

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a lithium-ion battery stewardship program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/14/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act establishing a lithium-ion battery stewardship program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 21O the following
2 chapter:-

3 CHAPTER 21P.

4 LITHIUM-ION BATTERY STEWARDSHIP PROGRAM.

5 Section 1. Definitions. As used in this chapter, the following words shall have the
6 following meanings unless the context clearly requires otherwise:

7 "Department", the Massachusetts department of environmental protection.

8 "Battery-containing product", a product sold, offered for sale, or distributed in or into this
9 commonwealth that contains or is packaged with rechargeable or primary batteries that are
10 covered batteries.

11 "Battery stewardship organization", a nonprofit organization designated by a producer or
12 group of producers to implement a battery stewardship plan required under this chapter.

13 "Battery Stewardship Program", a program implemented by a battery stewardship
14 organization consistent with an approved battery stewardship plan.

15 "Collection rate", a percentage, by weight, that a battery stewardship organization
16 collects that is calculated by dividing the total weight of primary and rechargeable batteries
17 collected by the battery stewardship organization during the previous calendar year by the
18 average annual weight of primary and rechargeable batteries that were estimated by the battery
19 stewardship organization to have been sold in the commonwealth during the previous 3 calendar
20 years by all producers participating in an approved battery stewardship plan.

21 "Covered battery", a portable battery or a medium-format battery that is either intact,
22 new, used, damaged or defective. "Covered battery" does not include: (1) a battery contained
23 within a medical device, as specified in 21 U.S.C. 321(h) as it existed as of the effective date of
24 this Act, that is not designed and marketed for sale or resale principally to consumers for
25 personal use; (2) a battery that contains an electrolyte as a free liquid; (3) a lead-acid battery
26 weighing greater than 11 pounds; (4) a battery in a battery-containing product that is not
27 intended or designed to be easily removable from the battery-containing product; and (5) a
28 battery that is a component of a motor vehicle or intended for use exclusively in motor vehicles;
29 and (6) a battery or battery-containing product that is being recalled for safety reasons; (7) large-
30 format batteries.

31 "Easily removable", designed by the manufacturer to be removable by the user of the
32 product with no more than commonly used household tools.

33 "Large-format battery" are primary or rechargeable batteries that have a rating of more
34 than 2,000 watt-hours and are more than 25 pounds.

35 "Medium-format battery", the following primary or rechargeable covered batteries: (1)
36 for rechargeable batteries, a battery weighing more than 11 pounds or having a rating of more
37 than 300 watt-hours, or both, and no more than 25 pounds and having a rating of no more than
38 2,000 watt-hours; (2) for primary batteries, a battery weighing at least 4.4 pounds but not more
39 than 25 pounds.

40 "Motor vehicle" includes automobiles, vans, trucks, tractors, motorcycles, as defined in
41 section 1 of chapter 90 and motorboats as defined in section 1 of chapter 90B.

42 "Portable battery", the following primary or rechargeable covered batteries: (1) for
43 rechargeable batteries, a battery weighing no more than 11 pounds and having a rating of no
44 more than 300 watt-hours; (2) for primary batteries, a battery weighing no more than 4.4 pounds.

45 "Primary battery", a battery that is not capable of being recharged.

46 "Producer", the following:

47 (1) For covered batteries sold, offered for sale, or distributed in or into this
48 commonwealth:

49 (A) If the battery is sold, offered for sale, or distributed in or into this commonwealth
50 under the brand of the battery manufacturer, the producer is the person that manufactures the
51 battery.

52 (B) If the battery is sold, offered for sale, or distributed in or into this commonwealth
53 under a retail brand or under a brand owned by a person other than the manufacturer, the
54 producer is the brand owner.

55 (C) If there is no person to whom subparagraph (A) or (B) of this paragraph (1) applies,
56 the producer is the person that is the licensee of a brand or trademark under which the battery is
57 sold, offered for sale, or distributed in or into this commonwealth, whether or not the trademark
58 is registered in this commonwealth.

59 (D) If there is no person in the United States to whom subparagraph (A), (B), or (C) of
60 this paragraph (1) applies, the producer is the person who is the importer of record for the battery
61 into the United States.

62 (E) If there is no person with a commercial presence within the commonwealth to whom
63 subparagraph (A), (B), (C), or (D) of this paragraph (1) applies, the producer is the person who
64 first sells, offers for sale, or distributes the battery in or into this commonwealth.

65 (2) For covered battery-containing products containing one or more covered batteries
66 sold, offered for sale, or distributed in or into this commonwealth:

67 (A) If the battery-containing product is sold, offered for sale, or distributed in or into this
68 commonwealth under the brand of the product manufacturer, the producer is the person that
69 manufactures the product.

