

HB 1602-FN - AS INTRODUCED

2026 SESSION

26-3191.0
04/09

HOUSE BILL

1602-FN

AN ACT creating a safe battery recycling stewardship program.

SPONSORS: Rep. Ebel, Merr. 7; Rep. Burroughs, Carr. 2; Rep. Spier, Hills. 6; Rep. Thackston, Ches. 12; Rep. J. Aron, Sull. 4; Rep. Barbour, Hills. 35; Rep. Bixby, Straf. 13; Rep. Creighton, Hills. 30; Rep. Maggiore, Rock. 23; Sen. Rosenwald, Dist 13; Sen. Ricciardi, Dist 9; Sen. Pearl, Dist 17; Sen. Avard, Dist 12; Sen. Watters, Dist 4

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill establishes a statewide battery stewardship program that requires safe collection, recycling, and management of covered batteries and battery-containing products, administered through producer participation and oversight by the department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~in brackets and struckthrough.~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT creating a safe battery recycling stewardship program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Safe Battery Collection and Recycling Stewardship. Amend RSA 149-M by
2 inserting after section 64 the following new subdivision:

3 Safe Battery Collection and Recycling Stewardship
4 149-M:65 Definitions; Stewardship Program Established.

5 I. In this subdivision:

6 (a) "Battery-containing product" means a product that contains or is packaged with a
7 rechargeable or primary battery that qualifies as a covered battery.

8 (b) "Battery stewardship organization" means a producer that directly implements a
9 battery stewardship plan required under this subdivision, or one or more organizations, each with 5
10 or more producers, designated by a group of producers to implement such a plan.

11 (c) "Collection rate" means the percentage, by weight, of covered batteries collected by a
12 battery stewardship organization, calculated by dividing the total weight of primary and
13 rechargeable batteries collected during the previous calendar year by the average annual weight of
14 such batteries estimated to have been sold in New Hampshire by all producers participating in the
15 approved plan during the prior three calendar years.

16 (d) "Covered battery" means a portable battery or a medium format battery. This does
17 not include:

18 (1) Batteries contained in a medical device, as defined in 21 United States Code,
19 section 321(h) as it existed as of the effective date of this section, not designed and marketed for sale
20 or resale principally to consumers for personal use;

21 (2) Batteries that contains an electrolyte as a free liquid;

22 (3) Lead-acid batteries weighing more than 11 pounds;

23 (4) Batteries in a battery-containing product that is not intended or designed to be
24 easily removable from the battery-containing product;

25 (5) Batteries that are being recalled for safety reasons; and

26 (6) Batteries designed to power a motor vehicle, part of a motor vehicle, or a
27 component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer,
28 including replacement parts for use in a motor vehicle.

29 (e) "Damaged and defective batteries" means batteries identified by the producer as
30 defective for safety reasons, or that pose a risk of heat, fire, or short circuit, as described in 49 C.F.R.

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1 section 173.185(f) as of January 1, 2023, or as updated by department rule to align with federal
2 standards.

3 (f) "Department" means the New Hampshire department of environmental services.

4 (g) "Easily removable" means designed by the manufacturer to be removed by the user
5 with commonly available household tools.

6 (h) "Environmentally sound management practices" means practices that:

7 (1) Comply with all applicable laws and rules protecting workers, public health, and
8 the environment;

9 (2) Provide for adequate record keeping, tracking, and documenting of material
10 disposition; and

11 (3) Include comprehensive liability coverage for a battery stewardship organization,
12 including environmental liability coverage that is commercially practicable.

13 (i) "Medium format battery" means:

14 (1) A rechargeable battery weighing more than 11 pounds or rated above 300 watt-
15 hours or both, but not exceeding 25 pounds of 2,000 watt-hours; or

16 (2) A primary battery weighing more than 4.4 pounds but not more than 25 pounds.

17 (j) "Motor vehicle" means a self-propelled mechanical device with a vehicle identification
18 number (VIN) manufactured primarily for transporting people or property primarily on public roads,
19 streets, and highways excluding rail-bound or airborne devices.

20 (k) "Portable battery" means:

21 (1) A rechargeable battery weighing no more than 11 pounds and rated at no more
22 than 300 watt-hours; or

23 (2) A primary battery weighing no more than 4.4 pounds.

