

**As Reported by the House Economic Development and
Environment Committee**

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Am. 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**

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

violation of the applicable section, but the total amount of a 82
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 of the Revised Code a civil penalty of not more 86
than twenty-five dollars for each day of violation. 87

Any action under this section is a civil action, governed by 88
the Rules of Civil Procedure. 89

(D) No person shall violate any term or condition of any 90
order issued under this section. 91

(E) Except as otherwise provided in this division, moneys 92
resulting from civil penalties imposed under division (C) of this 93
section shall be paid into the hazardous waste clean-up fund 94
created in section 3734.28 of the Revised Code. Moneys resulting 95
from civil penalties imposed under division (C) of this section 96
for violations of any of the provisions of this chapter governing 97
scrap tires, rules adopted under those provisions, terms or 98
conditions of permits or licenses issued under them, or terms or 99
conditions of orders issued pertaining to scrap tires shall be 100
credited to the scrap tire management fund created in section 101
3734.82 of the Revised Code. 102

Sec. 3734.91. As used in sections 3734.91 to 3734.915 of the 103
Revised Code: 104

(A) "Consumer product" means any device that primarily is 105
intended for personal or household use and typically is sold, 106
distributed, or available to the general population through retail 107
or mail-order distribution. "Consumer product" includes, but is 108
not limited to, computers, electronic games, telephones, radios, 109
and similar electronics. "Consumer product" does not include 110
vehicles, motorcycles, wheelchairs, boats, or other forms of 111
motive power. 112

(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. 113
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(C) "Retailer" means a person that sells lead-acid batteries directly to the end user. 116
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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. 118
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(E) "Wholesaler" means a person that sells replacement lead-acid batteries for resale. 122
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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. 124
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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: 129
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(1) A retailer; 134

(2) A wholesaler; 135

(3) A secondary lead smelter; 136

(4) An automotive repair business; 137

(5) A household hazardous waste collection location or event; 138

(6) A lead-acid battery collection or recycling entity that operates in compliance with rules adopted under section 3734.12 of the Revised Code. 139
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(C) A retailer shall dispose of a used lead-acid battery by 142
delivering it to one of the following: 143

(1) A wholesaler; 144

(2) A secondary lead smelter; 145

(3) A battery manufacturer for delivery to a secondary lead 146
smelter; 147

(4) A lead-acid battery collection or recycling entity that 148
operates in compliance with rules adopted under section 3734.12 of 149
the Revised Code. 150

(D) Each lead-acid battery that is improperly disposed of 151
constitutes a separate violation of this section. 152

Sec. 3734.912. A retailer that sells lead-acid batteries in 153
this state shall do both of the following: 154

(A) Accept from a purchaser of a lead-acid battery, at the 155
time of purchase, used lead-acid batteries of the same general 156
type and in a quantity that is at least equal to the number sold 157
to the purchaser if the purchaser offers the used lead-acid 158
batteries to the retailer; 159

(B) Post the sign that is prescribed by section 3734.914 of 160
the Revised Code at a location that is visible to customers and in 161
close proximity to the location where lead-acid batteries are 162
displayed for sale at the retailer's location. 163

Sec. 3734.913. A wholesaler that sells lead-acid batteries in 164
this state shall accept from a purchaser of a lead-acid battery 165
used lead-acid batteries of the same general type and in a 166
quantity that is at least equal to the number sold to the 167
purchaser if the purchaser offers the used lead-acid batteries to 168
the wholesaler. Not later than ninety days after the day of 169
purchase of a lead-acid battery by such a retailer from a 170

wholesaler, the wholesaler shall remove the applicable number of 171
lead-acid batteries from the retailer's location. 172

Sec. 3734.914. A retailer in the state shall post a sign that 173
shall be at least eight and one-half inches by eleven inches in 174
size, use lettering that is at least thirty point font in size, 175
display the universal recycling symbol, and contain all of the 176
following language: 177

(A) "It is illegal to discard a used lead-acid battery." 178

(B) "Recycle your used batteries." 179

(C) "State law requires us to accept used lead-acid batteries 180
for recycling in exchange for new batteries purchased." 181

Sec. 3734.915. Lead-acid battery cases sold in this state 182
shall not be required to display a society for plastics industry 183
symbol or code, a society for automotive engineers symbol or code, 184
or another resin identification code. 185

Section 2. That existing section 3734.13 of the Revised Code 186
is hereby repealed. 187