70 (B) If the battery-containing product is sold, offered for sale, or distributed in or into this
71 commonwealth under a retail brand or under a brand owned by a person other than the
72 manufacturer, the producer is the brand owner.

73 (C) If there is no person to whom subparagraph (A) or (B) of this paragraph (2) applies,
74 the producer is the person that is the licensee of a brand or trademark under which the product is

75 sold, offered for sale, or distributed in or into this commonwealth, whether or not the trademark
76 is registered in this commonwealth.

77 (D) If there is no person described in subparagraph (A), (B), or (C) of this paragraph (2)
78 within the United States, the producer is the person who is the importer of record for the product
79 into the United States.

80 (E) If there is no person described in subparagraph (A), (B), (C), or (D) of this paragraph
81 (2) with a commercial presence within the commonwealth, the producer is the person who first
82 sells, offers for sale, or distributes the product in or into this commonwealth.

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

91 (3) A person is the producer of a covered battery or battery-containing product containing
92 one or more covered batteries sold, offered for sale, or distributed in or into this commonwealth,
93 as defined in this section, except if another party has contractually accepted responsibility as a
94 responsible producer and has joined a registered battery stewardship organization as the producer
95 for that covered battery or battery-containing product containing one or more covered batteries
96 under this chapter.

97 "Rechargeable battery" means a battery that contains one or more voltaic or galvanic
98 cells, electrically connected to produce electric energy, designed to be recharged. "Recycling",
99 recycling, reclamation, or reuse as defined in 310 CMR 19.000. For purposes of this chapter,
100 "recycling" does not include: (1) combustion; (2) incineration; (3) energy generation; (4) fuel
101 production; or (5) beneficial reuse in the construction and operation of a solid waste landfill,
102 including use of alternative daily cover.

103 "Recycling efficiency rate", the ratio of the weight of components and materials recycled
104 by a program operator from covered batteries to the weight of covered batteries as collected by
105 the program operator.

106 "Retailer", a person who sells covered batteries or battery-containing products containing
107 one or more covered batteries in or into this commonwealth or offers or otherwise makes
108 available covered batteries or battery-containing products containing one or more covered
109 batteries to a customer, including other businesses, in this commonwealth.

110 Section 2. Requirement that producers implement a stewardship plan.

111 (a) Beginning January 1, 2028, a producer selling, making available for sale, or
112 distributing covered batteries or battery-containing products containing one or more covered
113 batteries in or into the commonwealth shall participate in an approved Massachusetts battery
114 stewardship plan through participation in and funding of a battery stewardship organization.

115 (b) Beginning January 1, 2028, no person shall sell covered batteries or battery-
116 containing products covered by this chapter in or into the commonwealth who does not
117 participate in a battery stewardship organization and battery stewardship plan.

118 Section 3. Role of retailers.

119 (a) Beginning July 1, 2028, a retailer may not sell, offer for sale, distribute, or otherwise
120 make available for sale a covered battery or battery-containing product containing one or more
121 covered batteries unless the producer of the covered battery or battery-containing product is
122 identified as a participant in a battery stewardship organization whose plan has been approved by
123 the department.

124 (b) A retailer is not in violation of the requirements of subsection (a) of this section if the
125 website made available by the department under section 10 lists, as of the date a product is made
126 available for retail sale, the producer or brand of covered battery or battery-containing product
127 containing one or more covered batteries sold by the retailer as a participant in an approved plan
128 or the implementer of an approved plan.

129 (c) Retailers of covered batteries or battery-containing products containing one or more
130 covered batteries are not required to make retail locations available to serve as collection sites for
131 a stewardship program operated by a battery stewardship organization. Retailers that serve as a
132 collection site must comply with the requirements for collection sites, consistent with section 7.

133 (d) A retailer may not sell, offer for sale, distribute, or otherwise make available for sale
134 covered batteries, unless those batteries are marked consistently with the requirements of section
135 12. A producer of a product containing a covered battery must certify to the retailers of its
136 product that the battery contained in the battery-containing product is marked consistently with
137 the requirements of section 12.

138 (e) A retailer selling or offering covered batteries or battery-containing products
139 containing one or more covered batteries for sale in the commonwealth shall provide information,

140 provided to the retailer by the battery stewardship organization, regarding available end-of-life
141 management options for covered batteries collected by the battery stewardship organization. The
142 information that a battery stewardship organization must make available to retailers for use by
143 retailers must include, but is not limited to, in-store signage, written materials, and other
144 promotional materials that retailers shall use to inform consumers of the available end-of-life
145 management options for covered batteries collected by the battery stewardship organization.

146 (f) Retailers, producers, or battery stewardship organizations shall not charge a
147 specific point-of-sale fee to consumers to cover the administrative or operational costs of the
148 battery stewardship organization or the battery stewardship program.

