

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 686 (Senator Augustine)
 Education, Energy, and the Environment

Environment - Extended Producer Responsibility for Batteries and Battery-Containing Products (Battery Stewardship Act)

This bill establishes a required framework for producers of covered batteries and battery-containing products to create and implement battery stewardship plans for affected products. The Maryland Department of the Environment (MDE) must approve a battery stewardship organization by January 1, 2026, and battery stewardship plans must be submitted by each producer to MDE for review and approval by July 1, 2026, as specified. Beginning January 1, 2027, a producer may not sell, offer for sale, distribute, or import for sale or distribution covered batteries or battery-containing products for use in the State unless the producer has an approved plan. The bill also (1) establishes an advisory council, reporting requirements, and enforcement provisions; (2) repeals current law provisions that establish standards for rechargeable batteries; and (3) requires MDE to adopt implementing regulations. **The repeal of existing provisions relating to rechargeable batteries takes effect January 1, 2028; the bill’s other provisions take effect July 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by \$64,100 in FY 2026; out-year administrative costs reflect annualization, inflation, and ongoing costs. General fund revenues increase correspondingly to general fund expenditures beginning in FY 2027. State expenditures (multiple fund types) may increase as early as FY 2027. Special fund revenues may increase minimally from penalties (not reflected in the table below).

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	\$0	\$120,300	\$159,600	\$166,800	\$173,800
GF Expenditure	\$64,100	\$120,300	\$159,600	\$166,800	\$173,800
GF/SF Exp.	\$0	-	-	-	-
Net Effect	(\$64,100)	(-)	(-)	(-)	(-)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues and expenditures may be affected, as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Key Definitions

“Battery-containing product” means a product that contains or is packaged with two or more covered batteries; it does *not* include an electronic device that is subject to a covered electronic device takeback program under Part IV of Title 9, Subtitle 17 of the Environment Article (the Statewide Electronics Recycling Program). A “covered battery” means a portable battery, medium-format battery, or primary battery; it does *not* include any medical device, as specified, or a large lead acid battery.

Battery Stewardship Advisory Council

MDE must establish the Battery Stewardship Advisory Council to (1) advise on the implementation of the Battery Stewardship Program, including the adoption of regulations, and (2) assist with the development and review of battery stewardship plans. MDE must provide staff for the advisory council. Members of the advisory council may not receive compensation but are entitled to reimbursement for expenses. The advisory council must (1) meet at the request of the Secretary; (2) make recommendations to MDE regarding battery stewardship plan approval; (3) make recommendations to MDE and battery stewardship organizations regarding program implementation; and (4) perform any other function assigned by the Secretary of the Environment.

Registration of Battery Stewardship Organizations

By January 1, 2026, MDE must approve a single battery stewardship organization. Beginning July 1, 2026, and annually thereafter, the battery stewardship organization must file a registration form with MDE and pay an annual registration fee (as set by MDE in regulation) to cover the costs of recordkeeping. The registration form must include specified information, including a list of the producers participating in the battery stewardship organization.

Beginning July 1, 2029, a nonprofit organization may request that MDE designate the nonprofit organization as an additional battery stewardship organization. MDE may designate an additional battery stewardship organization if MDE determines that the designation is necessary to increase recycling rates or improve recycling services for a specific type of covered battery or battery-containing product. If MDE approves the

designation of an additional battery stewardship organization, the battery stewardship organization must (1) register with MDE within 30 days of approval (and by July 1 annually thereafter) and (2) pay the annual registration fee. The registration form must include specified information. The additional battery stewardship organization must coordinate with the original battery stewardship organization approved under the bill, MDE, and local governments, as specified.

Development, Review, and Implementation of Battery Stewardship Plans

By July 1, 2026, and every five years thereafter, each producer must submit a battery stewardship plan to MDE for review and approval (either individually or as part of a battery stewardship organization). Before submitting a plan to MDE for review, a producer or battery stewardship organization must consult with the advisory council. Beginning January 1, 2027, a producer may not sell, offer for sale, distribute, or import for sale or distribution covered batteries or battery-containing products in or into the State unless the producer has an approved battery stewardship plan on file with MDE (either individually or as part of a battery stewardship organization).

