

JAN 19 2024

A BILL FOR AN ACT

RELATING TO ELECTRIC VEHICLE BATTERIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 342I, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . ELECTRIC VEHICLE BATTERY RECYCLING AND DISPOSAL**
5 **PROGRAM**

6 **342I-A Definitions.** As used in this part:

7 "Battery cell" means the basic electrochemical component of
8 a battery, that provides a source of electrical energy and
9 consists of an assembly of a cathode, an anode, and an
10 electrolyte.

11 "Battery management plan" means a plan using
12 environmentally sound management practices for the collection,
13 transportation, remanufacturing, reuse, recycling, and disposal
14 of used propulsion batteries.

15 "Battery module" means an array of multiple battery cells
16 connected in series or parallel and encased in one structure.

17 "Department" means the department of health.



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1 "Director" means director of health.

2 "Electric vehicle" means a vehicle that derives all or part
3 of its power from electricity supplied by the electric grid and
4 has a battery or equivalent energy storage device that can be
5 charged from an electricity supply external to the vehicle with
6 an electric plug.

7 "Environmentally sound management practices" means the
8 policies and procedures for the collection, transportation,
9 reuse, and recycling or disposal of used electric vehicle
10 batteries, implemented by a producer to ensure compliance with
11 all applicable federal, state, and county laws to protect human
12 health, safety, and the environment, and to provide for the
13 adequate recordkeeping, tracking, and documentation of the
14 disposal of used propulsion batteries in the State.

15 "Producer" means a propulsion battery manufacturer,
16 remanufacturer, or importer; a person who repurposes propulsion
17 batteries; or a motor vehicle manufacturer, brand, or trademark
18 licensee, or importer, who manufactures, sells, offers for sale,
19 or imports a propulsion battery in or into the State.

20 "Propulsion battery" means an electrical energy storage
21 device, consisting of one or more individual battery modules or



1 battery cells, which are used to supply power to propel an
2 electric vehicle. "Propulsion battery" includes lithium-ion
3 batteries and nickel-metal hydride batteries. "Propulsion
4 battery" does not include a starter battery or a battery used
5 for, or embedded in, products for industrial applications.

6 "Remanufacture" means any repair or modification to a
7 propulsion battery that results in the complete battery, or any
8 battery modules or battery cells being used for the same purpose
9 or application as the one for which the battery was originally
10 designed.

11 "Repurpose" means any operation to a propulsion battery
12 that results in the complete battery, or any battery modules or
13 battery cells being used for a different purpose or application
14 than the one the battery was originally designed.

15 "Reuse" means the use of a propulsion battery in another
16 vehicle of the same type that does not require modification to
17 the battery.

18 "Solid waste" has the same meaning as defined in section
19 342J-2.



1 **342I-B Propulsion batteries; disposal as solid waste;**
2 **prohibited.** (a) No person shall dispose of a propulsion
3 battery, battery module, or battery cell as solid waste.

4 (b) No propulsion battery retailer or wholesaler, or
5 authorized collection or recycling facility, in the State shall
6 accept for collection or disposal any propulsion batteries as
7 solid waste. A solid waste collector may refuse to collect a
8 solid waste container containing a propulsion battery or any
9 battery module.

10 (c) No solid waste facility in the State shall accept for
11 disposal a propulsion battery, battery module, or battery cell,
12 or a truckload or roll-off container of solid waste containing a
13 propulsion battery, battery module, or battery cell.

14 **342I-C Consumer disposal of propulsion batteries.** A
15 person seeking to discard a propulsion battery may deliver the
16 battery or the vehicle that contains the battery to:

17 (1) A location designated by the producer of the battery,
18 as specified in the producer's battery management
19 plan; or

20 (2) A recycling center authorized by the department to
21 recycle electric vehicle batteries.



1 **342I-D Collection of used propulsion batteries; refusal**
2 **for collection; prohibited.** (a) No producer of propulsion
3 batteries shall refuse to recover a used propulsion battery that
4 it has manufactured, branded, imported, or imbedded into a
5 product in the State if the battery is collected from a location
6 or using a mechanism designated by the producer in its battery
7 management plan. The producer shall provide for the proper
8 reuse, remanufacturing, repurposing, or recycling of a
9 propulsion battery returned pursuant to this subsection.

10 (b) This section shall not apply to the original producer
11 of a propulsion battery that has been remanufactured,
12 repurposed, branded, imported, retailed, or embedded into a
13 product application by a secondary producer, unless the
14 secondary producer is in a contractual relationship with the
15 original producer pursuant to section 342I-F.