149 Section 4. Stewardship plan components.

150 (a) By December 31, 2027, each battery stewardship organization must submit to the
151 department for approval a plan for covered batteries. There may be more than one battery
152 stewardship organization provided that the department reviews each plan to ensure coordination,
153 transparency and unified messaging. The department shall review and approve a plan based on
154 whether it:

155 (1) lists and provides contact information for each producer, battery brand, and battery-
156 containing product brand covered in the plan, including identifying producers who have
157 contractually accepted responsibility as a producer in accordance with paragraph (3) of the
158 definition of producer in this chapter;

159 (2) proposes performance goals, consistent with section 5, including establishing
160 performance goals for each of the next 3 upcoming calendar years of program implementation;

161 (3) describes how the battery stewardship organization will make retailers aware of their
162 obligation to sell only covered batteries and battery-containing products containing one or more
163 covered batteries of producers participating in an approved plan;

164 (4) describes the education and communications strategy being implemented to promote
165 participation in the approved covered battery stewardship program and provide the information
166 necessary for effective participation of consumers, retailers, and others;

167 (5) describes how the battery stewardship organization will make available to voluntary
168 collection sites signage, written materials, and other promotional materials that collection sites
169 shall use to inform consumers of the available end-of-life management options for covered
170 batteries collected by the battery stewardship organization;

171 (6) lists promotional activities to be undertaken, and the identification of consumer
172 awareness goals and strategies that the program will employ to achieve these goals after the
173 program begins to be implemented;

174 (7) includes collection site safety training procedures related to covered battery collection
175 activities at collection sites, including a description of operating protocols to reduce risks of
176 spills or fires, response protocols in the event of a spill or fire, and protocols for safe
177 management of damaged batteries that are returned to collection sites;

178 (8) describes the method to establish and administer a means for fully funding the
179 program in a manner that equitably distributes the program's costs among the producers that are
180 part of the battery stewardship organization. For producers that choose to meet the requirements
181 of this chapter individually, without joining a battery stewardship organization, the plan must
182 describe the proposed method to establish and administer a means for fully funding the program;

183 (9) describes the financing methods used to implement the plan, consistent with section 6;

184 (10) describes how the program will collect all covered battery chemistries and brands on
185 a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements
186 of section 7, including a description of how the statewide convenience standard will be met and a
187 list of collection sites supported by the battery stewardship program, including the address of
188 collection sites supported by the battery stewardship program;

189 (11) describes the criteria to be used in the program to determine whether an entity may
190 serve as a collection site for covered batteries under the program;

191 (12) establishes collection rate goals for each of the first 3 years of implementation of the
192 battery stewardship plan that are based on the estimated total weight of primary and rechargeable
193 covered batteries that have been sold in the commonwealth in the previous 3 calendar years by
194 the producers participating in the battery stewardship plan;

195 (13) identifies proposed service providers, such as sorters, transporters, and processors, to
196 be used by the program for the final disposition of batteries and proposed provisions for
197 recordkeeping, tracking, and documenting the fate of collected covered batteries;

198 (14) details how the program will achieve a recycling efficiency rate, calculated in
199 accordance with section 9, of at least 60 percent for rechargeable batteries and at least 70 percent
200 for primary batteries, which shall be reviewed and adjusted every five years by the department;
201 and

202 (15) proposes goals for increasing public awareness of the program and describes how
203 the public education and outreach components of the program under section 8 will be
204 implemented.

205 (b) A battery stewardship organization must submit a new plan to the department for
206 approval no less than every 5 years. If the performance goals under section 5 of this chapter and
207 as approved in the plan have not been met, the new plan shall include corrective measures to be
208 implemented by the battery stewardship organization to meet the performance goals, which may
209 include improvements to the collection site network or increased expenditures dedicated to
210 education and outreach.

211 (c) A battery stewardship organization must provide plan amendments to the department
212 for approval when proposing changes to the performance goals under section 5 based on the up-
213 to-date experience of the program or when there is a change to the method of financing plan
214 implementation under section

215 (d) The department shall review stewardship plans and stewardship plan amendments for
216 compliance with this chapter and shall approve, disapprove, or conditionally approve the plans or
217 plan amendments in writing within 120 days of their receipt. If the department disapproves a
218 stewardship plan or plan amendment submitted by a battery stewardship organization, the
219 department shall explain how the stewardship plan or plan amendment does not comply with this
220 chapter. The battery stewardship organization shall resubmit to the department a revised
221 stewardship plan or plan amendment or notice of plan withdrawal within 60 days of the date the
222 written notice of disapproval is issued, and the department shall review the revised stewardship
223 plan or plan amendment within 30 days of resubmittal. If a revised stewardship plan is

224 disapproved by the department, a producer operating under the stewardship plan shall not be in
225 compliance with this chapter until the department approves a stewardship plan submitted by a
226 battery stewardship organization that covers the producer's products.