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

25 (m) "Producer" means the person responsible for compliance with requirements under
26 this subdivision for a covered battery or battery-containing product sold, offered for sale, or
27 distributed in or into New Hampshire, as follows:

28 (1) For covered batteries:

29 (A) If sold under the brand of battery manufacturer, the producer is the
30 manufacturer;

31 (B) If sold under a retail or third-party brand, the producer is the brand owner;

32 (C) If no person is identified under RSA 149-M:65, I(m)(1)(A) or (B), the producer
33 is the licensee of a brand or trademark under which the battery is used in a commercial enterprise,
34 sold, offered for sale, or distributed in or into New Hampshire, whether or not the trademark is
35 registered in New Hampshire;

1 (D) If no person is identified in RSA 149-M:65, I(m)(1)(A) through (C) within the
2 United States, the producer is the importer of record for the battery into the United States for use in
3 a commercial enterprise that sells, offers for sale, or distributes the battery in New Hampshire;

4 (E) If no person is identified in RSA 149-M:65, I(m)(1)(A) through (D) with a
5 commercial presence in New Hampshire, the producer is the person who first sells, offers for sale, or
6 distributes the battery in or into New Hampshire.

7 (2) For battery-containing products:

8 (A) If the product is sold under the brand of the product manufacturer, the
9 producer is the manufacturer of the product;

10 (B) If the product is sold under a retail or third-party brand, the producer is the
11 brand owner;

12 (C) If no person is identified in RSA 149-M:65, I(m)(2)(A) or (B), the producer is
13 the licensee of a brand or trademark under which the product is used in a commercial enterprise,
14 sold, offered for sale, or distributed in or into New Hampshire, whether or not the trademark is
15 registered in New Hampshire;

16 (D) If no person is identified in RSA 149-M:65, I(m)(2)(A) through (C) located
17 within the United States, the producer is the importer of record for the product into the United
18 States for use in a commercial enterprise that sells, offers for sale, or distributes the product in New
19 Hampshire;

20 (E) If no person is identified in RSA 149-M:65, I(m)(2)(A) through (D) with a
21 commercial presence in New Hampshire, the producer is the person who first sells, offers for sale, or
22 distributes the product in or into New Hampshire.

23 (F) A person shall not be considered a producer if they only manufacture, sell,
24 offer for sale, distribute, or import a battery-containing product into New Hampshire, and the
25 batteries used in that product are supplied by a producer that is a member of a registered battery
26 stewardship organization under this subdivision. The battery producer must provide written
27 certification of such membership to both the product manufacturer and the battery stewardship
28 organization of which the battery producer is a member.

29 (n) "Program" means a program implemented by a battery stewardship organization
30 under an approved battery stewardship plan.

31 (o) "Rechargeable battery" means a battery containing one or more voltaic or galvanic
32 cells, electrically connected to produce energy, and designed to be recharged.

33 (p) "Recycling" has the same meaning as in RSA 149-M:4, XX.

34 (q) "Recycling efficiency rate" means the ratio of the weight of covered battery
35 components and materials recycled by a program operator to the weight of covered batteries
36 collected.

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1 (r) "Retailer" means a person who sells or offers for sale covered batteries or battery-
2 containing products in or into New Hampshire, including to other businesses.

3 II. Requirement that Producers Implement a Stewardship Plan. Beginning July 1, 2028, a
4 producer that sells, offers for sale, or distributes covered batteries or battery-containing products in
5 or into New Hampshire shall participate in an approved New Hampshire state battery stewardship
6 plan through participation in and appropriate funding of a battery stewardship organization. A
7 producer that does not participate in such an organization and plan shall not sell, offer for sale, or
8 distribute covered batteries or battery-containing products in or into the state.

9 149-M:66 Role of Retailers.

10 I. Beginning July 1, 2028, a retailer shall not sell, offer for sale, or distribute a covered
11 battery or battery-containing product unless the producer of the covered battery or battery
12 containing product has certified participation in a battery stewardship organization operating under
13 a plan approved by the department.

14 II. A retailer shall be deemed in compliance with subparagraph (a) if the department's
15 publicly accessible website, as required by paragraph IX, (b)(3) of this section, as of the date the
16 product is made available for retail sale, lists the producer or brand as participating in an approved
17 stewardship plan.

18 III. Retailers of covered batteries or battery-containing products are not required to serve as
19 collection sites for a battery stewardship program. However, a retailer that elects to do so shall
20 participate in an approved battery stewardship plan and comply with all applicable collection site
21 requirements established under this subdivision.

22 IV. A retailer selling or offering covered batteries of battery-containing products for sale in
23 New Hampshire may provide consumers with information, supplied by a battery stewardship
24 organization, regarding end-of-life management options for covered batteries collected by a battery
25 stewardship organization. Such information may include in-store signage, printed materials, and
26 other promotional content.

