

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 912

INTRODUCER: Senator McClain

SUBJECT: Battery Collection and Recovery

DATE: February 2, 2026

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Carroll | Rogers | EN | Pre-meeting |
| 2. | | | AEG | |
| 3. | | | FP | |

I. Summary:

SB 912 creates the Safe Battery Collection and Recovery Act.

The bill repeals s. 403.7192, F.S., which governs batteries and consumer, manufacturer, and seller requirements.

By January 1, 2028, the bill requires a producer or retailer of covered batteries or battery-containing products to join a battery stewardship organization (BSO). Producers or retailers must verify to the Florida Department of Environmental Protection (DEP) that the covered batteries they sell or distribute identify the producer with a clear mark or insignia. Certain retailers may be exempt from the BSO membership requirement. The bill authorizes a BSO to bring civil actions against producers and other BSOs for violating the Safe Battery Collection and Recovery Act.

The bill requires a BSO to submit a yearly battery stewardship plan to DEP for review and approval. It also requires a BSO to promote the implementation of the plan. It prohibits a producer, retailer, or BSO from charging a point-of-sale fee to consumers to cover the costs of implementing the plan. The bill lists the required components of the plan.

The bill provides that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with a battery stewardship plan.

The bill requires a BSO to:

- Notify DEP after a producer, processor, or transporter begins or ceases participating in the BSO and after the addition or removal of a processor or transporter under the plan;
- Pay the costs of implementing a battery stewardship plan;
- Reimburse local governments for costs incurred by a local government facility or solid waste facility designated as a collection site;

- Collect charges from participating producers to cover the costs of implementing a battery stewardship plan.
- Provide for the collection of all covered batteries throughout the state;
- Equip collection sites with suitable collection containers;
- Ensure that medium format batteries are collected properly;
- Provide for the collection of damaged and defective batteries;
- Coordinate the delivery of services;
- Provide permanent collection sites that meet certain requirements for portable batteries and medium format batteries;
- Submit an annual report to DEP beginning on June 1, 2029; and
- Hire a third-party to complete a one-time audit of any battery stewardship plan.

A BSO is not required to provide for the collection of batteries contained within a product at the time of delivery to a collection site if the battery or product is under a safety recall. A BSO may seek reimbursement from the producer of a recalled battery or product for specified costs.

The bill authorizes a person or recycler to offer or perform fee-based household battery collection services or mail-back services for covered batteries if the person or recycler meets certain requirements.

Beginning January 1, 2028, the bill requires disposal of certain covered batteries at collection sites or events under a battery stewardship plan, unless the battery is regulated as hazardous waste. A person may not knowingly cause or allow:

- A covered battery to mix with recyclable materials, municipal waste, or waste intended for incineration;
- The disposal of a covered battery in a landfill; and
- The burning or incineration of a covered battery.

A BSO may only refuse to accept a properly-packaged covered battery that was inadvertently received by a recycling or solid waste facility if it notifies DEP.

Beginning January 1, 2029, the bill requires a producer or retailer to verify to DEP that any covered battery or battery contained in a product is labeled to ensure proper collection and recycling.

The bill authorizes civil penalties for violating the act. It is a third degree felony to knowingly provide a false material statement to DEP related to a battery stewardship plan.

II. Present Situation:

Batteries

Billions of single-use¹ and rechargeable batteries are bought, used, and disposed of in the U.S. every year.² The increasing use of small, portable electronics, power tools, and “smart” products like appliances and automobiles has created an increase in the demand for batteries.³

Rechargeable batteries can often be found in cellphones, cordless power tools and vacuums, portable chargers, drones, and medical devices. Lithium-ion batteries are being used in many consumer electronics, electric vehicles, and stationary energy storage.⁴ Rechargeable batteries, which include lithium-ion, nickel cadmium, nickel metal hydride, and small sealed lead acid, are in high demand because they can store high amounts of energy in a smaller battery.⁵

Mid-sized rechargeable lithium-ion batteries are considered medium-format batteries.⁶ These medium-format batteries are commonly found in electric, cordless lawnmowers and snowblowers, e-bikes, mobility scooters, marine motors, and portable generators.⁷

Battery Regulations

Manufacturing, Distribution, and Sales

Florida law prohibits the sale of certain types of batteries unless they conform to specified standards. For example, Florida law prohibits the sale of alkaline-manganese or zinc-carbon batteries that contain any intentionally introduced mercury and more than 0.0004 percent mercury by weight.⁸ For alkaline-manganese button batteries, the mercury limitation is 25 milligrams. State law also prevents the sale of consumer button dry cell batteries that contain a mercuric oxide electrode or products that contain this type of battery. The Florida Department of Environmental Protection (DEP) may provide an exemption if there is no battery that is a reasonable substitution and that also meets the mercury limitations.⁹

¹ Single-use batteries include alkaline and zinc-carbon batteries, button-cell or coin batteries, and lithium batteries. U.S. Environmental Protection Agency (EPA), *Used Household Batteries*, <https://www.epa.gov/recycle/used-household-batteries> (last visited Jan. 29, 2026).

² Florida Department of Environmental Protection (DEP), *Battery Recycling and Disposal*, 1 (2016), available at <https://floridadep.gov/sites/default/files/Battery%20Recycling%20and%20Disposal-web.pdf>; EPA, *Used Household Batteries*.

³ EPA, *Used Household Batteries*.