227 (e) When a stewardship plan or an amendment to an approved plan is submitted under
228 this section, the department shall make the proposed plan or amendment available for public
229 review and comment for at least 30 days.

230 (f) A battery stewardship organization must provide written notification to the department
231 within 30 days of a producer beginning or ceasing to participate in a battery stewardship
232 organization or of adding or removing a processor or transporter.

233 Section 5. Performance goals.

234 (a) Each battery stewardship plan must include performance goals that measure, on an
235 annual basis, the achievements of the program, including but not limited to: (1) the collection
236 rate for batteries in Massachusetts; (2) the recycling efficiency rate of the program; and (3)
237 public awareness of the program.

238 (b) The performance goals established in each battery stewardship plan must include, but
239 are not limited to: (1) target collection rates for primary batteries and for rechargeable batteries;
240 (2) target recycling efficiency rates of at least 60% for rechargeable batteries and at least 70% for
241 primary batteries; and (3) goals for public awareness, convenience, and accessibility that meet or
242 exceed the minimum requirements established in section 7.

243 Section 6. Funding.

244 (a) A battery stewardship organization implementing a battery stewardship plan on behalf
245 of producers must develop and administer a system to collect charges from participating
246 producers to cover the costs of plan implementation, including: (1) battery collection,
247 transporting, and processing; (2) education and outreach; (3) program evaluation; and (4)
248 payment of the administrative fees to the department under section 10.

249 (b) Each battery stewardship organization is responsible for all costs of participating
250 covered battery collection, transportation, processing, education, administration, department
251 oversight, recycling, and end-of-life management in accordance with the requirements of this
252 chapter.

253 (c) Each battery stewardship organization must meet the collection goals established in
254 the approved stewardship plan as specified in section 4.

255 (d) A battery stewardship organization shall not reduce or cease collection, education and
256 outreach, or other activities implemented under an approved plan based on achievement of
257 program performance goals.

258 (e) A battery stewardship organization must reimburse local governments for
259 demonstrable costs incurred as a result of a local government facility or solid waste handling
260 facility serving as a collection site for a program including, but not limited to, associated labor
261 costs and other costs associated with accessibility and collection site standards such as storage.

262 (f) A battery stewardship organization shall at a minimum provide collection sites with
263 appropriate containers for covered batteries subject to its program, training, signage, safety
264 guidance, and educational materials, at no cost to the collection sites.

265 Section 7. Collection and management requirements.

266 (a) Battery stewardship organizations implementing a battery stewardship plan must
267 provide for the collection of all covered batteries, including all chemistries and brands of covered
268 batteries, on a free, continuous, convenient, visible, and accessible basis to any person, business,
269 governmental agency, institutions or nonprofit organization. Except as provided in paragraphs
270 (2) and (3) of subsection (b) of this section, each battery stewardship plan must arrange for the
271 collection of each chemistry and brand of covered battery from any person, business,
272 governmental agency, or nonprofit organization at each collection site that counts toward
273 satisfaction of the collection site criteria in subsection (c) of this section.

274 (b)(1) For each collection site used by the program, each battery stewardship organization
275 must provide suitable collection containers for covered batteries that are segregated from other
276 solid waste or make mutually agreeable alternative arrangements for the collection of batteries at
277 the site. The location of collection containers at each collection site used by the program must be
278 within view of a responsible person and must be accompanied by signage that is made available
279 to the collection site by the battery stewardship organization and informs consumers regarding
280 the end-of-life management options for batteries provided by the collection site under this
281 chapter. Each collection site must meet applicable federal, state, and local regulatory
282 requirements.

283 (2) Medium-format batteries may be collected only at household hazardous waste
284 collection sites or other staffed collection sites that meet applicable federal, state, and local
285 regulatory requirements to manage medium-format batteries.

286 (3) Damaged and defective batteries are intended to be collected at collection sites staffed
287 by persons trained to handle and ship those batteries. Each battery stewardship organization must
288 provide for the collection, with qualified staff, of damaged and defective batteries at each
289 permanent household hazardous waste facility. As used in this subsection, "damaged and
290 defective batteries" shall mean batteries that have been damaged or identified by the
291 manufacturer as being defective for safety reasons and that have the potential of producing a
292 dangerous evolution of heat, fire, or short circuit.

