

By Senator Silver

38-1133-99

See HB 269

1                                   A bill to be entitled  
2           An act relating to the lead-acid battery fee;  
3           amending ss. 403.717 and 403.7185, F.S.;  
4           specifying that the fee applies to new or  
5           remanufactured lead-acid batteries sold at  
6           retail; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Paragraph (h) of subsection (1) of section  
11 403.717, Florida Statutes, is amended to read:

12           403.717 Waste tire and lead-acid battery  
13 requirements.--

14           (1) For purposes of this section and ss. 403.718,  
15 403.7185, and 403.719:

16           (h) "Lead-acid battery" means those lead-acid  
17 batteries designed for use in motor vehicles, vessels, and  
18 aircraft, and includes such batteries when sold new as a  
19 component part of a motor vehicle, vessel, or aircraft, but  
20 not when sold to recycle components.

21           Section 2. Subsection (1) of section 403.7185, Florida  
22 Statutes, is amended to read:

23           403.7185 Lead-acid battery fees.--

24           (1) For the privilege of engaging in business, a fee  
25 for each new or remanufactured lead-acid battery sold at  
26 retail is imposed on any person engaging in the business of  
27 making retail sales of lead-acid batteries within this state.  
28 ~~Beginning October 1, 1989, and thereafter,~~ Such fee shall be  
29 imposed at the rate of \$1.50 for each new or remanufactured  
30 lead-acid battery sold. However, the fee shall not be imposed  
31 on any battery which has previously been taxed pursuant to s.

1 206.9935(2), provided the person claiming exemption from the  
2 tax can document payment of such tax. The fee imposed shall  
3 be paid to the Department of Revenue on or before the 20th day  
4 of the month following the calendar month in which the sale  
5 occurs. The department may authorize a quarterly return under  
6 the conditions described in s. 212.11(1)(c). A dealer selling  
7 motor vehicles, vessels, or aircraft at retail can purchase  
8 lead-acid batteries exempt as a sale for resale by presenting  
9 a sales tax resale certificate. However, if a dealer  
10 thereafter withdraws any such battery from inventory to put  
11 into a new or used motor vehicle, vessel, or aircraft for  
12 sale, to use on her or his own motor vehicle, vessel, or  
13 aircraft, to give away, or any purpose other than for resale,  
14 the dealer will owe the fee at the time the battery is  
15 withdrawn from inventory. If the dealer sells the battery at  
16 retail, that sale will be subject to the fee. If the dealer  
17 sells it to a purchaser who presents her or him a sales tax  
18 resale certificate, the dealer will owe no fee. The terms  
19 "sold at retail" and "retail sales" do not include the sale of  
20 lead-acid batteries to a person solely for the purpose of  
21 resale; however, a subsequent retail sale of a new or  
22 remanufactured battery in this state is subject to the fee one  
23 time. Such fee shall be subject to all applicable taxes  
24 imposed in chapter 212. The provisions of s. 212.07(4) shall  
25 not apply to the provisions of this section. When a sale of a  
26 lead-acid battery, upon which the fee has been paid, is  
27 canceled or the battery is returned to the seller, and the  
28 sale price, taxes, and fees are refunded in full to the  
29 purchaser, the seller may take credit for the fee previously  
30 paid. If, instead of refunding the purchase price of the  
31 battery, the customer is given a new or remanufactured battery

1 in exchange for the returned battery, the dealer cannot take  
2 credit for the fee on the returned battery, but no fee is due  
3 on the new or remanufactured battery that is given in  
4 exchange. However, no credit shall be taken by the dealer for  
5 returns resulting in partial refunds or partial credits on  
6 purchase of replacement batteries.

7 Section 3. This act shall take effect October 1, 1999.

8

9

\*\*\*\*\*

10

HOUSE SUMMARY

11

12 Specifies that the fee imposed on lead-acid batteries  
13 sold at retail applies to new or remanufactured  
14 batteries.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31