

P.L. 1997, CHAPTER 91, *approved May 8, 1997*
Senate, No 1477

1 AN ACT concerning certain used dry cell batteries, and amending
2 P.L.1991, c.521.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 3 of P.L.1991, c.521 (C.13:1E-99.61) is amended to
8 read as follows:

9 3. As used in sections 1 through 23 of this act:

10 "Commissioner" means the Commissioner of the Department of
11 Environmental Protection;

12 "Consumer mercuric oxide battery" means any button or coin
13 shaped mercuric oxide battery which is purchased at retail by a
14 consumer for personal or household use;

15 "Department" means the Department of Environmental Protection;

16 "Distributor" means a person who sells dry cell batteries at
17 wholesale to retailers in this State, including any manufacturer who
18 engages in these sales, except that a "distributor" shall not include any
19 wholesaler or distributor owned cooperatively by retailers;

20 "Dry cell battery" means any type of button, coin, cylindrical,
21 rectangular or other shaped, enclosed device or sealed container
22 consisting of a combination of two or more voltaic or galvanic cells,
23 electrically connected to produce electric energy, composed of lead,
24 lithium, manganese, mercury, mercuric oxide, silver oxide, cadmium,
25 zinc, copper or other metals, or any combination thereof, and designed
26 for commercial, industrial, medical, institutional or household use,
27 including any alkaline manganese, lithium, mercuric oxide, silver
28 oxide, zinc-air or zinc-carbon battery, nickel-cadmium rechargeable
29 battery or sealed lead rechargeable battery;

30 "Institutional generator" means the owner or operator of any public
31 or private, commercial or industrial establishment or facility, including
32 any establishment owned or operated by, or on behalf of, a
33 governmental agency, health care facility or hospital, licensed or other
34 authorized hearing aid dispenser, research laboratory or facility, who

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 routinely uses large quantities of mercuric oxide batteries or
2 nickel-cadmium or sealed lead rechargeable batteries; or the owner or
3 operator of any public or private facility identified by the department
4 that generates at least 220 pounds of these types of used dry cell
5 batteries per month, or the owner or operator of any public or private
6 facility that accumulates 220 pounds of these types of used dry cell
7 batteries at any time;

8 "Lithium battery" means any button, coin, cylindrical, rectangular
9 or other shaped dry cell battery consisting of lithium and other
10 chemicals commonly used in pocket calculators, wrist watches and
11 other electrical appliances;

12 "Manufacturer" means a person producing dry cell batteries for sale
13 to institutional generators, distributors, retailers, small quantity
14 generators or consumers;

15 "Mercuric oxide battery" means any button, coin, cylindrical,
16 rectangular or other shaped dry cell battery consisting of zinc,
17 potassium and mercury oxide which is designed or sold for
18 commercial, industrial, medical or institutional use;

19 "Nickel-cadmium rechargeable battery" means any button, coin,
20 cylindrical, rectangular or other shaped dry cell battery composed of
21 cadmium and nickel which is designed for reuse and is capable of being
22 recharged after repeated uses, and which has a useful life of at least 12
23 months, except that "nickel-cadmium rechargeable battery" shall not
24 include any dry cell battery used as a backup power source for
25 memory or program instruction storage, timekeeping, or any similar
26 purpose that requires uninterrupted electrical power in order to
27 operate if the primary energy supply fails or fluctuates momentarily ;

28 "Rechargeable battery" means any nickel-cadmium rechargeable
29 battery or sealed lead rechargeable battery;

30 "Rechargeable consumer product" means any product, including,
31 but not limited to, a cordless electrical tool or appliance, containing a
32 nickel-cadmium rechargeable battery or a sealed lead rechargeable
33 battery, which is purchased at retail and commonly used for personal
34 or household purposes;

35 "Retailer" means a person engaged in the sale of rechargeable
36 batteries to any consumer at retail;