27 V. No retailer, producer, or battery stewardship organization shall charge a point-of-scale
28 fee to consumers to cover the administrative or operational costs of a battery stewardship program.

29 149-M:67 Stewardship Plan Components.

30 I. Each battery stewardship organization shall submit a stewardship plan to the department
31 for approval by January 1, 2028, for covered portable batteries, and by January 1, 2029, for covered
32 medium format batteries. The department may extend the submission deadline for good cause
33 shown. A battery stewardship organization may submit a revised plan to update an approved plan.
34 Each plan shall include the following elements:

35 (a) A list of participating producers, battery brands, and battery-containing product
36 brands, including contact information;

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1 (b) A description of the covered batteries and battery-containing products included in the
2 plan;

3 (c) A description of how covered batteries and battery-containing products will be
4 managed using environmentally sound management practices, including criteria for collection sites,
5 safety training procedures, and a list of proposed sorters, transporters, processors, and final
6 disposition facilities;

7 (d) Education and outreach efforts to inform retailers of their obligations under RSA
8 149-M:64 and to promote participation by consumers, retailers, and other stakeholders;

9 (e) A description of the funding mechanism for the program;

10 (f) Performance goals for each of the next three calendar years, consistent with RSA 149-
11 M:64; and

12 (g) A description of how the program will provide free, continuous, convenient, visible,
13 and accessible collection of all covered battery chemistries and brands, including goals for the
14 number and distribution of collection sites.

15 II. The department shall approve or deny a submitted plan in accordance with RSA 149-
16 M:64 within 120 days of receipt and shall notify the submitting organization in writing. If the
17 department denies a battery stewardship plan, it shall provide the reasons for denial in writing. A
18 denial does not preclude the organization from submitting a revised battery stewardship plan. A
19 producer shall not be in compliance with this section unless covered by an approved plan.

20 III. A battery stewardship organization shall submit a new plan to the department if there
21 are significant changes to the methods of collection, transport, or end-of-life management not
22 addressed in the approved plan. A battery stewardship organization shall submit a new updated
23 battery stewardship plan at least once every five years.

24 IV. A battery stewardship organization shall notify the department on a quarterly basis of
25 any changes in producer participation of the battery stewardship organization, including an updated
26 list of participating producers and brands, if applicable.

27 149-M:68 Battery Stewardship Program Components and Performance Goals.

28 I. Each battery stewardship plan shall include annual performance goals to measure the
29 effectiveness of the program, including:

30 (a) The quantity of batteries collected;

31 (b) The public convenience and accessibility of the collection system; and

32 (c) Targeted recycling efficiency rates for covered batteries.

33 II. A battery stewardship organization shall not reduce or discontinue collection, education
34 and outreach, or other program activities based solely on the achievement of performance goals.

35 149-M:69 Funding by Battery Stewardship Organization.

36 I. Each battery stewardship organization shall ensure adequate funding is available to fully
37 implement its approved battery stewardship plan, including:

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- (a) The collection, transportation, and processing of covered batteries;
- (b) Education and outreach activities;
- (c) Program evaluation; and
- (d) Reimbursement of administrative costs to the department pursuant to RSA 149-M:65, IX.

II. A battery stewardship organization implementing a plan on behalf of producers shall:

- (a) Develop a system to collect charges from participating producers to cover the full cost of plan implementation;
- (b) Be responsible for all costs associated with collection, transportation, processing, education, administration, department reimbursement, recycling, and end-of-life management, in accordance with this subdivision and environmentally sound management practice; and
- (c) Equitably reimburse local governments and solid waste or recyclables handling facilities for demonstrable and reasonable costs incurred as a result of serving as a collection site, including labor, storage, and other costs necessary to meet accessibility and collection site standards.

III. At a minimum, a battery stewardship organization shall provide each collection site with appropriate containers for covered batteries, training, signage, safety guidance, and educational materials, at no cost to the collection site.

149-M:70 Collection and Management Requirements.

I. Each battery stewardship organization implementing a battery stewardship plan shall provide for the collection of all covered batteries, including all chemistries and brands, on a free, continuous, convenient, visible, and accessible basis to any person, business, government entity, or organization. Except as provided in subparagraph (b)(4) of this paragraph, each stewardship plan shall allow any person or entity to deliver any chemistry and brand of covered battery to any collection site that counts toward meeting the plan's collection site criteria.