⁴ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions*, 1 (May 24, 2023), available at <https://rcrapublic.epa.gov/files/14957.pdf>; The Battery Network, *Rechargeable Batteries*, <https://batterynetwork.org/battery-basics/what-to-recycle/rechargeable-batteries/> (last visited Jan. 29, 2026).

⁵ *Id.*

⁶ The Battery Network, *Medium Format Batteries*, <https://batterynetwork.org/battery-basics/what-to-recycle/medium-format-batteries/> (last visited Jan. 29, 2026).

⁷ *Id.*

⁸ Section 403.7192(2), F.S.

⁹ *Id.*

Florida law prohibits a cell manufacturer¹⁰ or marketer¹¹ from selling any consumer or non-consumer product that is powered by a rechargeable battery, unless the battery or product meets certain criteria.¹² A rechargeable battery is any small, nonvehicular, rechargeable nickel-cadmium or sealed lead-acid battery that weighs less than 25 pounds and is not used for memory backup.¹³ The manufacturer or marketer must meet the following criteria:

- For consumer products, the battery can be easily removed by the consumer, or the battery is contained in a battery pack that is separate from the product and can be easily removed.
- For non-consumer products, the battery can be removed or is contained in a battery pack that is separate from the product.
- The product or the battery, or the packaging if the product is a consumer product, is labeled with a recycling symbol and includes the term “Cd” for nickel-cadmium batteries or “Pb” for small, sealed lead batteries to indicate the chemical composition of the battery.
- The instruction manual for the product or the packaging if the product is a consumer product clearly states that the sealed lead or nickel-cadmium battery must be recycled or disposed of properly.¹⁴

If a consumer or non-consumer product’s design would result in significant danger to public health and safety if it were to be removable, DEP may authorize the sale of the product without compliance with that requirement.¹⁵

Labeling, Collection, and Disposal

Battery disposal must be managed correctly to reduce environmental, safety, and health risks.¹⁶ While some batteries can be disposed of in household trash or municipal recycling, others can cause significant environmental contamination from heavy metals and other toxic substances.¹⁷ Batteries may contain different chemical elements, including metals like mercury, lead,

¹⁰ “Cell” is defined as a galvanic or voltaic device weighing 25 pounds or less that consists of an enclosed or sealed container containing a positive and negative electrode in which one or both electrodes consist primarily of cadmium or lead and which container includes a gel or liquid starved electrolyte. Section 403.7192(1)(a), F.S. A “cell manufacturer” is an entity that manufactures cells in the U.S. or imports into the U.S. cells or units for which no unit management program has been put into effect by the actual manufacturer of the cell or unit. Section 403.7192(1)(b), F.S. A “unit” is a cell, a rechargeable battery, or a rechargeable product with nonremovable rechargeable batteries. Section 403.7192(1)(e), F.S. A “unit management program” is a program or system for the collection, recycling, or disposal of units put in place by a marketer in accordance with law. Section 403.7192(1)(f), F.S.

¹¹ A “marketer” is any person who manufactures, sells, distributes, assembles, or affixes a brand name or private label or licenses the use of a brand name on a unit or rechargeable product. This does not include someone engaged in the retail sale of a unit or rechargeable product. Section 403.7192(1)(c), F.S.

¹² Section 403.7192(4)(a), F.S.

¹³ Section 403.7192(1)(d), F.S. This definition includes a battery pack that contains a rechargeable battery. *Id.*

¹⁴ Section 403.7192(4), F.S.

¹⁵ Section 403.7192(5), F.S.

¹⁶ EPA, *Used Household Batteries*.

¹⁷ *Id.*; DEP, *Battery Recycling and Disposal* at 1.

cadmium, nickel, and silver, as well as critical minerals¹⁸ like cobalt, lithium, and graphite.¹⁹ Improperly disposed batteries, especially lithium-ion batteries, can be dangerous fire hazards.²⁰ Certain lithium-ion batteries on the market today are classified as hazardous waste by the U.S. Environmental Protection Agency (EPA) due to their ignitability and reactive properties.²¹

| Battery Types to Trash | Battery Types to Recycle | | |
|--|--|---|---|
|  Alkaline batteries can be disposed of in the trash. |  Lithium Ion batteries (LI-ion) (rechargeable) |  Portable power tool batteries |  Wet Cell Lead Acid batteries |
|  Lantern batteries can be disposed of in the trash. |  Small Sealed Lead Acid (SSLA) batteries |  Nickel-Cadmium batteries (NiCd) |  Battery Pack |
|  For lithium batteries, tape the terminals and toss in the trash. |  Nickel Metal Hydride batteries (NIMH) |  Old-style cell phone batteries |  Button batteries |

¹⁸ The U.S. Geological Survey designates mineral commodities as “critical minerals” if the minerals have a significant role in national security, economy, renewable energy development, and infrastructure. USGS, *U.S. Geological Survey Releases 2022 List of Critical Minerals*, <https://www.usgs.gov/news/national-news-release/us-geological-survey-releases-2022-list-critical-minerals> (last visited Jan. 29, 2026). See Congressional Research Service, *Critical Mineral Resources: The U.S. Geological Survey (USGS) Role in Research and Analysis* (Feb. 21, 2025), available at <https://crsreports.congress.gov/product/pdf/R/R48005>.

¹⁹ EPA, *Used Household Batteries*.