37 "Sealed lead rechargeable battery" means any button, coin,
38 cylindrical, rectangular or other shaped dry cell battery composed of
39 lead and other chemicals which is designed for reuse and is capable of
40 being recharged after repeated uses, and which has a useful life of at
41 least 12 months;

42 "Silver oxide battery" means any button, coin, cylindrical,
43 rectangular or other shaped dry cell battery consisting of silver oxide,
44 potassium hydroxide or sodium hydroxide and zinc, and mercury
45 commonly used in wrist watches and other electrical appliances;

46 "Solid waste container" means a receptacle, container or bag

1 suitable for the depositing of solid waste;

2 "Solid waste facilities" mean and include the plants, structures and
3 other real and personal property acquired, constructed or operated or
4 to be acquired, constructed or operated by any person pursuant to the
5 provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40
6 (C.48:13A-1 et seq.) or any other act, including transfer stations,
7 incinerators, resource recovery facilities, sanitary landfill facilities or
8 other plants for the disposal of solid waste, and all vehicles, equipment
9 and other real and personal property and rights therein and
10 appurtenances necessary or useful and convenient for the collection or
11 disposal of solid waste in a sanitary manner;

12 "Small quantity generator" means the owner or operator of any
13 public or private, commercial or industrial establishment or facility,
14 including any establishment owned or operated by, or on behalf of, a
15 governmental agency, health care facility or hospital, licensed or other
16 authorized hearing aid dispenser, research laboratory or facility, who
17 routinely uses small quantities of mercuric oxide batteries or
18 nickel-cadmium or sealed lead rechargeable batteries; or the owner or
19 operator of any public or private facility identified by the department
20 that generates less than 220 pounds of these types of used dry cell
21 batteries per month, or the owner or operator of any public or private
22 facility that accumulates over 20 pounds but less than 220 pounds of
23 these types of used dry cell batteries at any time;

24 "Zinc-air battery" means any button, coin, cylindrical, rectangular
25 or other shaped dry cell battery consisting of zinc, potassium
26 hydroxide and commonly used in hearing aids, photographic
27 equipment and electrical appliances.

28 (cf: P.L.1991, c.521, s.3)

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30 2. This act shall take effect immediately.

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STATEMENT

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35 The "Dry Cell Battery Management Act," P.L.1991, c.521 provides
36 for the management of used dry cell batteries in this State to reduce
37 the amount of toxic metals entering the solid waste stream. Section
38 6 of the law prohibits the sale of any rechargeable consumer product
39 after July 1, 1993 "unless the nickel-cadmium or sealed lead
40 rechargeable battery is readily removable from the product; or the
41 battery is contained in a battery pack which is separate from the
42 product and the battery pack is readily removable from the product."

43 This bill would exempt any dry cell battery used as a backup power
44 source for memory or program instruction storage, timekeeping, or
45 any similar purpose that requires uninterrupted electrical power in
46 order to operate if the primary energy supply fails or fluctuates

1 momentarily. This type of backup battery is an integral feature in such
2 electronic equipment as facsimile machines, lap-top and desk-top
3 computers, cash registers, microwave ovens, dishwashers, and stoves.

4 Significant safety considerations arise from using alternative
5 technologies or redesigning products to make backup batteries "readily
6 removable" due to the size and functional role of the batteries. In
7 addition, the amount of cadmium from backup batteries that may enter
8 the municipal solid waste stream in New Jersey is de minimis. Also,
9 many of the products that contain these backup batteries do not
10 normally enter the municipal solid waste stream at the end of the
11 product life cycle. In fact, the Department of Environmental
12 Protection is in the process of establishing a "demanufacturing" pilot
13 program under which these products would be removed from the
14 waste stream for environmentally safe recycling and disposal.

15 Finally, a recently enacted federal law, the "Mercury-Containing
16 and Rechargeable Battery Management Act," exempts backup batteries
17 from provisions similar to the State law.

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22 Amends the "Dry Cell Battery Management Act."