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Sub. H. B. No. 169

Representative Wagner

**Cosponsors: Representatives Evans, McGregor, J., Latta, Stebelton,
Chandler, Yuko, Collier, Fessler, Wolpert, Lundy, Hagan, R., Mallory,
Otterman, Heard, Williams, B., Schindel, DeBose, Celeste, Zehringer, Budish,
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Stewart, D., Stewart, J., Wagoner
Senators Niehaus, Schaffer, Miller, D., Morano, Fedor, Harris, Kearney,
Mason, Mumper, Spada**

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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
3734.62 to 3734.65 of the Revised Code, sections 3734.90 to 50
3734.9013 of the Revised Code or a rule adopted under those 51
sections, or division (B) of section 3734.912 or section 3734.914 52
of the Revised Code; of a rule adopted thereunder under this 53
chapter other than a rule adopted under division (B) of section 54
3734.122 of the Revised Code, ~~or; or of~~ a term or condition of a 55
permit, license, variance, or order issued ~~thereunder,~~ under this 56
chapter ~~or a violation of sections 3734.62 to 3734.65 of the~~ 57
~~Revised Code.~~ The court may impose upon a person who violates a 58
rule adopted under division (B) of section 3734.122 of the Revised 59
Code a civil penalty of not more than twenty-five thousand dollars 60
for each day of each violation of the rule. The court may impose 61
upon a person who violates section 3734.60 of the Revised Code a 62
civil penalty of not more than two hundred fifty dollars for each 63
day of violation of that section. The court may impose upon a 64
person who violates any of the provisions of this chapter 65
governing scrap tires, a rule adopted under those provisions, a 66
term or condition of a permit or license issued under them, or a 67
term or condition of an order issued pertaining to scrap tires a 68
civil penalty of not more than five thousand dollars for each day 69
of each violation, except that if the violation is of a provision, 70
rule, or term or condition that relates to the open burning or 71
open dumping of scrap tires, or if the violation is of an 72
emergency order of the director issued under division (B) of 73
section 3734.13 of the Revised Code that pertains to scrap tires, 74
the court may impose a civil penalty of not more than ten thousand 75
dollars for each day of each violation. The court may impose upon 76
a person who violates section 3734.62 of the Revised Code a civil 77
penalty of not more than one hundred dollars for each violation of 78

that section. The court may impose upon a person who violates 79
section 3734.63, 3734.64, or 3734.65 of the Revised Code a civil 80
penalty of not more than five thousand dollars for each day of 81
each violation of the applicable section, but the total amount of 82
a civil penalty imposed upon a person for a violation of the 83
applicable section shall not exceed twenty-five thousand dollars. 84
The court may impose upon a person who violates division (B) of 85
section 3734.912 or section 3734.914 of the Revised Code a civil 86
penalty of not more than twenty-five dollars for each day of 87
violation. 88

Any action under this section is a civil action, governed by 89
the Rules of Civil Procedure. 90

(D) No person shall violate any term or condition of any 91
order issued under this section. 92

(E) Except as otherwise provided in this division, moneys 93
resulting from civil penalties imposed under division (C) of this 94
section shall be paid into the hazardous waste clean-up fund 95
created in section 3734.28 of the Revised Code. Moneys resulting 96
from civil penalties imposed under division (C) of this section 97
for violations of any of the provisions of this chapter governing 98
scrap tires, rules adopted under those provisions, terms or 99
conditions of permits or licenses issued under them, or terms or 100
conditions of orders issued pertaining to scrap tires shall be 101
credited to the scrap tire management fund created in section 102
3734.82 of the Revised Code. 103

Sec. 3734.91. As used in sections 3734.91 to 3734.915 of the 104
Revised Code: 105

(A) "Consumer product" means any device that primarily is 106
intended for personal or household use and typically is sold, 107
distributed, or available to the general population through retail 108
or mail-order distribution. "Consumer product" includes, but is 109

not limited to, computers, electronic games, telephones, radios, 110
and similar electronics. "Consumer product" does not include 111
vehicles, motorcycles, wheelchairs, boats, or other forms of 112
motive power. 113

(B) "Lead-acid battery" means a battery that contains lead 114
and sulfuric acid, is used as a power source, and is not intended 115
as a power source for consumer products. 116

(C) "Retailer" means a person that sells lead-acid batteries 117
directly to the end user. 118

(D) "Secondary lead smelter" means a facility that produces 119
lead from a lead-bearing scrap material by smelting the material 120
to the metallic form and that is permitted or licensed by a state 121
or the United States environmental protection agency. 122

(E) "Wholesaler" means a person that sells replacement 123
lead-acid batteries for resale. 124

Sec. 3734.911. (A) Notwithstanding division (D) of section 125
3734.02 of the Revised Code and any rule adopted under this 126
chapter to the contrary, no person shall commingle a used 127
lead-acid battery with solid waste or dispose of a used lead-acid 128
battery at a solid waste or hazardous waste facility. 129

(B) Notwithstanding division (D) of section 3734.02 of the 130
Revised Code and any rule adopted under this chapter to the 131
contrary, and except as provided in division (C) of this section, 132
a person shall discard a used lead-acid battery by delivering it 133
to one of the following: 134

(1) A retailer; 135

(2) A wholesaler; 136

(3) A secondary lead smelter; 137

(4) An automotive repair business; 138

<u>(5) A household hazardous waste collection location or event;</u>	139
<u>(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.</u>	140 141 142
<u>(C) A retailer shall discard a used lead-acid battery by delivering it to one of the following:</u>	143 144
<u>(1) A wholesaler;</u>	145
<u>(2) A secondary lead smelter;</u>	146
<u>(3) A battery manufacturer for delivery to a secondary lead smelter;</u>	147 148
<u>(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.</u>	149 150 151
<u>(D) Each lead-acid battery that is improperly disposed of or discarded constitutes a separate violation of this section.</u>	152 153
Sec. 3734.912. <u>(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.</u>	154 155 156 157 158 159
<u>(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.</u>	160 161 162 163 164 165
<u>(C) Division (B) of this section does not apply to a motor vehicle dealer that is licensed under Chapter 4517. of the Revised</u>	166 167

Code. 168

Sec. 3734.913. A wholesaler that sells lead-acid batteries in 169
this state shall accept from a purchaser of a lead-acid battery 170
used lead-acid batteries of the same general type and in a 171
quantity that is at least equal to the number sold to the 172
purchaser if the purchaser offers the used lead-acid batteries to 173
the wholesaler. Not later than ninety days after the day of 174
purchase of a lead-acid battery by such a retailer from a 175
wholesaler, the wholesaler shall remove the applicable number of 176
lead-acid batteries from the retailer's location. 177

Sec. 3734.914. (A) A retailer that displays for sale and 178
sells lead-acid batteries in the state shall post a sign that 179
shall be at least eight and one-half inches by eleven inches in 180
size, use lettering that is at least thirty point font in size, 181
display the universal recycling symbol, and contain all of the 182
following language: 183

(1) "It is illegal to discard a used lead-acid battery." 184

(2) "Recycle your used batteries." 185

(3) "State law requires us to accept used lead-acid batteries 186
for recycling in exchange for new batteries purchased." 187

(B) This section does not apply to a motor vehicle dealer 188
that is licensed under Chapter 4517. of the Revised Code. 189

Sec. 3734.915. Lead-acid battery cases sold in this state 190
shall not be required to display a society for plastics industry 191
symbol or code, a society for automotive engineers symbol or code, 192
or another resin identification code. 193

Section 2. That existing section 3734.13 of the Revised Code 194
is hereby repealed. 195