

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1724

By: York

AS INTRODUCED

An Act relating to environment and natural resources; creating the Lead-acid Battery Recycling Act; prohibiting certain disposal of lead-acid batteries; specifying methods of disposal; making certain actions unlawful; requiring certain storage; providing for violations; specifying penalty; providing for certain charges; requiring acceptance of certain batteries; requiring certain notices; providing specifications; requiring certain procedures; requiring certain actions; providing for refunds; requiring Department of Environmental Quality to produce and distribute certain notices; providing for construction of act; providing for promulgation of certain rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-301 of Title 27A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Lead-acid Battery Recycling Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-302 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. No person may place a used lead-acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead-acid battery except by delivery to an automotive battery retailer or wholesaler, to a collection or recycling facility authorized under the laws of this state, or to a secondary lead smelter permitted by the federal Environmental Protection Agency.

B. No automotive battery retailer shall dispose of a used lead-acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter permitted by the federal Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of this state, or to a secondary lead smelter permitted by the federal Environmental Protection Agency.

C. An owner or operator of a solid waste disposal site shall not knowingly accept a lead-acid battery for disposal. Provided, however, a solid waste disposal site may serve as a collection and storage facility for a lead-acid battery recycling program in a manner approved by the Department of Environmental Quality.

D. Retailers, wholesalers and recyclers shall store used lead-acid batteries in an environmentally safe manner.

E. Each lead-acid battery improperly stored, disposed of, or accepted for disposal shall constitute a separate violation.

F. Any person violating the provisions of the Lead-acid Battery Recycling Act, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Fifty Dollars (\$50.00) or by imprisonment in the county jail for a term not to exceed thirty (30) days, or both such fine and imprisonment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-303 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Any person who sells or offers lead-acid batteries to end-use consumers in the ordinary course of business shall:

1. Accept, at the point of transfer, lead-acid batteries from customers;

2. Charge a fee of Five Dollars (\$5.00) per battery sold unless the customer returns a used battery to the retailer; and

3. Post written notice, in a manner clearly visible to a consumer making purchasing decisions.

The notice must be at least eight and one-half (8 1/2) inches by eleven (11) inches and contain the universal recycling symbol and state:

"Recycle Your Used Batteries

This retailer is required to accept your used lead-acid batteries, EVEN IF YOU DO NOT PURCHASE A BATTERY. When you purchase a new battery, you will be charged an additional Five Dollars (\$5.00) unless you return a used battery within thirty (30) days.

Improper disposal of a lead-acid battery is a crime."

B. Any advertisement for sale of new lead-acid batteries at retail in newspapers published in this state shall contain a notice which states:

"Five Dollars (\$5.00) additional charge unless a used lead-acid battery is returned. Improper disposal of a lead-acid battery is a crime."

C. Any person selling lead-acid batteries at wholesale or offering lead-acid batteries for sale at wholesale shall accept, at the point of transfer, lead-acid batteries from customers. A person accepting batteries in transfer from an automotive battery retailer

shall be allowed a period not to exceed ninety (90) days to remove batteries from the retail point of collection.

D. 1. A person who purchases a lead-acid battery at retail shall:

- a. return a lead-acid battery to the retailer; or
- b. pay the retailer a five-dollar deposit.

2. A person who has paid a five-dollar deposit under paragraph 1 of this subsection shall receive a five-dollar refund from the retailer if the person returns a lead-acid battery with a receipt for the purchase of a new battery from that retailer within thirty (30) days after purchase of a lead-acid battery.

E. A retailer may keep the unrefunded deposits for lead-acid batteries not returned within thirty (30) days.

F. A person who sells lead-acid batteries at retail shall accept lead-acid batteries from consumers and shall not charge to receive the lead-acid batteries. A consumer shall not deliver more than five (5) lead-acid batteries to a retailer at one time.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-304 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department of Environmental Quality shall produce, print, and distribute the notices required by subsection A of Section 3 of this act to all places where lead-acid batteries are offered for sale at retail. In performing its duties under this section the Department of Environmental Quality may inspect any place, building, or premise governed by Section 3 of this act. Authorized employees of the Department may issue warnings and citations to persons who fail to comply with the requirement of that section. Failure to post the required notice following warning shall subject the establishment to a fine of Fifty Dollars (\$50.00) per day.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-305 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Lead-acid Battery Recycling Act shall not be construed to prohibit the collection, transportation, or disposal of used lead-acid batteries mixed or commingled with solid waste by any person engaged in the collection, transportation, or disposal of solid waste, unless it can be demonstrated that the person knew or should have known that such used lead-acid batteries had been mixed or commingled with the solid waste.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-306 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department of Environmental Quality shall promulgate rules to enforce the provisions of the Lead-acid Battery Recycling Act.

SECTION 7. This act shall become effective September 1, 1993.

44-1-6037

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