²⁰ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 6; EPA, *Used Lithium-Ion Batteries*, <https://www.epa.gov/recycle/used-lithium-ion-batteries#businesses> (last visited March 5, 2025).

²¹ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 3. There is a wide variety of lithium-ion battery chemistries, which affects whether a given lithium-ion battery exhibits a hazardous waste characteristic that would place it under the purview of federal hazardous waste laws. If a lithium-ion battery has a hazardous waste characteristic, its disposal may be regulated under the federal Resource Conservation and Recovery Act (RCRA). RCRA regulates hazardous waste generators, however hazardous wastes discarded by households are generally exempt. Due to the dangers posed by lithium-ion batteries, the EPA recommends that all household lithium-ion batteries be dropped off at battery collection sites or household hazardous waste collection facilities. *Id.* at 6-7; 42 U.S.C. §6903; EPA, *Used Lithium-Ion Batteries*.

Many stores that sell batteries, phones, or electronics, as well as local hazardous waste facilities, will collect used batteries for recycling.²² Additionally, recycling programs like the Battery Network provide education, collection, logistics, and compliance expertise.²³

The federal Bipartisan Infrastructure Law of 2021 addressed battery recycling. It directed the EPA to develop best practices for the collection of small, medium, and large format batteries for recycling.²⁴ The best practices will:

- Be technically and economically feasible for state, Tribal, and local governments;
- Be environmentally sound and safe for waste management workers; and
- Optimize the value and use of material derived from recycling batteries.²⁵

Also as a result of the Bipartisan Infrastructure Law of 2021, the EPA is working to compile a set of voluntary labeling guidelines for various battery chemistries and types, which will be finalized in 2026.²⁶ Currently, lead-acid, nickel cadmium, and lithium-ion batteries are subject to national labeling requirements.²⁷ Any button-cell and coin batteries and the products that contain them are also subject to warning labels for child safety.²⁸

Florida law addresses the disposal of certain types of batteries. For example, it prohibits a person from knowingly placing a dry cell battery that uses a mercuric oxide electrode or a rechargeable battery (or a product containing either type of battery) in a mixed solid waste stream if the battery was purchased for use or used by a consumer or by a government, industrial, communications, or medical facility that is a conditionally exempt small quantity generator of hazardous waste.²⁹ Each government, industrial, commercial, communications, or medical facility must collect and segregate these types of batteries and send them back to a designated collection site.

²² DEP, *Battery Recycling and Disposal* at 1. Information about recycling batteries can be found through local household hazardous waste program websites, at the Battery Network, or Earth 911. DEP, *Household Hazardous Waste*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/household-hazardous-waste> (last visited Jan. 29, 2026); The Battery Network, *Homepage*, <https://batterynetwork.org/> (last visited Jan. 29, 2026); Earth911, *Recycling Search*, https://search.earth911.com/?utm_source=earth911-header (last visited Jan. 29, 2026). The graphic on this page can be found at: DEP, *Battery Recycling and Disposal* at 1.

²³ The Battery Network, <https://batterynetwork.org/about-us/> (last visited Jan. 29, 2026).

²⁴ EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 8; EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*, <https://www.epa.gov/infrastructure/battery-collection-best-practices-and-battery-labeling-guidelines> (last visited Jan. 29, 2026).

²⁵ EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*.

²⁶ *Id.*; EPA, *Voluntary Battery Labeling Guidelines*, <https://www.epa.gov/electronics-batteries-management/voluntary-battery-labeling-guidelines> (last visited Jan. 29, 2026).

²⁷ EPA, *White Paper Summarizing Existing Battery Labeling Requirements and Standards*, 6 (Jan. 2025), available at <https://www.epa.gov/system/files/documents/2025-01/battery-labeling-requirements-and-standards-white-paper.pdf>. National labeling requirements have been codified by the Mercury-Containing and Rechargeable Battery Management Act of 1996, which resulted in a partnership between the EPA and the Rechargeable Battery Recycling Corporation (now Call2Recycle) to certify a label for rechargeable batteries, and Reese's Law of 2022, which provided safety labeling requirements. *Id.* at 6-7. In addition to national labeling standards, there are also voluntary battery labeling standards, including globally recognized industry standards from organizations like SAE International, Battery Council International, and the Automotive Recyclers Association. *Id.* at 11-14.

²⁸ *Id.* at 6.

²⁹ Section 403.7192(3), F.S. A conditionally exempt small quantity generator is defined as a generator that generates no more than 100 kg of hazardous waste in a month. 40 C.F.R. §261.5 (2017). This citation in statute is no longer up to date following federal rule amendments.

Florida law also provides specific requirements for manufacturers and distributors of mercuric oxide batteries and products containing those batteries, as well as marketers of rechargeable batteries and the products powered by such batteries.³⁰ These manufacturers and distributors must:

- Implement a unit management program through which discarded batteries or products powered by nonremovable batteries may be returned to designated collections sites. The management program must be accessible for consumers and local governments collecting batteries or products from consumers, for returning discarded batteries or products. Additionally, cell manufacturers must accept rechargeable batteries of the same general type, including differing brands; the acceptance rate need not exceed the annual rate at which their batteries are sold in Florida. Cell manufacturers have the sole responsibility for reclamation and disposal of the rechargeable batteries that are returned to them.
- Clearly inform each purchaser that these batteries and products powered by nonremovable batteries may not be disposed in the solid waste stream. Manufacturers and distributors must include information about the system available to purchasers for the proper collection, transportation, recycling, or disposal of these batteries.
- Accept waste batteries or products containing these batteries returned to their designated collection sites as allowed by federal, state, and local laws and regulations.
- Ensure that the type of electrode used in each battery is clearly identifiable.³¹

Florida law requires organizations representing manufacturers to give DEP a list of organization members for whom the association is conducting the unit management program.³²

Antitrust Laws

There are three main federal antitrust laws: the Sherman Act (1890), the Federal Trade Commission Act (1914), and the Clayton Act (1914).³³ These laws protect competition for the benefit of consumers and ensure there are strong incentives for businesses to operate efficiently, keep prices down, and keep quality up.