16 **342I-E Propulsion battery disposal; producer**
17 **responsibility.** A producer shall be deemed responsible for the
18 end-of-life management of propulsion batteries as follows:

19 (1) For a propulsion battery embedded in a vehicle that is
20 sold in the State, or sold or distributed in or into
21 the State via remote sale or distribution:



- 1 (A) If the battery is sold in a vehicle under the
2 vehicle manufacturer's own brand, the vehicle
3 manufacturer shall be responsible for the
4 battery;
- 5 (B) If the battery is sold in a vehicle under a
6 different brand than that of the vehicle
7 manufacturer, the person that is the licensee of
8 the brand or trademark under which the vehicle is
9 sold, offered for sale, or distributed in or into
10 the State, whether or not the trademark is
11 registered in the State, shall be responsible for
12 the battery; or
- 13 (C) If there is no person described by subparagraph
14 (A) or (B) within the United States, the person
15 that imports the battery-containing vehicle into
16 the United States for sale, offering for sale, or
17 distribution in the State shall be deemed
18 responsible for the battery; and
- 19 (2) For a propulsion battery that is not embedded in a
20 vehicle that is sold in the State, or sold or



1 distributed in or into the State via remote sale or
2 distribution:

3 (A) If the battery was manufactured in the United
4 States and has not been remanufactured or
5 repurposed, the battery manufacturer shall be
6 responsible for the battery;

7 (B) If the battery has been remanufactured or
8 repurposed in the United States, the person that
9 remanufactures or repurposes the battery shall be
10 responsible for the battery, except as otherwise
11 provided in section 342I-F(b); or

12 (C) If there is no person described by subparagraph
13 (A) or (B) within the United States, the person
14 that imports the battery into the United States
15 for sale, offering for sale, or distribution in
16 the State shall be responsible for the battery.

17 **342I-F Battery management plan.** (a) By January 1, 2025,
18 each producer of propulsion batteries sold within the State,
19 either individually or as a part of a group of producers, shall
20 develop and submit a battery management plan to the department
21 for review and approval. Each producer shall consult with the



1 department to develop a battery management plan. The plan shall
2 provide for each producer to be responsible for the collection
3 and management of the producer's used propulsion batteries that
4 are offered to the producer for take-back by the current battery
5 owner.

6 (b) Notwithstanding section 342I-E to the contrary, the
7 original producer of a propulsion battery shall not be
8 responsible for the management of a battery that a secondary
9 producer has remanufactured or repurposed unless:

10 (1) The secondary producer is in a contractual
11 relationship with the original producer, which
12 provides for the retention of responsibility for the
13 end-of-life management of the battery by the primary
14 producer; and

15 (2) The contract has been provided to the department as
16 part of a battery management plan or through another
17 means approved by the department.

18 (c) A battery management plan prepared and submitted
19 pursuant to this section shall include:



- 1 (1) Methods that will be used to collect and store the
2 used propulsion batteries returned to the producer,
3 including proposed collection services;
- 4 (2) Methods that will be utilized to transport used
5 propulsion batteries to authorized recycling
6 facilities, including the name and location of all
7 authorized recyclers to be directly utilized pursuant
8 to the plan;
- 9 (3) Processes and methods that will be utilized to
10 remanufacture, repurpose, or recycle propulsion
11 batteries that have reached the end of their service
12 life, including a plan for a final disposal of
13 batteries in accordance with environmentally sound
14 management practices, if necessary;
- 15 (4) A strategy for informing consumers, vehicle repair
16 facilities, and vehicle dismantlers in the State of
17 the requirement to properly manage propulsion
18 batteries, the environmental impact of the improper
19 handling or disposal of used propulsion batteries, and
20 the mechanisms for the management of propulsion



1 batteries that are available pursuant to the battery
2 management plan;

3 (5) The means that will be used to implement and finance
4 the battery management plan; and

5 (6) Any other information, policies, or procedures that
6 the department deems appropriate.

7 (d) Within one hundred twenty days after receipt by the
8 department of a complete battery management plan, the department
9 shall approve, approve in part, or disapprove of the plan. In
10 making a determination pursuant to this section, the department
11 may solicit information from producers or other stakeholders as
12 the department deems appropriate. The department may assess a
13 producer a reasonable fee to cover the department's costs for
14 plan review, program implementation, and enforcement costs.

15 If the department approves the battery management plan, the
16 producer shall implement the plan within ninety days after
17 receipt of approval from the department or as otherwise agreed
18 to by the department.

19 If the department approves in part the battery management
20 plan, the department shall indicate the portions of the plan
21 that do not comply with this part or any rules adopted. The



1 producer shall implement the components of the plan, as
2 approved, within ninety days after the receipt of approval by
3 the department or as otherwise agreed to by the department. To
4 bring the entire plan into compliance with this part and any
5 rules adopted, the producer shall submit a revised battery
6 management plan within thirty days after receipt of notification
7 of the approval in part by the department. The department shall
8 review and approve, conditionally approve, or disapprove a
9 revised battery management plan within thirty days after receipt
10 of the revised plan.

