or a col-
8 lection, recycling, or smelting facility, the consumer shall be
9 entitled to a 10 cent refund.

10 (2) A retailer shall forward each 15 cent deposit received
11 under subsection (1) at least quarterly to the battery depository
12 fund created in section 7.

13 (3) A retailer and a collection, recycling, and smelting
14 facility that makes refunds to customers shall maintain proper
15 records of used batteries that are returned and for which 10 cent
16 refunds are paid. A retailer and a collection, recycling, and
17 smelting facility is entitled to reimbursement from the fund in
18 the amount of 14 cents for each 10 cent refund properly made
19 under this section. Claims for reimbursement from the fund shall
20 be submitted to the fund at least quarterly.

21 Sec. 10. (1) The department shall enforce this act.

22 (2) A person who violates section 2 by improperly disposing
23 of batteries is guilty of a misdemeanor, punishable by a fine of
24 not more than \$25.00, plus the costs of prosecution. Each bat-
25 tery that is unlawfully disposed of is a separate violation.

26 (3) Except as otherwise provided in this act, a retailer or
27 distributor who violates this act is guilty of a misdemeanor,

1 punishable by imprisonment for not more than 60 days or a fine of
2 not more than \$1,000.00, or both, plus the costs of prosecution.

3 Sec. 11. This act shall take effect September 1, 1989.