The Sherman Act outlaws every contract, combination, or conspiracy in restraint of trade, as well as any monopolization, attempted monopolization, or conspiracy or combination to monopolize.³⁴ The Federal Trade Commission Act created the Federal Trade Commission and prohibits unfair methods of competition and unfair or deceptive acts or practices.³⁵ All violations of the Sherman Act also violate the Federal Trade Commission Act, which allows the Federal Trade Commission to bring cases under the Federal Trade Commission Act against the same types of activities that violate the Sherman Act.³⁶ The Clayton Act addresses specific practices

³⁰ Section 403.7192(6), F.S. Manufacturers and distributors of rechargeable batteries that are solely used for memory are exempt from these requirements. These requirements apply to manufacturers and distributors whose batteries and products are sold and distributed in Florida and subject to certain disposal requirements. See section 403.7192(3), F.S.

³¹ Section 403.7192(6), F.S.

³² Section 403.7192(7), F.S.

³³ Federal Trade Commission, *The Antitrust Laws*, <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws> (last visited Jan. 29, 2026).

³⁴ *Id.*

³⁵ *Id.*; 15 U.S.C. §§ 41-58.

³⁶ Federal Trade Commission, *The Antitrust Laws*.

that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates.³⁷ It also bans mergers and acquisitions where the effect may substantially lessen competition or create a monopoly.³⁸

Florida Antitrust Laws

Florida law also provides protections against anticompetitive practices. The Florida Antitrust Act of 1980 intended to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition.³⁹ It outlaws every contract, combination, or conspiracy in restraint of trade or commerce in Florida⁴⁰ and any person from monopolizing or attempting or conspiring to monopolize any part of trade.⁴¹

Generally, a contract in restraint of trade or commerce in Florida is unlawful.⁴² However, any activity or conduct exempt under Florida statutory or common law, or exempt from federal antitrust laws, is exempt under the Florida Antitrust Act.

The Florida Antitrust Act specifically does not prohibit non-competition restrictive covenants⁴³ contained in employment agreements that are reasonable in time, area, and line of business.⁴⁴ In any action concerning enforcement of a restrictive covenant, a court may not enforce a restrictive covenant unless it is set forth in a writing signed by the person against whom enforcement is sought, and the person seeking enforcement of a restrictive covenant must prove the existence of one or more legitimate business interests justifying the restrictive covenant.⁴⁵ The term “legitimate business interest” includes, but is not limited to:

- Trade secrets;⁴⁶
- Valuable confidential business or professional information that does not otherwise qualify as trade secrets;
- Substantial relationships with specific prospective or existing customers, patients, or clients;
- Customer, patient, or client goodwill associated with:
 - An ongoing business or professional practice, by way of trade name, trademark, service mark, or “trade dress;”
 - A specific geographic location; or
 - A specific marketing or trade area; or
- Extraordinary or specialized training.⁴⁷

³⁷ “Interlocking directorates” means the same person making business decisions for competing companies. *Id.*

³⁸ *Id.*

³⁹ Section 542.16, F.S.

⁴⁰ Section 542.18, F.S.

⁴¹ Section 542.19, F.S.

⁴² Section 542.18, F.S.

⁴³ Section 542.335, F.S. employs the term “restrictive covenants” and includes all contractual restrictions such as noncompetition/non-solicitation agreements, confidentiality agreements, exclusive dealing agreements, and all other contractual restraints of trade. *See Henao v. Prof'l Shoe Repair, Inc.*, 929 So.2d 723, 726 (Fla. 5th DCA 2006).

⁴⁴ Section 542.335(1), F.S.

⁴⁵ *Id.*

⁴⁶ Section 688.002(4), F.S., defines a “trade secret” as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

⁴⁷ Section 542.335(1)(b), F.S.

Any restrictive covenant not supported by a legitimate business interest is unlawful and is void and unenforceable.⁴⁸ A person seeking enforcement of a restrictive covenant must prove that the contractually specified restraint is reasonably necessary to protect the legitimate business interest or interests justifying the restriction.⁴⁹

III. Effect of Proposed Changes:

Section 1 creates s. 403.71871, F.S., which titles the sections created by this bill the “Safe Battery Collection and Recovery Act.”

Section 2 creates s. 403.71872, F.S., to define terms used in the Safe Battery Collection and Recovery Act.

The bill defines a “Battery-containing product” as a product that contains or is packaged with a covered battery. The definition excludes computers, small-scale servers, computer monitors, electronic keyboards and mice, printers, fax machines, scanners, televisions, digital video disc players and recorders, video cassette recorders, digital converter boxes, cable receivers, satellite receivers, portable digital music players, or video game consoles.

