

**As Introduced**

**127th General Assembly  
Regular Session  
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**H. B. No. 169**

**Representative Wagner**

**Cosponsors: Representatives Evans, McGregor, J., Latta, Stebelton,  
Chandler, Yuko, Collier, Fessler**

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**A B I L L**

To amend section 3734.13 and to enact sections 1  
3734.91, 3734.911, 3734.912, 3734.913, 3734.914, 2  
and 3734.915 of the Revised Code to establish 3  
requirements governing the disposal and collection 4  
of used lead-acid batteries. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3734.13 be amended and sections 6  
3734.91, 3734.911, 3734.912, 3734.913, 3734.914, and 3734.915 of 7  
the Revised Code be enacted to read as follows: 8

**Sec. 3734.13.** (A) The director of environmental protection 9  
may issue, modify, suspend, or revoke enforcement orders in 10  
accordance with Chapter 3745. of the Revised Code to a holder of a 11  
registration certificate, permit, or license issued by the 12  
director or a board of health under this chapter, or to another 13  
person, directing the holder or person to abate a violation, or to 14  
prevent any threatened violation, of any section of this chapter 15  
other than sections 3734.90 to 3734.9013 of the Revised Code, a 16  
rule adopted thereunder, or a term or condition of a permit, 17  
license, or variance issued thereunder within a specified, 18

reasonable time. 19

(B) Notwithstanding division (C) of section 3734.85 of the 20  
Revised Code, if the director determines that an emergency exists 21  
requiring immediate action to protect the public health or safety 22  
or the environment, the director may issue an order, without 23  
notice or hearing, reciting the existence of the emergency and 24  
requiring that such action be taken as necessary to meet the 25  
emergency. The order shall take effect immediately. Any person to 26  
whom the order is directed shall comply immediately, but on 27  
application to the director shall be afforded a hearing as soon as 28  
possible and not later than thirty days after application. On the 29  
basis of the hearing, the director shall continue the order in 30  
effect, revoke it, or modify it. No emergency order shall remain 31  
in effect for more than one hundred twenty days after its 32  
issuance. 33

(C) If the director determines that any person is violating 34  
or has violated this chapter, a rule adopted thereunder, or a term 35  
or condition of a permit, license, variance, or order issued 36  
thereunder, the director may request in writing that the attorney 37  
general bring a civil action for appropriate relief, including a 38  
temporary restraining order, preliminary or permanent injunction, 39  
and civil penalties in any court of competent jurisdiction. Such 40  
an action shall have precedence over all other cases. Except as 41  
otherwise provided in this division with regard to a violation of 42  
the provisions of this chapter governing scrap tires, a rule 43  
adopted under those provisions, a term or condition of a permit or 44  
license issued under them, or a term or condition of an order 45  
issued pertaining to scrap tires, the court may impose upon the 46  
person a civil penalty of not more than ten thousand dollars for 47  
each day of each violation of this chapter other than a violation 48  
of section 3734.60 of the Revised Code, ~~a violation of sections~~ 49  
3734.90 to 3734.9013 of the Revised Code or a rule adopted under 50

those sections, or division (B) of section 3724.912 of the Revised 51  
Code; a rule adopted ~~thereunder~~ under this chapter other than a 52  
rule adopted under division (B) of section 3734.122 of the Revised 53  
Code, ~~or;~~ a term or condition of a permit, license, variance, or 54  
order issued ~~thereunder,~~ under this chapter; or a violation of 55  
sections 3734.62 to 3734.65 of the Revised Code. The court may 56  
impose upon a person who violates a rule adopted under division 57  
(B) of section 3734.122 of the Revised Code a civil penalty of not 58  
more than twenty-five thousand dollars for each day of each 59  
violation of the rule. The court may impose upon a person who 60  
violates section 3734.60 of the Revised Code a civil penalty of 61  
not more than two hundred fifty dollars for each day of violation 62  
of that section. The court may impose upon a person who violates 63  
any of the provisions of this chapter governing scrap tires, a 64  
rule adopted under those provisions, a term or condition of a 65  
permit or license issued under them, or a term or condition of an 66  
order issued pertaining to scrap tires a civil penalty of not more 67  
than five thousand dollars for each day of each violation, except 68  
that if the violation is of a provision, rule, or term or 69  
condition that relates to the open burning or open dumping of 70  
scrap tires, or if the violation is of an emergency order of the 71  
director issued under division (B) of section 3734.13 of the 72  
Revised Code that pertains to scrap tires, the court may impose a 73  
civil penalty of not more than ten thousand dollars for each day 74  
of each violation. The court may impose upon a person who violates 75  
section 3734.62 of the Revised Code a civil penalty of not more 76  
than one hundred dollars for each violation of that section. The 77  
court may impose upon a person who violates section 3734.63, 78  
3734.64, or 3734.65 of the Revised Code a civil penalty of not 79  
more than five thousand dollars for each day of each violation of 80  
the applicable section, but the total amount of a civil penalty 81  
imposed upon a person for a violation of the applicable section 82  
shall not exceed twenty-five thousand dollars. The court may 83

impose upon a person who violates division (B) of section 3734.912 84  
of the Revised Code a civil penalty of twenty-five dollars for 85  
each day of violation. 86