The bill establishes the minimum content for a battery stewardship plan. Among other things, the plan must (1) identify the producers and brands covered by the plan, as specified; (2) establish performance goals that measure the battery stewardship program's achievements on an annual basis, as specified; (3) provide a list of the collection sites (including addresses) supported by the program, and a description of how the program will provide free, convenient, and equitable service in every region of the State, as specified; and (4) include any other information that is required by MDE. The plan must also describe (1) how the performance goals will be met or exceeded; (2) how staffing and administering the implementation of the plan will be handled; (3) the actions taken or that will be taken for public outreach, education, and communication, as specified; and (4) the process by which a local government facility that acts as a collection site may request reimbursement for costs associated with accepting and storing covering batteries and battery-containing products.

In addition, the plan must also describe the financing method that will be used to implement the program. Among other things, the financing method must (1) apportion program costs across all participating producers; (2) be structured such that participating producers are encouraged to embrace design attributes that reduce the environmental impacts of their products, including through the use of eco-modulated fees, as specified; and (3) meet any other requirement established by MDE by regulation.

A battery stewardship program must provide free, convenient, and equitable service in every region of the State, such that the collection of covered batteries and battery-containing products is as easy as trash disposal.

MDE must review the battery stewardship plan, and within 120 days, either approve, approve with conditions, or reject a plan submitted for review. The bill establishes several considerations MDE must take into account when making a determination regarding a battery stewardship plan. Within 60 days of plan approval, the entity that submitted the plan must pay to MDE (1) MDE's costs of reviewing the plan and (2) MDE's estimated costs to administer, oversee, and enforce the plan between the initial date of approval and the date of the initial annual report required by the bill.

Implementation of a battery stewardship program described in an approved plan must begin no later than six months after the date the plan is approved by MDE. An approved plan expires after five years, but MDE may rescind approval of a plan at any time for good cause. Additionally, a battery stewardship plan may continue beyond five years if it is renegotiated, renewed, or amended and approved by MDE in accordance with the bill. If, based on the annual report submitted, the performance goals established pursuant to the bill have not been met, MDE may require a plan amendment or impose a penalty on a battery stewardship organization, as specified and discussed more below. If MDE requires a battery stewardship organization to amend the plan, the battery stewardship organization must cover MDE's costs, as specified.

In designing and implementing a battery stewardship program, a battery stewardship organization must (1) use existing public and private waste collection services and facilities, as specified, and (2) coordinate activities with relevant operators, including electronic waste recyclers, to provide efficient delivery of services and to avoid unnecessary duplication of effort.

Beginning March 1, 2028, each battery stewardship organization that has an approved battery stewardship plan on file with MDE must report annually to MDE on the progress toward meeting plan requirements and program goals for the immediately preceding calendar year. The annual report must include specified information. Any financial, production, or sales data reported to MDE by a battery stewardship organization must be kept confidential, as specified. Other than confidential information, the annual report must be posted on MDE's website and on the battery stewardship organization's website. Along with the annual report, a battery stewardship organization must also pay to MDE the department's estimated costs of administering, overseeing, and enforcing the plan for the next year.

MDE's Office of Recycling is tasked with reviewing and approving battery stewardship plans and annual reports submitted pursuant to the bill.

Requirements for Battery Stewardship Organizations

A battery stewardship organization must cover all costs of a battery stewardship program,

including MDE's administrative costs and costs to (1) collect, transport, process, and otherwise manage the covered batteries and battery-containing products returned by covered entities; (2) raise public awareness of and participation in the program; (3) reimburse local governments that serve as collection sites or otherwise assist with implementing the program; and (4) recycle, reuse, or safely dispose of any covered batteries and battery-containing products, as specified.

A battery stewardship organization must also, at a minimum, provide at no cost to collection sites (1) appropriate containers for covered batteries subject to the program, as specified; (2) training; (3) signage; (4) safety guidance; and (5) educational materials.

Legal Immunities and Enforcement

Any person participating in a battery stewardship plan in compliance with the bill is immune from liability under State law relating to antitrust and restraint of trade for any cooperated activities arising out of specified actions.