“Battery stewardship organization” (BSO) means an organization designated by a producer or a group of five or more producers that directly implements an approved battery stewardship plan.

“Covered battery” means a portable battery or a medium format battery. The definition excludes the following:

- A battery contained in a medical device⁵⁰ that is not designed or marketed for sale or resale at retail locations for personal use;
- A battery that uses free-flowing liquid electrolyte or a product that contains such a battery;
- A battery designed to power a motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by or for a vehicle manufacturer or a franchised dealer, including replacement parts for use in a motor vehicle;
- A battery in a product not intended or designed to be easily removable from the product;
- A battery or battery-containing product recalled for safety reasons; and
- A battery or battery-containing product that is offered for resale by a business that offers products for resale to other businesses or to consumers.

“Lithium-ion battery” means a rechargeable energy storage device that weighs less than 25 pounds and uses lithium ions to move between a positive electrode made of lithium-containing compounds and a negative electrode facilitating energy storage and release through an intercalation process.

“Medium format battery” means any of the following:

- A non-rechargeable battery that weighs between 4.4 and 25 pounds or

⁴⁸ *Id.*

⁴⁹ Section 542.335(1)(c), F.S.

⁵⁰ Specifically, a medical device regulated under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §301 et seq.

- A rechargeable battery that weighs more than 11 pounds or that has a rating of more than 300 watt-hours, or that weighs between 11 and 25 pounds or that has a rating between 300 and 2,000 watt-hours.

“Portable battery” means any of the following:

- A non-rechargeable battery that weighs 4.4 pounds or less or
- A rechargeable battery that weighs 11 pounds or less and has a rating or no more than 300 watt-hours.

“Producer” means a person who sells, offers for sale, or distributes for sale a covered battery or battery-containing product in Florida and who:

- Is the person who manufactures the battery or product if the battery or product is sold under a brand of the battery’s or product’s manufacturer;
- Is the person who owns the brand if such battery or product is sold under a retail brand or under a brand owned by a person other than the battery’s or product’s manufacturer; or
- If neither of the above criteria apply, the person who is the licensee of a brand or trademark under which the covered battery or battery-containing product is sold, offered for sale, or distributed for sale in Florida, regardless of where the trademark is registered;
- If none of the above criteria apply, the person who is the importer of record for the covered battery or battery-containing product into the U.S. for the purpose of selling, offering for sale, or distributing for sale the battery or product in Florida; or
- If none of the above criteria apply to any person with a commercial presence in Florida, the person who first sells, offers for sale, or distributes for sale the covered battery or battery-containing product in this state.

The term “producer” does not include a person who only sells, offers for sale, or distributes for sale a battery-containing product if the battery is supplied by another producer who has designated a BSO to implement a battery stewardship plan and who certifies this fact in writing to the person who only sells, offers for sale, or distributes for sale the battery-containing product.

“Rechargeable battery” means a battery that contains one or more voltaic or galvanic cells electrically connected to produce electric energy and that is designed to be recharged.

“Recovery” means collecting, accumulating, and transporting quantities of covered batteries or battery-containing products for the purpose of introducing them into a recycling process.

“Recycling” means separating, dismantling, or processing recovered batteries or battery-containing products or materials, components, or commodities contained in electronic waste for the purpose of preparing batteries for use or reuse in new products or components. This include manually and mechanically separating electronic waste to recover materials, components, or commodities contained therein for the purpose of reuse or recycling and changing the physical composition of electronic waste to segregate components for purposes of recycling those components. This term does not include the following:

- Destruction by incineration or other processes;
- Energy recovery or energy generation by means of combustion, gasification, pyrolysis, or other means;

- Land disposal of recyclable materials; and
- Reuse, repair, or any other process through which batteries are returned in their original form.

“Recycling efficiency rate” means the percentage calculated by dividing the weight of components and materials recovered by a BSO by the weight of covered batteries collected by the BSO.

“Retailer” means a person or entity that sells or offers for sale a covered battery in Florida or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, in Florida.

Section 3 creates s. 403.71873, F.S., to require a producer or retailer of covered batteries or battery-containing products, beginning January 1, 2028, to do all of the following before selling, offering for sale, or distributing for sale any covered battery or battery-containing product in Florida:

- Be a member of a BSO operating pursuant to an approved battery stewardship plan. This requirement does not apply to a retailer if the Florida Department of Environmental Protection’s (DEP’s) website lists, as of the date a battery or product is made available for retail sale, the producer or brand of the battery or product as listed in the approved battery stewardship plan.
- Provide verification to DEP that the covered battery or the battery in the battery-containing product identifies the producer of the battery with a clear mark or insignia.

Beginning January 1, 2029, a producer or retailer must provide verification to DEP that the covered battery or the battery in the battery-containing product states or otherwise indicates all of the following information to ensure proper collection and recycling:

- The chemistry of the battery.
- An advisement that the battery should not be disposed of in household waste.

This does not apply to batteries that are less than 0.5 inch in diameter or do not have a surface with a length that exceeds 0.5 inch.

The bill prohibits a producer, retailer, or BSO from charging a point-of-sale fee to consumers to cover the costs of implementing an approved battery stewardship plan.

Section 4 creates s. 403.71874, F.S., to require any BSO operating in Florida to submit a battery stewardship plan to DEP on a yearly basis for review and approval. Battery stewardship plans must be submitted beginning January 1, 2027.

