

Summary of ESHB 1364 – Small Rechargeable Battery Stewardship Act as passed by the House on 3/6/13.

Representative Tharinger and Call2Recycle developed a striking floor amendment that restructured the small rechargeable battery stewardship act to address opposition to the bill from some manufacturers and retailers, and to eliminate costs of state agency oversight and enforcement. This version passed out of the House by a 57-40 vote on March 6th.

While the amended bill is not a comprehensive product stewardship policy, it will accomplish the important goal of requiring that all manufacturers selling rechargeable batteries in the state participate in a stewardship program. Improved manufacturer compliance will ensure the financial viability of the Call2Recycle program in the future, and ensure it continues to provide recycling services to local governments and communities across the state.

The floor striker amendment is a means to create a viable bill that can move our state forward on this issue during a challenging session.

What's different between the ESHB 1364 and SHB 1364?

SHB 1364, which was passed by the policy and budget committees, required a stewardship program to submit a plan and annual reports to WA Department of Ecology, and that authorized Ecology to oversee and enforce the program. ESHB 1364, which was passed by the full House, does not require oversight by Ecology, and eliminates state enforcement of manufacturer or retailer compliance in the stewardship system.

Existing federal and state regulatory authority already provides enforcement authority for recycling of rechargeable batteries and proper handling of their toxic constituents. The service and reporting requirements for a “bona fide” stewardship program operated by manufacturers are largely identical to the stewardship plan requirements of SHB 1364.

What ESHB 1364 does:

1. (*Section 3*) Prohibits the sale of rechargeable batteries by manufacturers and marketers who are not participating in, managing, or self-operating a “bona fide” used small rechargeable battery stewardship program. This applies to either a separate battery or an easily removable part of a product.
Telecommunications providers who market equipment under their own brand are exempted. Major telecommunications providers already provide recycling services or use rechargeable batteries made by a participating manufacturer.
2. (*Section 4*) Authorizes self-operators or managers of “bona fide” stewardship programs to recover costs and damages from non-participating manufacturers through civil action, without burdening the state with enforcement responsibilities.
3. (*Section 5*) Defines a "bona fide" stewardship program as a program for the collection, transportation, recycling, and disposal of used small rechargeable batteries that is either:
 - A. A program that is self-operated by a single retailer or a franchisor at all of their retail locations in WA that sell rechargeable batteries; or

- B. A program operated on behalf of one or more participating manufacturers that must meet basic requirements as well as additional service requirements.

Either type of stewardship program must meet the following basic requirements to be considered “bona fide” (described in brief):

- a. All operations are in compliance with all applicable laws and rules for handling of rechargeable batteries.
- b. Rechargeable battery recycling services are provided free of charge to consumers, and are available to the public during all hours that the collection locations normally do business.
- c. Education and outreach activities are provided, including offering signage to retailers.
- d. The program only uses lawfully permitted facilities for reclamation of the rechargeable batteries.
- e. The program’s website lists all collection locations and how consumers can contact the program, as well as information on methods used to collect, transport, and account for all used small rechargeable batteries collected, including identification of sorting and reclamation facilities used through final disposition.
- f. The program’s website provides annual reports that include information about batteries collected by county and by battery chemistry, cost per pound of batteries collected, any increases in batteries collected each year, and a complete description of all methods and facilities used by the program.

In addition, the “bona fide” manufacturers’ stewardship program described in “B” must also meet the following additional requirements (described in brief):

- Identify all participating manufacturers and marketers on the program website.
- Provide at least once collection site in each city or town with population greater than 10,000, and in each county of the state.
- Include multiple retail collection locations.
- Provide for collection of small rechargeable batteries from government collection facilities.
- Include an independently audited financial statement in the annual report on its website, including breakdown of program expenses.