

Amendment to HB 1459-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 New Subdivision; Photovoltaic Recycling Program. Amend RSA 149-M by inserting after
4 section 61 the following new subdivision:

5 Photovoltaic Recycling Program

6 149-M:62 Definitions. In this subdivision:

7 I. "Consumer electronic device" means any device containing an electronic circuit board that
8 is intended for everyday use by individuals, such as a watch or calculator.

9 II. "Department" means the department of environmental services.

10 III. "Distributor" means a person who markets and sells photovoltaic modules to retailers in
11 New Hampshire.

12 IV. "Installer" means a person who assembles, installs, and maintains photovoltaic module
13 systems.

14 V. "Photovoltaic module" means the smallest nondivisible, environmentally protected
15 assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended
16 to generate electrical power under sunlight, except that "photovoltaic module" does not include a
17 photovoltaic cell that is part of a consumer electronic device for which it provides electricity needed
18 to make the consumer electronic device function. "Photovoltaic module" includes but is not limited to
19 interconnections, terminals, and protective devices such as diodes that:

20 (a) Are installed on, connected to, or integral with buildings;

21 (b) Are used as components of freestanding, off-grid, power generation systems, such as
22 for powering water pumping stations, electric vehicle charging stations, fencing, street and signage
23 lights, and other commercial or agricultural purposes; or

24 (c) Are part of a system connected to the grid or utility service.

25 VI. "Rare earth element" means lanthanum, cerium, praseodymium, neodymium,
26 promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium,
27 ytterbium, lutetium, yttrium, or scandium.

28 VII. "Reuse" means any operation by which a photovoltaic module or a component of a
29 photovoltaic module changes ownership and is used for the same purpose for which it was originally
30 purchased.

31 VIII. "Stewardship plan" means the plan developed by a installer or its designated
32 stewardship organization for a self-directed stewardship program.

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1 IX. "Stewardship program" means the activities conducted by a installer or a stewardship
2 organization to fulfill the requirements of this subdivision and implement the activities described in
3 its stewardship plan.

4 149-M:63 Photovoltaic Module Stewardship Plan.

5 I. The department shall develop guidance for a photovoltaic module stewardship and
6 takeback program to guide installers in preparing and implementing a self-directed program to
7 ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic
8 modules and their components and materials. By January 1, 2024, the department shall establish a
9 process to develop guidance for photovoltaic module stewardship plans by working with installers,
10 stewardship organizations, and other stakeholders on the content, review, and approval of
11 stewardship plans. The department's process shall be fully implemented and stewardship plan
12 guidance completed by July 1, 2025.

13 II. A stewardship organization may be designated to act as an agent on behalf of an installer
14 or installers in operating and implementing the stewardship program required under this
15 subdivision. Any stewardship organization that has obtained such designation shall provide to the
16 department a list of the installers and brand names that the stewardship organization represents
17 within 60 days of its designation by a installer as its agent, or within 60 days of removal of such
18 designation.

19 III. Each installer shall prepare and submit a stewardship plan to the department by the
20 later of July 1, 2030, or within 30 days of its first sale of a photovoltaic module in or into the state.

21 (a) A stewardship plan shall, at a minimum:

22 (1) Describe how installers will finance the takeback and recycling system, and
23 include an adequate funding mechanism to finance the costs of collection, management, and
24 recycling of photovoltaic modules and residuals sold in or into the state by the installer with a
25 mechanism that ensures that photovoltaic modules can be delivered to takeback locations without
26 cost to the last owner or holder;

27 (2) Accept all of their photovoltaic modules sold in or into the state after July 1,
28 2022;

29 (3) Describe how the program will minimize the release of hazardous substances into
30 the environment and maximize the recovery of other components, including rare earth elements and
31 commercially valuable materials;

32 (4) Provide for takeback of photovoltaic modules at locations that are within the
33 region of the state in which their photovoltaic modules were used and are as convenient as
34 reasonably practicable, and if no such location within the region of the state exists, include an
35 explanation for the lack of such location;

36 (5) Identify how relevant stakeholders, including consumers, installers, building
37 demolition firms, and recycling and treatment facilities, will receive information required in order

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1 for them to properly dismantle, transport, and treat the end-of-life photovoltaic modules in a manner
2 consistent with the objectives described in subparagraph (a)(3);

3 (6) Establish performance goals, including a goal for the rate of combined reuse and
4 recycling of collected photovoltaic modules as a percentage of the total weight of photovoltaic
5 modules collected, which rate shall be no less than 85 percent.