A battery stewardship plan is valid for 5 years and must include all of the following:

- The name and contact information of each producer included in the plan.
- The brand of the covered battery or batteries that the BSO’s producer sells or distributes in Florida.
- Performance goals and processes for achieving those goals. Performance goals must include, but are not limited to, the following:

- A strategy for optimal recycling efficiency rates of at least 60 percent for rechargeable batteries and 70 percent for non-rechargeable batteries and
- An education and outreach strategy to enhance consumer awareness of the battery stewardship plan and of the convenience and accessibility of end-of-life management options for covered batteries or batteries in battery-containing products collected pursuant to the plan.
- Processes for providing notice to retailers that retailers, producers, or BSOs may not charge a point-of-sale fee to consumers to cover the costs of implementing a battery stewardship plan.
- Processes for providing collection sites with signage, written materials, and other promotional materials to inform consumers of the available end-of-life management options for covered batteries.
- Collection site safety training procedures that but include, but are not limited to, the following:
 - Operating protocols to reduce risks of spills or fires and response protocols for such events and
 - Protocols for the safe management of damaged or defective batteries.
- A detailed budget that equitably distributes plan implementation costs among BSO members.
- Procedures and guidelines for covered battery collection that will ensure covered battery collection will occur at no cost to consumers on a continuous, convenient, visible, and accessible basis, regardless of the brand or producer of the covered battery.
- Procedures and guidelines to govern battery collection and management.
- Criteria for the designation of an entity as a covered battery collection site and the addresses of such designated covered battery collection sites.
- The names of proposed service providers, including sorters, transporters, and processors, to be used for the final disposition of batteries.
- Procedures and guidelines to govern how a BSO will coordinate with material recovery facilities and secondary processors to properly process and transport for recycling any covered batteries improperly sent to such facilities through the waste or recycling streams.
- Procedures for recordkeeping, tracking, and documenting the management and disposition of collected covered batteries, including any delay anticipated by a BSO in managing medium format batteries.

Following approval of its battery stewardship plan, a BSO must:

- Submit a new battery stewardship plan to DEP for approval every four years. The new plan must include corrective measures that the BSO must implement if the performance goals in the last plan are not met. Corrective measures may include improvements to the collection site network or increased expenditures dedicated to education and outreach.
- Submit battery stewardship plan amendments to DEP for approval.
- Notify DEP within 90 days after a producer, processor, or transporter begins or ceases participation in the BSO, or within 90 days after the addition or removal of a processor or transporter under the battery stewardship plan.

DEP must approve, conditionally approve, or deny a battery stewardship plan or plan amendment within 120 day after receiving the plan or amendment. If DEP denies a proposed plan or amendment, it must notify the BSO in writing and describe why the plan or amendment

does not comply with statutory requirements. Within 60 days of the denial the BSO must submit a revised plan or amendment or notice that it is withdrawing the plan or amendment.

After resubmission, DEP has 90 days to approve or deny the revised plan or amendment. A denial of the revised plan or amendment may be appealed to DEP in accordance with law.

Section 5 creates s. 403.71875, F.S., to require a BSO to:

- Be responsible for all costs associated with implementing a battery stewardship plan;
- Reimburse local governments for demonstrable costs incurred by a local government facility or solid waste facility designated as a collection site under a battery stewardship plan; and
- Collect charges from participating producers sufficient to cover the costs of implementing a battery stewardship plan, including battery collection, transportation, processing, education and outreach, and program evaluation.

Section 6 creates s. 403.71876, F.S., to provide collection and management requirements for BSOs that are implementing an approved battery stewardship plan. A BSO must:

- Provide for the collection of all covered batteries, statewide, from any person, regardless of the chemistry or brand of the battery, and on a free, continuous, convenient, and accessible basis.
- Equip collection sites with suitable collection containers for covered batteries that are separated from other solid waste, or provide alternative arrangements for the collection of such batteries at the site. This must be done at no cost to the sites.
- Ensure that medium format batteries are collected only at household hazardous waste collection sites or other staffed collection site that meet applicable federal, state, and local requirements for managing medium format batteries.
- Provide for the collection of damaged and defective batteries (by persons trained to handle and ship such batteries) at collection sites and at each permanent household hazardous waste facility and each household hazardous waste collection event provided by DEP. “Damaged and defective batteries” are batteries that have been damaged or identified by the manufacturer as being defective for safety reasons and that have the potential to produce a dangerous evolution of heat, fire, or short circuit.⁵¹
- Coordinate the delivery of services with existing public and private waste collection services and facilities; transporters; consolidators; processors; electronic waste recyclers; other BSOs; retailers if cost-effective, mutually agreeable, and otherwise practical; or other related entities to provide efficient and cost effective delivery of services.
- For portable batteries, provide (within three years of the approval of a battery stewardship plan) at least one permanent collection site within a 15-mile radius for at least 95 percent of state residents and at least one permanent collection site, service or event for every 30,000 residents of a county.
- For medium format batteries, provide (within three years of the approval of a battery stewardship plan) at least 10 permanent collection sites reasonably dispersed throughout Florida, a collection even at least once every three years in each county without a permanent collection site that provides for the collection of all medium format batteries, and any entity

⁵¹ As referred to in 49 C.F.R. s. 173.185(f) or as provided by the state by rule to maintain consistency with federal standards.

which may be used as a collection site or that will authorize a collection event on its property.