293 (c)(1) Each battery stewardship organization implementing a battery stewardship plan
294 shall ensure statewide collection opportunities for all covered batteries. Battery stewardship
295 organizations shall coordinate activities with other program operators, including covered battery
296 collection and recycling programs and electronic waste recyclers, with regard to the proper
297 management or recycling of collected covered batteries, for purposes of providing the efficient
298 delivery of services and avoiding unnecessary duplication of effort and expense. Statewide
299 collection opportunities must be determined by geographic information modeling that considers
300 permanent collection sites. A program may rely, in part, on collection events to supplement the
301 permanent collection services required in paragraphs (2) and (3) of this subsection. However,
302 only permanent collection services specified in paragraphs (2) and (3) of this subsection qualify
303 toward the satisfaction of the requirements of this subsection.

304 (2) For portable batteries, each battery stewardship organization must provide statewide
305 collection opportunities that include: (A) at least one permanent collection site for portable
306 batteries within a 15-mile radius for at least 95% of commonwealth residents; and (B) at least
307 one permanent collection site, collection service, or collection event for portable batteries in
308 addition to those required in subparagraph (A) for every 30,000 residents of a county.

309 (3) For medium-format batteries, a battery stewardship organization must provide
310 statewide collection opportunities that include: (A) at least one permanent collection site in each
311 of the department's regions and central office area; (B) a permanent collection site in each
312 county (C) service to areas without a permanent collection site. A battery stewardship
313 organization must ensure that there is a collection event at least once each calendar year in each
314 county of the commonwealth which does not have a permanent collection site. Such collection
315 events must provide for the collection of all medium-format batteries, including damaged and
316 defective batteries. (D) A battery stewardship organization shall ensure the minimum number of
317 collection sites specified in subsection (c) of this section are established by no later than
318 December 31, 2028.

319 (d)(1) Battery stewardship programs must use existing public and private waste collection
320 services and facilities, including battery collection sites that are established through other battery
321 collection services, transporters, consolidators, processors, and retailers, if cost-effective,
322 mutually agreeable, and otherwise practicable.

323 (2) Battery stewardship programs must use as a collection site for covered batteries any
324 retailer, wholesaler, municipality, solid waste management facility, household hazardous waste
325 facility, or other entity that meets the criteria for collection sites in the approved plan up to the
326 minimum number of sites required for compliance with subsection (c) of this section, upon the
327 submission of a request by the entity to the battery stewardship organization to serve as a
328 collection site. Battery stewardship programs may use additional collection sites in excess of the
329 minimum required in subsection (c) of this section as may be agreed between the battery
330 stewardship organization and the collection site.

331 (3) Battery stewardship programs must use as a site for a collection event for covered
332 batteries any retailer, wholesaler, municipality, solid waste management facility, household
333 hazardous waste facility, or other entity that meets the criteria for collection events in the
334 approved plan up to the minimum number of sites required for compliance with subsection (c) of
335 this section, upon the submission of a request by the entity to the battery stewardship
336 organization to serve as a site for a collection event. Battery stewardship programs may use
337 additional sites for collection events in excess of the minimum required in subsection (c) of this
338 section as may be agreed between the battery stewardship organization and the collection site.

339 (4) A battery stewardship organization may issue a warning, suspend, or terminate a
340 collection site or service that does not adhere to the collection site criteria in the approved plan or
341 that poses an immediate health and safety concern.

342 (e)(1) Stewardship programs are not required to provide for the collection of battery-
343 containing products.

344 (2) Stewardship programs are not required to provide for the collection of batteries that:
345 (i) are not easily removable from the product other than by the manufacturer; and (ii) remain
346 contained in a battery-containing product at the time of delivery to a collection site.

347 (3) Stewardship programs are required to provide for the collection of loose batteries.

348 Section 8. Education and outreach requirements.

349 (a) Each battery stewardship organization must carry out promotional activities in support
350 of plan implementation including, but not limited to: (1) the development and maintenance of a
351 website; (2) the development and distribution of press releases and articles annually; (3) the

352 development and placement of advertisements for use on social media or other relevant media
353 platforms; (4) the development of promotional materials about the program and the restriction on
354 the disposal of covered batteries in section 13 to be used by persons, including, but not limited
355 to, retailers, government agencies, waste and recycling collectors, and nonprofit organizations;
356 (5) the development and distribution of collection site safety training procedures that are in
357 compliance with commonwealth law to collection sites to help ensure proper management of
358 covered batteries at collection sites; and (6) the development and implementation of outreach and
359 educational resources that are conceptually, linguistically, and culturally accurate for the
360 communities served and reach the commonwealth's diverse ethnic populations, including through
361 meaningful consultation with communities that bear disproportionately higher levels of adverse
362 environmental and social justice impacts.