11 If the battery management plan is disapproved, the
12 department shall inform the producer of the reasons for the
13 disapproval. The producer shall have thirty days to submit a
14 revised battery management plan to the department.

15 The department may review a battery management plan
16 approved pursuant to this section and recommend modifications at
17 any time upon a finding that the approved battery management
18 plan, as implemented, is deficient.

19 (e) If one hundred twenty days after receipt by the
20 department of a complete battery management plan, the department
21 has not approved, approved in part, or disapproved the battery



1 management plan pursuant to this section, the battery management
2 plan shall be deemed to be conditionally approved. A producer,
3 subject to any modifications required by the department, shall
4 implement a conditionally approved battery management plan
5 within ninety days after the plan has been deemed conditionally
6 approved by the department.

7 (f) After January 1, 2025, the department may impose
8 additional plan requirements for any portion of a battery
9 management plan that does not comply with this part, and any
10 rules adopted, for a plan component that has not been approved
11 pursuant to this section.

12 (g) Within ninety days after the department's approval of
13 a battery management plan submitted in accordance with this
14 section, the department shall post each battery management plan
15 and a list identifying each of the producers participating in a
16 battery management plan at a publicly accessible location on the
17 department's website.

18 (h) In implementing a battery management plan approved
19 pursuant to this part, a producer shall provide consumers with
20 educational materials related to the producer's approved battery
21 management plan and the collection services that are available.



1 The educational materials shall include but are not limited to
2 information identifying the end-of-life management options that
3 are available for propulsion batteries through the battery
4 management plan.

5 The department shall establish a system to address consumer
6 complaints and a public education program to assure the
7 widespread dissemination of information concerning the purpose
8 of this part.

9 **342I-G Recovery of costs.** (a) Upon request from the
10 department, any costs incurred and payable from the fund as a
11 result of electric vehicle battery cleanups and associated
12 environmental assessments and remediation shall be recovered by
13 the attorney general from the liable entity. The amount of any
14 cost that may be recovered pursuant to this section for an
15 electric vehicle battery cleanup and associated assessment and
16 remedial action paid from the fund shall include the amount paid
17 from the fund and legal interest.

18 (b) Moneys recovered by the attorney general pursuant to
19 this section shall be deposited to the special account of the
20 environmental management special fund.



1 (c) Any action for recovery of response costs shall
2 commence within two years after the date of completion of all
3 response actions.

4 **342I-H Entry and inspection of facilities.** The department
5 or other authorized party may enter and inspect any building or
6 place at any reasonable time for the purpose of:

- 7 (1) Investigating an actual or suspected violation of this
8 part;
- 9 (2) Conducting reasonable tests;
- 10 (3) Taking samples; and
- 11 (4) Reviewing and copying records.

12 **342I-I Enforcement** The department shall enforce this
13 part. Authorized employees of the department may issue
14 warnings, citations, or administrative orders, or commence civil
15 action in the appropriate circuit environmental court against
16 persons who fail to comply with this part.

17 **342I-J Penalties.** (a) Any person that violates this part
18 shall be fined not more than \$ for each separate
19 offense; provided that the failure to post the notice under
20 section 342I-F(h), following a warning issued by the director,
21 shall be subject to a fine of \$ for each separate



1 offense. Each battery improperly disposed of or accepted shall
2 constitute a separate offense. The fines imposed pursuant to
3 this subsection shall be cumulative.

4 (b) Any person who knowingly or wilfully violates this
5 part shall be guilty of a misdemeanor.

6 (c) Remedies shall be by citations, civil actions, or as
7 provided under sections 342H-10 and 342H-11.

8 **342I-K Disposition of collected fines and penalties.**

9 Fines and penalties collected under this part shall be deposited
10 into the environmental response revolving fund, established by
11 section 128D-2."

12 SECTION 2. In codifying the new sections added by section
13 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 3. This Act shall take effect upon its approval.

17

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be "J. J. ...", written over a horizontal line.

S.B. NO. 2311

Report Title:

DOH; Electric Vehicle Battery Recycling and Disposal Program;
Electric Vehicles; Propulsion Batteries; Hazardous Substances;
Fines

Description:

Establishes an electric vehicle battery recycling and disposal program. Prohibits disposal of propulsion batteries as solid waste. Prohibits producers of propulsion batteries from refusing propulsion batteries for reuse, remanufacturing, repurposing, or recycling. Establishes producer responsibility for propulsion batteries embedded into vehicles or sold separately in the State or through remote sale. Authorizes the Department of Health to inspect any place, building, or premise and issue warnings and citations for failure to comply. Establishes requirements for a battery management plan. Establishes fines.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

