

AN ACT

To amend section 3734.13 and to enact sections 3734.91, 3734.911, 3734.912, 3734.913, 3734.914, and 3734.915 of the Revised Code to establish requirements governing the disposal and collection of used lead-acid batteries.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3734.13 be amended and sections 3734.91, 3734.911, 3734.912, 3734.913, 3734.914, and 3734.915 of the Revised Code be enacted to read as follows:

Sec. 3734.13. (A) The director of environmental protection may issue, modify, suspend, or revoke enforcement orders in accordance with Chapter 3745. of the Revised Code to a holder of a registration certificate, permit, or license issued by the director or a board of health under this chapter, or to another person, directing the holder or person to abate a violation, or to prevent any threatened violation, of any section of this chapter other than sections 3734.90 to 3734.9013 of the Revised Code, a rule adopted thereunder, or a term or condition of a permit, license, or variance issued thereunder within a specified, reasonable time.

(B) Notwithstanding division (C) of section 3734.85 of the Revised Code, if the director determines that an emergency exists requiring immediate action to protect the public health or safety or the environment, the director may issue an order, without notice or hearing, reciting the existence of the emergency and requiring that such action be taken as necessary to meet the emergency. The order shall take effect immediately. Any person to whom the order is directed shall comply immediately, but on application to the director shall be afforded a hearing as soon as possible and not later than thirty days after application. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. No emergency order shall remain in effect for more than one hundred twenty days after its issuance.

(C) If the director determines that any person is violating or has violated this chapter, a rule adopted thereunder, or a term or condition of a permit, license, variance, or order issued thereunder, the director may request in

writing that the attorney general bring a civil action for appropriate relief, including a temporary restraining order, preliminary or permanent injunction, and civil penalties in any court of competent jurisdiction. Such an action shall have precedence over all other cases. Except as otherwise provided in this division with regard to a violation of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires, the court may impose upon the person a civil penalty of not more than ten thousand dollars for each day of each violation of this chapter other than a violation of section 3734.60 of the Revised Code, ~~a violation of sections 3734.62 to 3734.65 of the Revised Code,~~ sections 3734.90 to 3734.9013 of the Revised Code or a rule adopted under those sections, or division (B) of section 3734.912 or section 3734.914 of the Revised Code; ~~of a rule adopted thereunder under this chapter other than a rule adopted under division (B) of section 3734.122 of the Revised Code, or, or of a term or condition of a permit, license, variance, or order issued thereunder, under this chapter or a violation of sections 3734.62 to 3734.65 of the Revised Code.~~ The court may impose upon a person who violates a rule adopted under division (B) of section 3734.122 of the Revised Code a civil penalty of not more than twenty-five thousand dollars for each day of each violation of the rule. The court may impose upon a person who violates section 3734.60 of the Revised Code a civil penalty of not more than two hundred fifty dollars for each day of violation of that section. The court may impose upon a person who violates any of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires a civil penalty of not more than five thousand dollars for each day of each violation, except that if the violation is of a provision, rule, or term or condition that relates to the open burning or open dumping of scrap tires, or if the violation is of an emergency order of the director issued under division (B) of section 3734.13 of the Revised Code that pertains to scrap tires, the court may impose a civil penalty of not more than ten thousand dollars for each day of each violation. The court may impose upon a person who violates section 3734.62 of the Revised Code a civil penalty of not more than one hundred dollars for each violation of that section. The court may impose upon a person who violates section 3734.63, 3734.64, or 3734.65 of the Revised Code a civil penalty of not more than five thousand dollars for each day of each violation of the applicable section, but the total amount of a civil penalty imposed upon a person for a violation of the applicable

section shall not exceed twenty-five thousand dollars. The court may impose upon a person who violates division (B) of section 3734.912 or section 3734.914 of the Revised Code a civil penalty of not more than twenty-five dollars for each day of violation.

Any action under this section is a civil action, governed by the Rules of Civil Procedure.

(D) No person shall violate any term or condition of any order issued under this section.

(E) Except as otherwise provided in this division, moneys resulting from civil penalties imposed under division (C) of this section shall be paid into the hazardous waste clean-up fund created in section 3734.28 of the Revised Code. Moneys resulting from civil penalties imposed under division (C) of this section for violations of any of the provisions of this chapter governing scrap tires, rules adopted under those provisions, terms or conditions of permits or licenses issued under them, or terms or conditions of orders issued pertaining to scrap tires shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

Sec. 3734.91. As used in sections 3734.91 to 3734.915 of the Revised Code:

(A) "Consumer product" means 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, but is not limited to, computers, electronic games, telephones, radios, and similar electronics. "Consumer product" does not include vehicles, motorcycles, wheelchairs, boats, or other forms of motive power.

(B) "Lead-acid battery" means 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.

(C) "Retailer" means a person that sells lead-acid batteries directly to the end user.

(D) "Secondary lead smelter" means 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.

(E) "Wholesaler" means a person that sells replacement lead-acid batteries for resale.

Sec. 3734.911. (A) Notwithstanding division (D) of section 3734.02 of the Revised Code and any rule adopted under this chapter to the contrary, no person shall commingle a used lead-acid battery with solid waste or dispose

of a used lead-acid battery at a solid waste or hazardous waste facility.

(B) Notwithstanding division (D) of section 3734.02 of the Revised Code and any rule adopted under this chapter to the contrary, and except as provided in division (C) of this section, a person shall discard a used lead-acid battery by delivering it to one of the following:

(1) A retailer;

(2) A wholesaler;

(3) A secondary lead smelter;

(4) An automotive repair business;

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

(6) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under section 3734.12 of the Revised Code.

(C) A retailer shall discard a used lead-acid battery by delivering it to one of the following:

(1) A wholesaler;

(2) A secondary lead smelter;

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

(4) A lead-acid battery collection or recycling entity or other entity that operates in compliance with rules adopted under section 3734.12 of the Revised Code.

(D) Each lead-acid battery that is improperly disposed of or discarded constitutes a separate violation of this section.

Sec. 3734.912. (A) A retailer that sells lead-acid batteries in this state shall 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.

(B) A retailer that displays for sale and sells lead-acid batteries in this state shall post the sign that is prescribed by section 3734.914 of the Revised Code 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.

(C) Division (B) of this section does not apply to a motor vehicle dealer that is licensed under Chapter 4517. of the Revised Code.

Sec. 3734.913. A wholesaler that sells lead-acid batteries in this state shall 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 ninety days after the day of purchase of a

lead-acid battery by such a retailer from a wholesaler, the wholesaler shall remove the applicable number of lead-acid batteries from the retailer's location.

Sec. 3734.914. (A) A retailer that displays for sale and sells lead-acid batteries in the state shall post a sign that shall be at least eight and one-half inches by eleven inches in size, use lettering that is at least thirty 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."

(B) This section does not apply to a motor vehicle dealer that is licensed under Chapter 4517. of the Revised Code.

Sec. 3734.915. Lead-acid battery cases sold in this state shall not be required to display a society for plastics industry symbol or code, a society for automotive engineers symbol or code, or another resin identification code.

SECTION 2. That existing section 3734.13 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 169

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____