II. Each battery stewardship organization shall:

- (a) Provide suitable collection containers at each collection site, segregated from other solid waste, or make mutually agreeable alternative arrangements for battery collection;
- (b) Ensure that each collection site complies with applicable federal, state, and local regulations and adheres to the operations manual and safety guidance provided to the collection site by a battery stewardship plan by the organization;
- (c) Have the authority to issue warnings, suspend, or terminate collection sites or services that fail to meet site criteria in the approved battery stewardship plan or pose immediate health or safety risks; and
- (d) Ensure that medium format and damaged or defective batteries are collected in compliance with all applicable regulatory requirements;
- (e) Ensure statewide collection opportunities, with sites reasonably distributed based on geographic and population data;

1 (f) Coordinate with other program operators and electronic waste recyclers to deliver
2 services efficiently;

3 (g) Utilize existing public and private waste collection services and facilities, where cost-
4 effective and practicable; and

5 (h) Accept as collection sites any retailer, wholesaler, municipality, solid waste facility,
6 household hazardous waste facility, or other entity that meets the battery stewardship plan's
7 criteria.

8 III. Battery stewardship programs shall:

9 (a) Provide for the collection of loose covered batteries;

10 (b) Not be required to collect battery-containing products;

11 (c) Not be required to collect batteries that are not easily removable by the user or that
12 remain in a product at the time of delivery; and

13 (d) Not be required to collect batteries or battery-containing products subject to a safety
14 recall. A battery stewardship organization may seek reimbursement from the producer of a recalled
15 battery or battery containing product for costs incurred in collection, transport, and processing such
16 batteries or battery containing products.

17 IV. No battery stewardship organization shall charge a fee at the point of collection for the
18 management of unwanted covered batteries.

19 149-M:71 Reporting Requirements.

20 I. Each battery stewardship organization shall submit an annual report to the department
21 detailing the implementation of its approved battery stewardship plan for the preceding calendar
22 year. The report shall include all information required by the plan and any additional details as
23 determined by the department by rule.

24 II. The first annual report shall be submitted no later than 120 days after the completion of
25 the first year of program implementation, and in no case later than 18 months from the date the
26 plan was approved. Thereafter, annual reports shall be submitted within 120 days following the end
27 of each calendar year.

28 III. A producer or battery stewardship organization submitting information or records to the
29 department under this subdivision may request that such information be treated as confidential.
30 The department shall consider the request and, if confidentiality is not contrary to the public
31 interest and is otherwise permissible under the New Hampshire right-to-know law, RSA 91-A, shall
32 grant the request.

33 149-M:72 Administrative Cost Reimbursement and Department Responsibilities.

34 I. Each battery stewardship organization submitting a battery stewardship plan, revision, or
35 amendment shall reimburse the department for administrative costs incurred in implementing,
36 administering, and enforcing this chapter. The reimbursement shall be sufficient to cover the
37 department's full costs, including costs associated with rulemaking and other startup activities

1 necessary prior to the initial plan submissions. No later than 90 days before a plan is due, and every
2 two years thereafter, the department shall identify its incurred costs and determine the
3 reimbursement amount necessary to fully recover those costs. The total reimbursement collected
4 shall not exceed the amount necessary to administer this chapter. The timing and method of
5 payment shall be determined in consultation with the department.

6 II. The responsibilities of the department in implementing, administering, and enforcing
7 under this chapter include, but are not limited to:

8 (a) Reviewing submitted battery stewardship plans and amendments to the battery
9 stewardship plans and determining whether to approve them;

10 (b) Reviewing annual reports for compliance;

11 (c) Maintaining a publicly accessible website that lists producers and brands
12 participating in approved stewardship plans and makes available each plan, amendment, and
13 annual report received under this chapter;

14 (d) Upon approval of the first plan, a list of producers and brands covered by approved
15 plans and updating the list as needed based on information provided by stewardship organizations;
16 and

17 (e) Providing technical assistance to producers and retailers regarding compliance with
18 this chapter.

19 149-M:73 Liability.

20 I. A battery stewardship organization implementing an approved plan may bring a civil
21 action to recover costs, damages, and fees, as specified in this paragraph from a producer that sells
22 or otherwise makes available in New Hampshire covered batteries or battery-containing products
23 not included in an approved plan, in violation of this subdivision. Such an action may be brought
24 against one or more defendants, but only if the stewardship organization incurs costs in New
25 Hampshire, including reasonable incremental administrative and promotional costs, in excess of
26 \$1,000 to collect, transport, recycle, or otherwise manage the non compliant products.

27 II. A battery stewardship organization may bring a civil action against a producer of a
28 recalled battery to recover costs associated with the collection, transport, and handling of the
29 recalled battery.