Any action under this section is a civil action, governed by 87  
the Rules of Civil Procedure. 88

(D) No person shall violate any term or condition of any 89  
order issued under this section. 90

(E) Except as otherwise provided in this division, moneys 91  
resulting from civil penalties imposed under division (C) of this 92  
section shall be paid into the hazardous waste clean-up fund 93  
created in section 3734.28 of the Revised Code. Moneys resulting 94  
from civil penalties imposed under division (C) of this section 95  
for violations of any of the provisions of this chapter governing 96  
scrap tires, rules adopted under those provisions, terms or 97  
conditions of permits or licenses issued under them, or terms or 98  
conditions of orders issued pertaining to scrap tires shall be 99  
credited to the scrap tire management fund created in section 100  
3734.82 of the Revised Code. 101

**Sec. 3734.91.** As used in sections 3734.91 to 3734.915 of the 102  
Revised Code: 103

(A) "Consumer product" means any device that primarily is 104  
intended for personal or household use and typically is sold, 105  
distributed, or available to the general population through retail 106  
or mail-order distribution. "Consumer product" includes, but is 107  
not limited to, computers, electronic games, telephones, radios, 108  
and similar electronics. "Consumer product" does not include 109  
vehicles, motorcycles, wheelchairs, boats, or other forms of 110  
motive power. 111

(B) "Lead-acid battery" means a battery that contains lead 112  
and sulfuric acid, is used as a power source, and is not intended 113

as a power source for consumer products. 114

(C) "Retailer" means a person that sells lead-acid batteries directly to the end user. 115  
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(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. 117  
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(E) "Wholesaler" means a person that sells replacement lead-acid batteries for resale. 121  
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**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. 123  
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(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 dispose of a used lead-acid battery by delivering it to one of the following: 128  
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(1) A retailer; 133

(2) A wholesaler; 134

(3) A secondary lead smelter; 135

(4) An automotive repair business; 136

(5) A household hazardous waste collection location or event; 137

(6) A lead-acid battery collection or recycling entity that operates in compliance with rules adopted under section 3734.12 of the Revised Code. 138  
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(C) A retailer shall dispose of a used lead-acid battery by delivering it to one of the following: 141  
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<u>(1) A wholesaler;</u>	143
<u>(2) A secondary lead smelter;</u>	144
<u>(3) A battery manufacturer for delivery to a secondary lead smelter;</u>	145 146
<u>(4) A lead-acid battery collection or recycling entity that operates in compliance with rules adopted under section 3734.12 of the Revised Code.</u>	147 148 149
<u>(D) Each lead-acid battery that is improperly disposed of constitutes a separate violation of this section.</u>	150 151
<b><u>Sec. 3734.912. A retailer that sells lead-acid batteries in this state shall do both of the following:</u></b>	152 153
<u>(A) 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;</u>	154 155 156 157 158
<u>(B) Post the sign that is prescribed by the director of environmental protection under 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.</u>	159 160 161 162 163
<b><u>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</u></b>	164 165 166 167 168 169 170 171

lead-acid batteries from the retailer's location. 172

Sec. 3734.914. The director of environmental protection shall 173  
prescribe a sign for purposes of section 3734.912 of the Revised 174  
Code to all retailers in this state. The sign shall be at least 175  
eight and one-half inches by eleven inches in size, use lettering 176  
that is at least thirty point font in size, display the universal 177  
recycling symbol, and contain all of the following language: 178

(A) "It is illegal to discard a used lead-acid battery." 179

(B) "Recycle your used batteries." 180

(C) "State law requires us to accept used lead-acid batteries 181  
for recycling in exchange for new batteries purchased." 182

Sec. 3734.915. Lead-acid battery cases sold in this state 183  
shall not be required to display a society for plastics industry 184  
symbol or code, a society for automotive engineers symbol or code, 185  
or another resin identification code. 186

**Section 2.** That existing section 3734.13 of the Revised Code 187  
is hereby repealed. 188