363 (b) Each battery stewardship organization must provide: (1) consumer-focused
364 educational promotional materials to each collection site used by the program and accessible by
365 consumers of retailers that sell covered batteries or battery-containing products containing one or
366 more covered batteries; and (2) safety information related to covered battery collection activities
367 to the operator of each collection site, including appropriate protocols to reduce risks of spills or
368 fires, response protocols in the event of a spill or fire, and response protocols in the event of
369 detection of a damaged or defective battery.

370 (c)(1) Each battery stewardship organization must provide educational materials to the
371 operator of each collection site for the management of recalled batteries, which are not intended
372 to be a part of collection as provided under this Act, to help facilitate transportation and
373 processing of Recalled batteries. (2) A battery stewardship organization may seek reimbursement

374 from the producer of the recalled battery for expenses incurred in the collection, transportation,
375 or processing of those batteries.

376 (d) Upon request by a retailer or other potential collector, the battery stewardship
377 organization must provide the retailer or other potential collector educational materials
378 describing collection opportunities for batteries.

379 (e) If multiple battery stewardship organizations are implementing plans approved by the
380 department, the battery stewardship organizations must coordinate in carrying out their education
381 and outreach responsibilities under this section and must include in their annual reports to the
382 department under section 9 a summary of their coordinated education and outreach efforts.

383 (f) During the first year of program implementation and every 5 years thereafter, each
384 battery stewardship organization must carry out a survey of public awareness regarding the
385 requirements of the program established under this Act, including the provisions of section 13.
386 Each battery stewardship organization must share the results of the public awareness surveys
387 with the department.

388 Section 9. Reporting requirements.

389 (a) By June 1, 2028, and each June 1st thereafter, each battery stewardship organization
390 must submit an annual report to the department covering the preceding calendar year of battery
391 stewardship plan implementation. The report must include the following:

392 (1) The report must include an independent financial assessment of a program
393 implemented by the battery stewardship organization, including a breakdown of the program's

394 expenses, such as collection expenses, recycling expenses, education expenses, and overhead
395 expenses.

396 (2) The report must include a summary financial statement documenting the financing of
397 battery stewardship organization's program and an analysis of program costs and expenditures,
398 including an analysis of the program's expenses, such as collection, transportation, recycling,
399 education, and administrative overhead. The summary financial statement must be sufficiently
400 detailed to provide transparency that funds collected from producers as a result of their activities
401 in Massachusetts are spent on program implementation in Massachusetts. Battery stewardship
402 organizations implementing similar battery stewardship programs in multiple states may submit
403 a financial statement including all covered states, as long as the statement breaks out financial
404 information pertinent to Massachusetts.

405 (3) The report must include the weight, by chemistry, of covered batteries collected under
406 the program.

407 (4) The report must include the weight of materials recycled from covered batteries
408 collected under the program, in total, and by method of battery recycling.

409 (5) The report must include a calculation of the recycling efficiency rates, as measured
410 consistent with subsection (b) of this section.

411 (6) The report must include a list of all facilities used in the processing or disposition of
412 batteries, including identification of the facilities' location and whether the facility is located
413 domestically, in an organization for economic cooperation and development country, or in a
414 country that meets organization for economic cooperation and development operating standards,

415 and for domestic facilities provide a summary of any violations of environmental laws and
416 regulations over the previous 3 years at each facility.

417 (7) The report must include, for each facility used for the final disposition of batteries, a
418 description of how the facility recycled or otherwise managed batteries and battery components.

419 (8) The report must include the weight and chemistry of batteries sent to each facility
420 used for the final disposition of batteries. The information in this subdivision (a)(8) may be
421 approximated for program operations in Massachusetts based on extrapolations of national or
422 regional data for programs in operation in multiple states.

423 (9) The report must include the collection rate achieved under the program, including a
424 description of how this collection rate was calculated and how it compares to the collection rate
425 goals under section 5.

426 (10) The report must include the estimated aggregate sales, by weight and chemistry, of
427 batteries and batteries contained in or with battery-containing products sold in Massachusetts by
428 participating producers for each of the previous 3 calendar years.

429 (11) The report must include a description of the manner in which the collected batteries
430 were managed and recycled, including a discussion of best available technologies and the
431 recycling efficiency rate.

432 (12) The report must include a description of education and outreach efforts supporting
433 plan implementation including, but not limited to, a summary of education and outreach
434 provided to consumers, collection sites, manufacturers, distributors, and retailers by the program
435 operator for the purpose of promoting the collection and recycling of covered batteries, a

436 description of how that education and outreach met the requirements of section 8, samples of
437 education and outreach materials, a summary of coordinated education and outreach efforts with
438 any other battery stewardship organizations implementing a plan approved by the department,
439 and a summary of any changes made during the previous calendar year to education and outreach
440 activities.

441 (13) The report must include a list of all collection sites and a current address for each
442 listed site, and an up-to-date map indicating the location of all collection sites used to implement
443 the program, with links to appropriate websites where there are existing websites associated with
444 a site.

