



Sub. H.B. 169

127th General Assembly
(As Passed by the General Assembly)

Reps. Wagner, Evans, J. McGregor, Latta, Stebelton, Chandler, Yuko, Collier, Fessler, Wolpert, Lundy, R. Hagan, Mallory, Otterman, Heard, B. Williams, Schindel, DeBose, Celeste, Zehringer, Budish, Domenick, Dyer, Flowers, Foley, Harwood, Hughes, Koziura, Letson, Miller, D. Stewart, J. Stewart, Wagoner

Sens. Niehaus, Schaffer, D. Miller, Morano, Fedor, Harris, Kearney, Mason, Mumper, Spada

Effective date: *

ACT SUMMARY

- Prohibits any person from commingling a used lead-acid battery with solid waste or disposing of a used lead-acid battery at a solid or hazardous waste facility.
- Requires a person to discard a used lead-acid battery by delivering it to a retailer, a wholesaler, a secondary lead smelter, an automotive repair business, a household hazardous waste collection location or event, or a lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under the Solid, Infectious, and Hazardous Waste Law.
- Requires a retailer to discard a used lead-acid battery by delivering it to a wholesaler, a secondary lead smelter, a battery manufacturer for delivery to a secondary lead smelter, or a lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under the Solid, Infectious, and Hazardous Waste Law.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

- Requires a retailer to accept from a purchaser of a lead-acid battery, at the time of purchase, used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the retailer.
- Requires a retailer that displays for sale and sells lead-acid batteries in Ohio to post the sign that is prescribed by the act at a location that is visible to customers and in close proximity to the location where lead-acid batteries are displayed for sale at the retailer's location.
- Requires a wholesaler that sells lead-acid batteries in Ohio to accept from a purchaser of a lead-acid battery used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the wholesaler.
- Requires a retailer that displays for sale and sells lead-acid batteries in Ohio to post a sign describing the act's requirements.
- Exempts licensed motor vehicle dealers from the act's signage requirements.
- Establishes civil penalties for violations of the act.

CONTENT AND OPERATION

Prohibition against improper disposal of lead-acid batteries

The act generally prohibits any person from commingling a used lead-acid battery with solid waste or disposing of a used lead-acid battery at a solid waste or hazardous waste facility (sec. 3734.911(A)). The act defines "lead-acid battery" to mean a battery that contains lead and sulfuric acid, is used as a power source, and is not intended as a power source for consumer products (sec. 3734.91(B)). "Consumer product" is defined to mean any device that primarily is intended for personal or household use and typically is sold, distributed, or available to the general population through retail or mail-order distribution. "Consumer product" includes at least computers, electronic games, telephones, radios, and similar electronics, but does not include vehicles, motorcycles, wheelchairs, boats, or other forms of motive power. (Sec. 3734.91(A).)

The prohibition established by the act applies to persons notwithstanding a provision in ongoing law that specifies that the Solid, Infectious, and Hazardous

Waste Law does not apply to single-family residential premises and notwithstanding any rule adopted under that Law to the contrary (sec. 3734.911(A)). The act declares that each lead-acid battery that is improperly disposed of or discarded constitutes a separate violation of the act (sec. 3734.911(D)).

Proper discarding requirements

Under the act, a person must discard a used lead-acid battery by delivering it to one of the following:

(1) A retailer, which is defined as a person that sells lead-acid batteries directly to the end user;¹

(2) A wholesaler, which is defined as a person that sells replacement lead-acid batteries for resale;²

(3) A secondary lead smelter, which is defined to mean a facility that produces lead from a lead-bearing scrap material by smelting the material to the metallic form and that is permitted or licensed by a state or the United States Environmental Protection Agency;³

(4) An automotive repair business;

(5) A household hazardous waste collection location or event; or

(6) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under the Solid, Infectious, and Hazardous Waste Law (sec. 3734.911(B)).

Requirements pertaining to retailers

The act requires a retailer to discard a used lead-acid battery by delivering it to one of the following:

(1) A wholesaler;

(2) A secondary lead smelter;

¹ Sec. 3734.91(C).

² Sec. 3734.91(E).

³ Sec. 3734.91(D).

(3) A battery manufacturer for delivery to a secondary lead smelter; or

(4) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under the Solid, Infectious, and Hazardous Waste Law (sec. 3734.911(C)).

In addition, the act requires a retailer that sells lead-acid batteries in Ohio to accept from a purchaser of a lead-acid battery, at the time of purchase, used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the retailer (sec. 3734.912(A)). Finally, the act requires a retailer that displays for sale and sells lead-acid batteries in Ohio to post the sign that is prescribed by the act (see "*Signage requirement*," below) at a location that is visible to customers and in close proximity to the location where lead-acid batteries are displayed for sale at the retailer's location (sec. 3734.912(B)). However, the act states that the requirement to post a sign does not apply to a licensed motor vehicle dealer (sec. 3734.912(C)).

Requirements pertaining to wholesalers

A wholesaler that sells lead-acid batteries in Ohio must accept from a purchaser of a lead-acid battery used lead-acid batteries of the same general type and in a quantity that is at least equal to the number sold to the purchaser if the purchaser offers the used lead-acid batteries to the wholesaler. Not later than 90 days after the day of purchase of a lead-acid battery by such a retailer from a wholesaler, the wholesaler must remove the applicable number of lead-acid batteries from the retailer's location. (Sec. 3734.913.)

Signage requirement

Under the act, a retailer that displays for sale and sells lead-acid batteries in Ohio must post a sign that must be at least eight and one-half inches by eleven inches in size, use lettering that is at least 30 point font in size, display the universal recycling symbol, and contain all of the following language:

(1) "It is illegal to discard a used lead-acid battery."

(2) "Recycle your used batteries."

(3) "State law requires us to accept used lead-acid batteries for recycling in exchange for new batteries purchased." (Sec. 3734.914(A).)

The act states that the signage requirements do not apply to a licensed motor vehicle dealer (sec. 3734.914(B)).

Civil penalties

Persons that violate the act's provisions regarding the discarding of lead-acid batteries or signage requirements are subject to a civil penalty of \$25 for each day of violation. Retailers and wholesalers that violate the act's provisions are subject to the general civil penalty established in continuing law for a violation of the Solid, Infectious, and Hazardous Waste Law, which is up to \$10,000 for each day of each violation. (Sec. 3734.13(C).)

Lead-acid battery cases

The act specifies that lead-acid battery cases sold in Ohio are not required to display a Society for Plastics Industry symbol or code, a Society for Automotive Engineers symbol or code, or another resin identification code (sec. 3734.915).

HISTORY

ACTION	DATE
Introduced	04-19-07
Reported, H. Economic Development & Environment	06-07-07
Passed House (98-0)	06-13-07
Reported, S. Environment & Natural Resources	10-24-07
Passed Senate (30-0)	11-14-07
House concurred in Senate amendments (91-0)	01-15-08

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