Current law provisions under §§ 9-334 through 9-344 of the Environment Article apply to enforce violations of the bill and any regulation adopted or order issued under the bill.

Current Law: The solid waste infrastructure in Maryland consists of both permitted and nonpermitted facilities, and solid waste is managed through a combination of recycling, composting, landfilling, incineration, storage, and exporting for disposal or recycling.

Maryland's recycling policy is guided by the Maryland Recycling Act (MRA), which sets mandatory recycling rates for State government and local jurisdictions, as well as a voluntary statewide waste diversion goal of 60% and a voluntary statewide recycling goal of 55% by 2020. Each county (including Baltimore City), must recycle at least 20% or 35% of the county's solid waste stream, depending on the county's population. Each county (including Baltimore City) must also prepare a recycling plan that addresses how the jurisdiction will achieve its mandatory recycling rate.

The Office of Recycling

MDE's Office of Recycling submits annual reports, in coordination with the Maryland Environmental Service, to the Governor and the General Assembly on specified information related to recycling in Maryland. Beginning in 2009, MDE has combined the *Maryland Waste Diversion Activities Report* and the *Solid Waste Managed in Maryland Report* into one report, the *Maryland Solid Waste Management and Diversion Report*.

Chapter 465 of 2023 requires the office to hire an independent consultant to conduct a statewide recycling needs assessment and report the results of the assessment to the

Governor and the General Assembly by July 30, 2024. As of the publication of this fiscal and policy note, the report has not yet been submitted.

Regulation of Rechargeable Batteries (Repealed by the Bill)

Title 6, Subtitle 11 of the Environment Article addresses rechargeable batteries. A “rechargeable battery” means any type of enclosed device or sealed container that consists of one or more cells and that weighs 25 pounds or less. It does not include a battery used as a power source for starting a motor vehicle.

Unit Management Programs: Each “unit” (defined as a cell, rechargeable battery, or a rechargeable product) and each easily removable rechargeable battery contained in a product sold in the State must be covered by a “unit management program” approved by MDE. A “unit management program” means a program or system for the collection, recycling, or disposal of units put in place by a “marketer” pursuant under these provisions. A “marketer” means a person who manufactures, assembles, sells, distributes, affixes a brand name or private label to, or licenses the use of a brand name on a unit or product with an easily removable rechargeable battery.

Manufacturer and Labeling Requirements: Unless granted an exemption by MDE, rechargeable batteries contained in products designed for use by consumers and manufactured after December 31, 1993, must be easily removed. Further, each unit manufactured after that date and sold to an end user in the State after that date must bear the following information in the unit, package, or product containing the unit or in associated instructional material: (1) a statement that the unit must be disposed of properly; (2) the “three chasing arrows” recycling symbol; (3) a description of the battery electrode chemistry; and (4) sufficient information to enable the user to properly dispose of spent units. A local government may not enact additional labeling requirements.

Requirements for Marketers and Retailers: Marketers must develop and provide a generic notice placard that contains specified information to each retailer of a unit or product with an easily removable rechargeable battery. A retailer who sells a unit or a product with an easily removable rechargeable battery must display the placard at or near the sales display of the unit or product.

Disposal and Recycling: A person may not dispose of a unit except in accordance with a unit management program approved by MDE or in another manner approved under MDE regulations.

Each marketer must ensure that its direct customers have a convenient mechanism for returning units to the marketer or to the responsible entity or to a destination specified in the unit management program covering those units. Except for direct sales, each marketer

must provide written notice to its direct customers that each unit sold by the marketer is covered by a unit management program.

Each “cell manufacturer” must accept cells and rechargeable batteries collected in the State, including cells collected by the State, local governments, and their agencies, as specified. Each cell manufacturer has the sole responsibility for recycling or disposal of cells and rechargeable batteries returned to it. A “cell manufacturer” means a person who manufactures cells in the United States or imports into the United States cells or units for which no unit management program has been put into effect by the actual manufacturer of the cell or unit.