445 (14) The report must include a description of methods used to collect, transport, and
446 recycle covered batteries by the battery stewardship organization.

447 (15) The report must include a summary of progress made toward the program
448 performance goals established under section 5, and an explanation of why performance goals
449 were not met, if applicable.

450 (16) The report must include an evaluation of the effectiveness of education and outreach
451 activities.

452 (b) The weight of batteries or recovered resources from those batteries must only be
453 counted once may not be counted by more than one battery stewardship organization.

454 (c) If a battery stewardship organization has disposed of covered batteries through energy
455 recovery, incineration, or landfilling during the preceding calendar year of program
456 implementation, the annual report must specify the steps that the battery stewardship

457 organization will take to make the recycling of covered batteries cost-effective, where possible,
458 or to otherwise increase battery recycling rates achieved by the battery stewardship organization.
459 (d) Proprietary information submitted to the department under this chapter is exempted from
460 disclosure as provided under provision (g) of clause 26 of section 7 of chapter 4.

461 Section 10. Fee and department role.

462 (a) By July 1, 2028, each battery stewardship organization shall provide \$100,000 to the
463 department as a one-time payment. By July 1 of each year thereafter, each battery stewardship
464 organization shall pay to the department an annual fee which shall cover the department's full
465 costs of implementing, administering, and enforcing this chapter. The annual fee shall be
466 deposited into an account identified by the department to be used for costs associated with the
467 administration of this chapter.

468 (b) The responsibilities of the department in implementing, administering, and enforcing
469 this chapter include: (1) reviewing submitted stewardship plans and plan amendments and
470 making determinations as to whether to approve the plan or plan amendment; (2) reviewing
471 annual reports submitted under section 9 within 90 days after submission to ensure compliance
472 with that section; (3) maintaining a website that lists producers and their brands that are
473 participating in an approved plan, and that makes available to the public each plan, plan
474 amendment, and annual report received by the department under this Act; and (4) providing
475 technical assistance to producers and retailers related to the requirements of this chapter.

476 Section 11. Penalties and civil actions.

477 (a) Any person who violates any provision of this chapter is liable for a civil penalty per
478 violation that is consistent with department enforcement policies, except that the failure to pay a

479 fee under this chapter shall cause the person who fails to pay the fee to be liable for a civil
480 penalty that is double the applicable fee.

481 (b) The penalties provided for in this section may be recovered in a civil action by the
482 attorney general. Any penalties collected under this section in an action in which the attorney
483 general has prevailed shall be deposited into with existing practice.

484 (c) The attorney general may institute a civil action for an injunction, prohibitory or
485 mandatory, to restrain violations of this chapter or to require such actions as may be necessary to
486 address violations of this chapter.

487 (d) The penalties and injunctions provided in this chapter are in addition to any penalties,
488 injunctions, or other relief provided under any other law. Nothing in this chapter bars a cause of
489 action by the commonwealth for any other penalty, injunction, or other relief provided by any
490 other law.

491 (e) Any person who knowingly makes a false, fictitious, or fraudulent material statement,
492 orally or in writing, to the department, related to or required by this chapter or any rule adopted
493 under this chapter commits a Class D felony, and each such statement or writing shall be
494 considered a separate Class D felony. A person who, after being convicted under this subsection,
495 violates this subsection a second subsequent time commits a Class C felony.

496 (f) No penalty may be assessed under this chapter on an individual or resident for the
497 improper disposal of covered batteries as described in section 13 in a noncommercial or
498 residential setting.

499 Section 12. Marking requirements for batteries.

500 (a) A producer or retailer may sell, offer for sale, or distribute in or into Massachusetts a
501 covered battery or battery-containing product containing one or more covered batteries only if
502 the battery is: (1) beginning January 1, 2028, marked with an identification of the producer of the
503 battery, unless the battery is less than one-half inch in diameter or does not contain a surface
504 whose length exceeds one-half inch; and (2) beginning January 1, 2029, marked with proper
505 labeling to ensure proper collection and recycling, by identifying the chemistry of the battery and
506 including an indication that the battery should not be disposed of as household waste.

507 (b) The department may adopt rules establishing marking requirements for batteries as
508 needed to maintain consistency with the labeling requirements or voluntary standards for
509 batteries established in federal law.

510 Section 13. General battery disposal and collection requirements.

511 (a) On and after January 1, 2028, all persons must manage unwanted covered batteries
512 through one of the following options: (1) delivery to a collection site, event, or program
513 established by or included in the programs created by this Act; or (2) for covered batteries that
514 are hazardous waste as defined under federal or state hazardous or solid waste laws, management
515 in a manner consistent with the requirements of those laws.