A BSO that is implementing an approved battery stewardship plan may issue a warning for the suspension or termination of a collection site or service that is out of compliance with the approved plan or that poses an immediate health and safety threat.

Additionally, A BSO is not required to provide for the collection of batteries, battery-containing products, or covered batteries that remain contained in a battery-containing product at the time of delivery to a collection site or event, if such batteries or products are under a safety recall.

A BSO may seek reimbursement from the producer of a battery or battery-containing product that is under safety recall for the costs incurred in collecting, transporting, or processing such batteries or products.

Section 7 creates s. 403.71877, F.S., to require a BSO that is implementing an approved battery stewardship plan to do all of the following to promote the implementation of the plan:

- Develop and maintain a website.
- Develop and place advertisements on social media or other relevant media platforms.
- Develop promotional materials about the battery stewardship plan and the restrictions on disposing of covered batteries.
- Develop and distribute to collection sites training procedures to help ensure proper management of covered batteries.
- Provide to each collection site consumer-focused educational materials that are accessible by customers of retailers that sell covered batteries or battery-containing products.
- Provide safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires, respond to a spill or fire, and manage a damaged or defective battery.
- Provide educational materials to the operator of each collection site for the management of recalled batteries.
- Provide educational materials describing collection opportunities for covered batteries upon request by a retailer or other potential collection site.
- Coordinate with other BSOs implementing a battery stewardship plan to provide education and outreach.
- Conduct a survey of public awareness of the outreach efforts undertaken. The survey must be conducted during the first year of implementing the battery stewardship plan and once every five years thereafter. The BSO must make the survey results available to DEP.

Section 8 creates s. 403.71878, F.S., which requires a BSO that is implementing an approved battery stewardship plan to submit an annual report to DEP beginning on June 1, 2029. The report must include the following:

- A summary financial statement documenting the financing of the battery stewardship plan and an analysis of the plan's expenses, like collection, transportation, recycling, education, and administrative overhead. The summary financial statement must provide transparency regarding funds collected from producers spent on plan implementation, in addition to other necessary financial accounting information.

- The weight, by chemistry, of collected covered batteries.
- The weight of material recycled from collected covered batteries, including covered batteries recovered by any method of battery recycling.
- A calculation of the recycling efficiency rate.
- A list of all facilities used in the processing or disposition of covered batteries.
- A summary of any violations of environmental laws and regulations during the previous calendar year at each facility.
- For each facility used for the final disposition of covered batteries, a review of how the facility recycled or otherwise managed batteries and battery components.
- The weight and chemistry of covered batteries sent to each facility used for the final disposition of batteries. This information may be approximated based on extrapolations of national or regional data for programs in operation in multiple states.
- The estimated aggregate sales (by weight and chemistry) of covered batteries, including those contained in or packaged with battery-containing products, sold in Florida by the BSO's participating producers for each of the previous three calendar years.
- A summary describing the management and recycling of collected batteries, including an analysis of best available technologies and the recycling efficiency rate.
- A description of education and outreach efforts supporting plan implementation, including:
 - A summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers to promote the collection and recycling of covered batteries and an analysis of how such education and outreach meet requirements in the Safe Battery Collection and Recovery Act;
 - Samples of education and outreach materials;
 - A summary of coordinated education and outreach efforts with any other BSOs that are implementing a battery stewardship plan;
 - A summary of any changes made during the previous calendar year to education and outreach activities; and
 - An evaluation of the effectiveness of education and outreach activities.
- A list of all collection sites used to implement the battery stewardship plan that includes for each site an address, a website link, if available, and an updated map of each site's location.
- A description of methods used to collect, transport, and recycle covered batteries.
- An analysis of the performance goals and if the goals were not met, an explanation why they were not met.

After four years of implementation of an approved battery stewardship plan, a BSO or a producer member of a BSO must hire an independent third party to conduct a one-time audit of the battery stewardship plan and the plan's operation.

The auditor must examine the effectiveness of the battery stewardship plan in collecting and recycling covered batteries, as well as the plan's cost-effectiveness. The auditor must compare the cost-effectiveness of the plan to the cost-effectiveness of the collection plans and programs for covered batteries in other jurisdictions.

The BSO must submit a copy of the audit to DEP.

Section 9 creates s. 403.71879, F.S., to require DEP to include the following on its website:

- A copy of all approved battery stewardship plans and any amendments to the plans,
- The names of producer members that are covered under an approved battery stewardship plan,
- A list of brands of covered batteries that are covered under an approved battery stewardship plan, and
- A copy of each annual report submitted by a BSO to DEP.

Section 10 creates s. 403.71881, F.S., to provide that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with an approved battery stewardship plan.

Section 11 creates s. 403.71882, F.S., to authorize a person or recycler to offer or perform fee-based household battery collection services or mail-back services for covered batteries or a recycler in Florida independently of a BSO if:

- The services are performed and facilities are opened in compliance with all applicable federal, state, and local laws and requirements; and
- All batteries collected from customers in Florida are provided to a BSO that is implementing an approved battery stewardship plan. After providing collected batteries to a BSO, any transport and processing must be done at the BSO's expense. A BSO may refuse to accept batteries from any such person or recycler if DEP is notified of the reason for such refusal.