Each “institutional user” must collect and return spent units used in its operations to the appropriate responsible entity in accordance with the unit management program, or, at its discretion, to a facility permitted to store or process hazardous waste. A rechargeable product designed for use by an institutional user must bear a notice that when no longer usable, the product must be recycled or disposed of properly. An “institutional user” means a person conducting medical, commercial, industrial, governmental, or similar operations.

Each “responsible entity” must ensure that its unit management program is carried out and that units collected under the program are returned to the cell manufacturer or, at the discretion of the responsible entity, to proper disposal or recycling facilities. Duties of the responsible entity end with delivery of collected units to the cell manufacturer or to proper disposal or recycling facilities. A “responsible entity” means a person designated in a unit management program, or in the absence of such a program, the marketer whose name appears on a unit.

Contracts and Associations: Statute authorizes a responsible person to contract with a private or public entity or to form an association for preparation and maintenance of a unit management program or for performance of its responsibilities under such a program, as specified.

Immunization from Liability: Any person cooperating in a unit management program in compliance with Subtitle 11 is immune from liability under State law relating to antitrust and restraint of trade for any cooperative activities arising out of the collection and management of units.

Penalties: A person who knowingly and willfully violates any provision of Subtitle 11 is guilty of a misdemeanor and on conviction subject to a fine of up to \$100 for each violation. Each day is a separate violation.

Enforcement Provisions That Apply to Violations of the Bill

The provisions of §§ 9-334 through 9-341 of the Environment Article, which are established under provisions relating to Title 9, Subtitle 3 of the Environment Article (Water Pollution Control), establish enforcement procedures that govern (1) the ability of MDE to issue complaints, conduct hearings, issue corrective orders, and obtain injunctive relief and (2) judicial review of final decisions.

Under § 9-343 of the Environment Article, a person who violates any provision of or fails to perform any duty imposed by Title 9, Subtitle 3 of the Environment Article, or who violates any provision or fails to perform any duty imposed by a rule, regulation, order, or permit adopted or issued under that subtitle, is guilty of a misdemeanor and on conviction is subject to a maximum fine of \$25,000 and/or imprisonment for up to one year for a first offense and a maximum fine of \$50,000 and/or imprisonment for up to two years for a subsequent offense. The person may also be enjoined from continuing the violation. Each day on which a violation occurs is a separate violation.

In addition, a person is guilty of misdemeanor and on conviction is subject to a maximum fine of \$50,000 and/or imprisonment for up to two years if the person (1) knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the subtitle or (2) falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the subtitle or any rule, regulation, order, or permit adopted or issued under the subtitle.

Pursuant to § 9-344 of the Environment Article, the Attorney General is in charge of prosecuting and defending cases that arise on behalf of the State.

State Fiscal Effect:

Maryland Department of the Environment Administrative Costs and Related Fee Revenues

The bill contemplates that battery stewardship organizations and producers will fully fund, through fees paid to MDE, MDE's costs to implement the bill. MDE receives some funding from the fee submitted with the registration of the initial battery stewardship organization (to cover recordkeeping costs) by July 1, 2026 (fiscal 2027). Additionally, once initial battery stewardship plans are approved, producers and battery stewardship organizations have 60 days from plan approval to pay MDE for its costs of reviewing the plan and its estimated costs of administering, overseeing, and enforcing the plan between the initial date of approval and the date of the initial annual report. The plans must be submitted for approval by July 1, 2026 (fiscal 2027), and MDE has 120 days to approve plans once they

are submitted. Thus, it is anticipated that even though MDE incurs costs beginning in fiscal 2026, fees do not offset costs until fiscal 2027.

Because the bill does not direct fee revenues to any new or existing special fund, for purposes of this analysis, it is assumed that fee revenue is deposited into the general fund and that the general fund supports MDE’s administrative costs (discussed below). (To the extent fees collected pursuant to the bill are treated as special fund revenues instead, the general fund only supports MDE’s costs in fiscal 2026 (before fee revenue is available), and ongoing costs are covered with special funds.)