30 III. A battery stewardship organization implementing an approved plan may bring a civil
31 action against another battery stewardship organization that fails to meet its collection obligations
32 under this subdivision by failing to collect and provide for the end-of-life management of batteries,
33 resulting in the plaintiff organization incurring costs to manage batteries that would otherwise have
34 been the responsibility of the defendant. Recoverable costs may include the value of services
35 rendered, legal fees, and other related expenses.

36 IV. A producer, or a battery stewardship organization acting on behalf of producers, that
37 creates, participates in, or implements a battery stewardship plan shall be exempt from RSA 356

1 and all other state laws concerning antitrust, restraint of trade, unfair trade practices, or other
2 anticompetitive conduct, to the extent such conduct is undertaken in accordance with an approved
3 battery stewardship plan.

4 149-M:74 Collection of Batteries Independent of a Battery Stewardship Program.

5 I. Nothing in this subdivision shall prohibit a person from offering or operating a fee-based,
6 household collection, or mail-back program for covered portable or medium format batteries
7 independently of a battery stewardship program, provided that the following conditions are met:

8 (a) The person's services and facilities shall comply with all applicable federal, state, and
9 local laws and regulations, including U.S. Department of Transportation requirements and all
10 applicable provisions of the department;

11 (b) All batteries collected from New Hampshire customers shall be made available to a
12 battery stewardship organization operating under an approved battery stewardship plan; and

13 (c) After consolidation of batteries at the person's facility, the cost of transporting the
14 batteries to the battery stewardship organization's designated sorters or processors shall be at a
15 battery stewardship organization. A battery stewardship organization may refuse to accept
16 batteries from such a person or person who recycled batteries if the department is notified of the
17 reason for the refusal.

18 II. Beginning on July 1, 2028, a lithium-ion battery banned from disposal pursuant to RSA-
19 M:27, II shall only be disposed of by delivery to a collection site or collection event operated under a
20 battery stewardship plan under this act, unless the battery is regulated as hazardous waste.

21 149-M:75 Rulemaking; Severability.

22 I. The department may adopt rules under RSA 541-A to implement this subdivision.

23 II. If any provision of this act or its application to any person or circumstance is held invalid,
24 the remainder of the act or the application of the provision to other persons or circumstances is not
25 affected.

26 2 Effective Date. This act shall take effect 60 days after its passage.

HB 1602-FN- FISCAL NOTE
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AN ACT creating a safe battery recycling stewardship program.

FISCAL IMPACT: This bill does not authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$31,000	\$46,500	\$48,500
<i>Revenue Fund(s)</i>	Solid Waste Management Fund			
Expenditures*	\$0	\$31,000	\$46,500	\$48,500
<i>Funding Source(s)</i>	Solid Waste Management Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	\$0	Indeterminable Decrease (\$150,000)	Indeterminable Decrease (\$150,000)

METHODOLOGY:

This bill establishes a statewide battery stewardship program for the collection, recycling, and management of certain post-consumer batteries and battery-containing products. Producers of covered batteries must participate in an approved stewardship organization and plan, and retailers may not sell covered batteries from non-participating producers. A stewardship organization must submit plans to the Department of Environmental Services (DES) for review and approval beginning January 1, 2028 for portable batteries and January 1, 2029 for medium-format batteries. The stewardship organization funds all program operations, and DES is responsible for rulemaking, plan review, annual reporting oversight, maintaining a public producer list, and ongoing technical and compliance assistance.

The Department of Environmental Services states the bill would require additional administrative oversight to implement, administer, and enforce the battery stewardship program. DES assumes the responsibilities of reviewing initial and revised plans, approving or denying plans, reviewing annual reports, conducting rulemaking, maintaining a public-facing website of participating producers and brands, and providing technical assistance to producers and retailers. To administer these new responsibilities DES indicates it would require a part-time Environmental Scientist IV position (Env Sci 4, SOC 19, Band 8) at approximately 20 hours per week for a cost of \$31,000 in FY 2027, \$46,500 in FY 2028, and \$48,500 in FY 2029. These expenditures would be fully reimbursed through administrative payments collected from the battery stewardship organization and deposited into the Solid Waste Management Fund, resulting in a net-neutral impact on state funds.

For local governments, DES states municipalities currently incur costs for managing waste batteries, including purchasing collection boxes through programs such as Call2Recycle. Under this bill, the stewardship organization would assume all costs for collection and disposal, eliminating municipal expenditures on battery collection boxes and reducing solid waste disposal costs. DES estimates a minimum statewide cost avoidance of at least \$150,000 per year, based on 234 municipalities each avoiding purchase of six collection boxes per year at \$110 per box.

AGENCIES CONTACTED:

Department of Environmental Services