6 (b) A installer shall implement the stewardship plan.

7 (c) A installer may periodically amend its stewardship plan. The department shall
8 approve the amendment if it meets the requirements for plan approval outlined in the department's
9 guidance. When submitting proposed amendments, the installer shall include an explanation of why
10 such amendments are necessary.

11 IV. The department shall approve a stewardship plan if it determines the plan addresses
12 each element outlined in the department's guidance.

13 V.(a) Beginning April 1, 2032, and by April 1st in each subsequent year, a installer, or its
14 designated stewardship organization, shall provide to the department a report for the previous
15 calendar year that documents implementation of the plan and assesses achievement of the
16 performance goals established in this section.

17 (b) The report may include any recommendations to the department or the legislature on
18 modifications to the program that would enhance the effectiveness of the program, including
19 management of program costs and mitigation of environmental impacts of photovoltaic modules.

20 (c) The installer or stewardship organization shall post this report on a publicly
21 accessible website.

22 VI. Beginning July 1, 2028, no distributor, installer, or installer may sell or offer for sale a
23 photovoltaic module in or into the state unless the installer of the photovoltaic module has submitted
24 to the department a stewardship plan and received plan approval.

25 (a) The department shall send a written warning to a installer that is not participating
26 in a plan. The written warning shall inform the installer that it shall submit a plan or participate in
27 a plan within 30 days of the notice. The department may assess a penalty of up to \$10,000 upon a
28 installer for each sale that occurs in or into the state of a photovoltaic module for which a
29 stewardship plan has not been submitted by the installer and approved by the department after the
30 initial written warning. A installer may appeal a penalty issued under this section to the superior
31 court within 180 of receipt of the notice.

32 (b) The department shall send a written warning to a distributor, installer, or installer
33 that sells or installs a photovoltaic module made by a installer that is not participating in a plan.
34 The written warning shall inform the distributor, installer, or installer that they may no longer sell
35 or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the
36 installer and approved by the department within 30 days of the notice.

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1 VII. The department may collect a flat fee from participating installers to recover costs
2 associated with the plan guidance, review, and approval process described in paragraph I. Other
3 administrative costs incurred by the department for program implementation activities, including
4 stewardship plan review and approval, enforcement, and any rule making, may be recovered by
5 charging every installer an annual fee calculated by dividing department administrative costs by the
6 installer's pro rata share of the New Hampshire state photovoltaic module sales in the most recent
7 preceding calendar year, based on best available information. The sole purpose of assessing the fees
8 authorized in this subsection is to predictably and adequately fund the department's costs of
9 administering the photovoltaic module recycling program.

10 VIII. In lieu of preparing a stewardship plan and as provided by paragraph III, a installer
11 may participate in a national program for the convenient, safe, and environmentally sound takeback
12 and recycling of photovoltaic modules and their components and materials, if substantially
13 equivalent to the intent of the state program. The department may determine substantial
14 equivalence if it determines that the national program adequately addresses and fulfills each of the
15 elements of a stewardship plan outlined in subparagraph III(a) and includes an enforcement
16 mechanism reasonably calculated to ensure a installer's compliance with the national program.
17 Upon issuing a determination of substantial equivalence, the department shall notify affected
18 stakeholders including the installer. If the national program is discontinued or the department
19 determines the national program is no longer substantially equivalent to the state program in New
20 Hampshire, the department shall notify the installer and the installer shall provide a stewardship
21 plan as described in paragraph III to the department for approval within 30 days of notification.

22 149-M:64 Rulemaking; Photovoltaic Recycling Fund.

23 I. The department shall adopt rules under RSA 541-A for the administration of this
24 subdivision.

25 II. There is hereby established the photovoltaic recycling fund. The fund shall be
26 administered by the department. The fund shall be kept distinct and separate from all other funds
27 and used for the administration of this subdivision. All fees collected from photovoltaic installers
28 under this subdivision shall be deposited in this account. All moneys in the fund shall be nonlapsing
29 and continually appropriated to the department for the purposes of this subdivision.

30 2 New Subparagraph; Photovoltaic Recycling Fund. Amend RSA 6:12, I(b) by inserting after
31 subparagraph (382) the following new subparagraph:

32 (383) Moneys deposited in the photovoltaic recycling fund established in RSA 149-
33 M:64, II.

34 3 Effective Date. This act shall take effect July 1, 2022.