Administrative Costs: General fund expenditures increase by \$64,123 in fiscal 2026, which accounts for a 90-day start-up delay, and by \$120,255 in fiscal 2027. This estimate reflects the cost of hiring one natural resource planner on October 1, 2025, and one environmental compliance specialist on January 1, 2027, to (1) research and identify affected producers in Maryland; (2) staff the advisory council; (3) collect and process annual registration(s), battery stewardship plans, fees, and annual reports; (4) promulgate regulations; and (5) conduct enforcement activities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2026</u>	<u>FY 2027</u>
Positions (New)	1.0	1.0
Salaries and Fringe Benefits (Total)	\$56,754	\$112,041
Operating Expenses	<u>7,369</u>	<u>8,214</u>
Total MDE Admin. Expenditures	\$64,123	\$120,255

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Fee Revenue: As discussed above, based on the deadlines established in the bill, it is assumed that no fees are collected in fiscal 2026. In fiscal 2027, MDE collects the registration fee from the initial battery stewardship organization as well as payments from entities that submit battery stewardship plans to MDE to cover its costs. Accordingly, beginning in fiscal 2027, it is anticipated that general fund revenues from fees offset MDE’s administrative costs (as estimated above).

When submitting annual reports each year, battery stewardship organizations and producers must pay MDE for MDE’s estimated costs to administer, oversee, and enforce the plan for the *following year*. MDE may also recoup any additional plan review costs associated with amended battery stewardship plans and any related supplemental work. Thus, general fund revenues continue to offset MDE’s expenditures in the out-years.

Repeal of Rechargeable Battery Provisions: MDE advises that the current law provisions addressing rechargeable batteries are primarily self-implemented by the industry. Therefore, the repeal of these provisions effective January 1, 2028, is not anticipated to materially affect State operations or finances.

State Agencies as Consumers of Affected Products

State expenditures (multiple fund types) could increase, likely not until fiscal 2027, due to any increase in the price to purchase covered batteries and battery-containing products that may result from the bill. However, the magnitude of any such increase is unknown and depends largely on the specifics of the approved battery stewardship plans. On the other hand, State agencies benefit from having a no-cost disposal option for covered batteries and battery-containing products; the extent to which this decreases disposal costs is unknown.

Penalty Provisions

Pursuant to current law, all fines and penalties collected under Title 9, Subtitle 17 of the Environment Article – to which the bill’s provisions are added – are deposited into the State Recycling Trust Fund. Accordingly, special fund revenues to the State Recycling Trust Fund may increase minimally from any penalties collected for violations of the bill.

The application of existing criminal penalty provisions to violations of the bill is not anticipated to materially affect State incarceration expenditures.

Local Fiscal Effect: Any costs incurred by a local government acting as a collection site or otherwise assisting with the implementation of a battery stewardship program are reimbursed by a battery stewardship organization.

Similar to the impact described above at the State level, local expenditures for the purchase of covered batteries and battery-containing products may increase, likely not before fiscal 2027. On the other hand, local governments benefit from having a no-cost disposal option for covered batteries and battery-containing products; the extent to which this decreases disposal costs is unknown.

Local governments may also benefit from the diversion of covered batteries and battery-containing devices from landfills. To the extent the bill leads to an increase in recycling rates, it could assist counties in meeting their mandatory recycling rates under MRA.

The application of existing criminal penalty provisions to violations of the bill is not anticipated to materially affect local incarceration expenditures.

Small Business Effect: The bill has a significant impact on producers, which could include small businesses. There are significant operational responsibilities and potentially significant costs for affected producers to join a battery stewardship organization or develop individual battery stewardship plans, submit annual reports, pay fees, and generally implement the bill. To the extent any small businesses act as collection sites, they likely incur costs to do so, and the bill does not include any reimbursement provisions for any entities other than local governments that serve as collection sites.

Additionally, similar to the impact described above at the State and local levels, there could be an increase in costs for small businesses as consumers of covered batteries and battery-containing products. On the other hand, small businesses benefit from having a no-cost disposal option for covered batteries and battery-containing products.

The bill may also increase the demand for any small businesses engaged in the recycling of covered batteries and battery-containing products.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Environmental Service; Harford County; Maryland Association of Counties; Northeast Maryland Waste Disposal Authority; Maryland Municipal League; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Maryland Department of the Environment; Department of General Services; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2025
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