516 (b) On and after January 1, 2028: (1) A fee may not be charged at the time covered
517 batteries are delivered or collected for management.

518 (2) All covered batteries may be collected, transported, and processed only in accordance
519 with this Act, unless the batteries are regulated as hazardous waste as described in paragraph (2)
520 of subsection (a) of this section.

521 (3) No person may knowingly cause or allow the mixing of a covered battery with
522 recyclable materials that are intended for processing and sorting at a material recovery facility.

523 (4) No person may knowingly cause or allow the mixing of a covered battery with
524 municipal waste that is intended for disposal at a sanitary landfill.

525 (5) No person may knowingly cause or allow the disposal of a covered battery in a
526 sanitary landfill.

527 (6) No person may knowingly cause or allow the mixing of a covered battery with waste
528 that is intended for burning or incineration.

529 (7) No person may knowingly cause or allow the burning or incineration of a covered
530 battery.

531 (8) An owner or operator of a solid waste facility may not be found in violation of this
532 section if the facility has posted in a conspicuous location a sign stating that covered batteries
533 must be managed through collection sites established by a battery stewardship organization and
534 are not accepted for disposal, unless the owner or operator of the facility knew it was in violation
535 of this section and did not take reasonable steps to avoid the violation.

536 (9) A solid waste collector may not be found in violation of this section for a covered
537 battery placed in a disposal container by a third party, unless the collector knew the covered
538 battery was placed in the disposal container and did not take reasonable steps to avoid the
539 violation.

540 Section 14. Assessment of battery-containing products and their batteries.

541 (a) By December 31, 2028, the battery stewardship organization must complete an
542 assessment of the opportunities and challenges associated with the end-of-life management of
543 portable and medium-format batteries that are not intended or designed to be easily removed by a
544 customer and that are contained either in battery-containing products, including medical devices,
545 and electric vehicle batteries, large format batteries including all lithium batteries, and new
546 chemistries.

547 (b) A battery stewardship organization must review and may utilize existing assessments
548 done in other states, including Illinois, Vermont and Washington, with the department and
549 interested stakeholders in completing the assessment. The assessment must identify any
550 adjustments to the stewardship program requirements established in this Act that would
551 maximize public health, safety, and environmental benefits. Additionally, any assessment shall
552 identify issues and concerns unique to Massachusetts.

553 (c) The assessment must consider: (1) the different categories and uses of battery-
554 containing products; (2) the current methods by which unwanted battery-containing products are
555 managed in Massachusetts and nearby states; (3) challenges posed by the potential collection,
556 management, and transport of battery-containing products, including challenges associated with
557 removing batteries that were not intended or designed to be easily removable from products,
558 other than by the manufacturer; and (4) which criteria of this chapter may apply to battery-
559 containing products in a manner that is identical or analogous to the requirements applicable to
560 covered batteries.

561 (d) By April 1, 2031, the department must submit the assessment required in this section
562 to the general court.

563 Section 15. Antitrust.

564 Producers or battery stewardship organizations acting on behalf of producers that prepare,
565 submit, and implement a battery stewardship program plan under this chapter and who are
566 thereby subject to regulation by the department are granted immunity from state laws relating to
567 antitrust, restraint of trade, unfair trade practices, and other regulation of trade and commerce, for
568 the limited purpose of planning, reporting, and operating a battery stewardship program,
569 including: (1) the creation, implementation, or management of a battery stewardship organization
570 and any battery stewardship plan regardless of whether it is submitted, denied, or approved; (2)
571 the determination of the cost and structure of a battery stewardship plan; and (3) the types or
572 quantities of batteries being recycled or otherwise managed under this chapter.

573 Section 16. Collection of batteries independent of a battery stewardship program.

574 Nothing in this chapter shall prevent or prohibit a person from offering or performing a
575 fee-based, household collection, or a mail back program for end-of-life portable batteries or
576 medium-format batteries independently of a battery stewardship program, provided that such
577 person meets the following requirements: (1) such person's services must be performed, and such
578 person's facilities must be operated in compliance with all applicable federal, state, and local
579 laws and requirements, including, but not limited to, all applicable U.S. Department of
580 Transportation regulations, and all applicable provisions of the Environmental Protection Act;
581 (2) such person must make available all batteries collected by such person from its
582 Massachusetts consumers to a battery stewardship organization; and (3) after consolidation of
583 portable or medium-format batteries at the person's facilities, the transport to and processing of

584 such batteries by the battery stewardship organization's designated sorters or processors shall be
585 at the battery stewardship organization's expense.

586 Section 17. Severability.

587 If any provision of this chapter or its application to any person or circumstance is held
588 invalid, the remainder of the chapter or the application of the provision to other persons or
589 circumstances is not affected.