The person or recycler described above may recycle covered batteries if the person or recycler provides collection data and recycling data to DEP that includes:

- The weight (by chemistry) of covered batteries collected;
- The weight of materials recycled from covered batteries collected in total and by method of battery recycling;
- A list of all facilities used in the processing or disposition of covered batteries and a summary of any violations of environmental laws and regulations during the previous three years at each facility;
- A description of how each facility recycled or otherwise managed batteries and battery components for the final disposition of covered batteries; and
- The weight and chemistry of covered batteries sent to each facility for the final disposition of batteries.

The person or recycler described above may not receive compensation from a BSO for any batteries collected, transported, or recycled.

Section 12 creates s. 403.71883, F.S., to provide that, beginning January 1, 2028, all of the following will apply:

- A person may dispose of a covered battery only by delivery to a collection site or event operated under an approved battery stewardship plan, unless the battery is regulated as hazardous waste.

- A person may not knowingly cause or allow a covered battery to mix with recyclable materials intended for processing and sorting at a material recovery facility, with municipal waste intended for landfill disposal, or with waste that is intended for burning or incineration.
- A person may not knowingly cause or allow the disposal of a covered battery in a landfill.
- A person may not knowingly cause or allow a covered battery to burn or incinerate.

A solid waste collector is not in violation of this act for a covered battery placed in a disposal container by a person or recycler.

A BSO may not refuse to accept covered batteries inadvertently received by a recycling or solid waste facility if the batteries are properly packaged, unless the BSO notifies DEP.

Section 13 creates s. 403.71884, F.S., which provides the following penalties:

- A person who violates the Safe Battery Collection and Recovery Act is subject to a civil penalty of \$1,000 for each violation.
- A person who knowingly makes a false material statement to DEP related to a battery stewardship plan commits a third-degree felony punishable by a fine of up to \$5,000 in addition to or in lieu of up to 5 years of imprisonment, or if the offender is a habitual felony offender, up to 10 years of imprisonment.
- In addition to any other penalty, the attorney general or a county attorney of the county where the violation occurs may bring an action to enjoin any person from violating the Safe Battery Collection and Recovery Act.

The bill authorizes a BSO that implements an approved battery stewardship plan to bring civil actions for the following reasons:

- To recover costs and damages from a producer who sells (or otherwise makes available in Florida) covered batteries or battery-containing products that are not included under an approved plan. This action may be brought against one or more defendants, as well as defendant producers if the BSO incurs costs in Florida of over \$1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries or battery-containing products of a non-participating producer. These costs may include legal fees and expenses and reasonable incremental administrative and program promotional costs.
- To recover costs associated with handling a recalled battery from the producer of the recalled battery. These costs include legal fees and expenses.
- To recover costs imposed on the BSO that are incurred because another BSO underperforms on its battery collection obligations by failing to collect and provide for the end-of-life management of batteries. These costs include legal fees and expenses.

Section 14 repeals s. 403.7192, F.S., concerning batteries and consumer, manufacturer, and seller requirements.⁵² The repealed section includes the following:

- Definitions for cell, cell manufacturer, marketer, rechargeable battery, unit, and unit management program;
- Mercury level requirements for alkaline-manganese and zinc-carbon batteries;

⁵² See pages 4 and 6-7 of this analysis for detailed descriptions of the provisions that are repealed by the bill.

- Disposal requirements for dry cell batteries that use mercuric oxide electrodes and rechargeable batteries in certain circumstances;
- Requirements for cell manufacturers and marketers of products powered by rechargeable batteries;
- Requirements for manufacturers and distributors of mercuric oxide batteries and products that contain them;
- Penalties for violations of the section; and
- A provision concerning recovery by the state of reasonable administrative expenses, court costs, and attorney's fees incurred in taking an enforcement action.

Section 15 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Supremacy Clause in the U.S. Constitution establishes that the federal constitution, and federal law generally, take precedence over state laws and constitutions.⁵³ The Supremacy Clause prohibits states from interfering with the federal government's exercise of its constitutional powers and from assuming any functions that are exclusively entrusted to the federal government.⁵⁴

Because of the Supremacy Clause, section 10 of the bill does not prohibit producers, retailers, or battery stewardship organizations from being liable under federal antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices.

⁵³ U.S. CONST. art. VI, cl. 2.

⁵⁴ *E.g., Wisconsin Public Intervenor v. Mortier*, 501 U.S. 597, 604 (1991).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may cause an indeterminate negative fiscal impact to producers of covered batteries or battery-containing products, who will be required to pay for the implementation of battery stewardship plans.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 4 of the bill requires a battery stewardship organization (BSO) to submit a battery stewardship plan to DEP for review and approval on a yearly basis. It also requires a BSO to submit a plan to DEP for approval every four years. These provisions do not conflict, however it is unclear why it would be necessary to submit the plan annually if it is valid for five years.

Section 4 of the bill also provides that a battery stewardship plan is valid for five years, but requires new plans to be submitted every four years. This likely should require new plans to be submitted prior to the plan's expiration date.

Section 11 of the bill provides that a person or recycler may offer or perform fee-based household battery collection services or mail-back services for covered batteries or a recycler in this state independently of a battery stewardship organization if certain criteria are met. This provision may need to be clarified.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 403.71871, 403.71872, 403.71873, 403.71874, 403.71875, 403.71876, 403.71877, 403.71878, 403.71879, 403.71881, 403.71882, 403.71883, and 403.71884.

This bill repeals section 403.7192 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
