

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 109 CS

Fees Imposed on Tire and Battery Sales

SPONSOR(S): Baxley

TIED BILLS:

IDEN./SIM. BILLS: SB 786

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Environmental Regulation Committee</u>	<u>6 Y, 0 N</u>	<u>Kliner</u>	<u>Kliner</u>
2) <u>Finance & Tax Committee</u>	<u>9 Y, 0 N, w/CS</u>	<u>Levin</u>	<u>Diez-Arguelles</u>
3) <u>Agriculture & Environment Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Resources Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill clarifies that the retail seller of tires or batteries is not exempt from paying the \$1.00 fee imposed on the retail sale of any new motor vehicle tire, or the \$1.50 fee imposed on the retail sale of any new or remanufactured lead acid battery when these items are sold to a governmental entity. The bill makes it clear that governmental entities have to pay the \$1.00 or \$1.50 fee, since the fee is required to be listed separately on the invoice to the purchaser.

The bill has an effective date of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

General

The Department of Environmental Protection (DEP) regulates the collection, storage, transportation, and disposal of solid waste that, due to the quantity, concentration, or physical characteristics, may be hazardous to humans and the environment, through Part IV of Chapter 403, Florida Statutes. Two such waste products include motor vehicle tires and lead-acid batteries.

Vehicle Tires

The DEP's Waste Tire Management Program has several components: a regulatory program that addresses how waste tires can be moved, stored, processed, used, or disposed of; an abatement or cleanup program that assists in cleaning up illegal tire piles; and a market development program that works with potential end users for waste tires. In addition, there is a waste tire grant program that distributes funding to counties to assist them in local waste tire management efforts. "Waste tire" means a tire that has been removed from a motor vehicle and has not been re-treaded or re-grooved. "Waste tire" includes used tires and processed tires.

Lead-Acid Batteries

According to the DEP's Annual Hazardous Waste Management Needs Assessment Report dated January 1, 2003, lead-acid batteries contain a liquid acid electrolyte and are prohibited from disposal in landfills or municipal waste combustors, s. 403.708, Florida Statutes. Battery retailers are also required to take back spent batteries as trade-ins. In addition, some scrap dealers buy back spent lead-acid batteries, and county programs accept these batteries at solid waste/household hazardous waste facilities and collections. A mature, close-looped recycling infrastructure that is driven by economic incentives within the lead-acid battery industry and convenient collection locations ensures that nearly all lead and plastic casings that are reclaimed from recycled batteries are used to make new batteries. According to the Battery Council International website "...the typical new lead-acid battery contains 60 to 80 percent recycled lead and plastic."¹ The recycling rate for vehicular lead-acid (VLA) batteries has been estimated by the U.S. Environmental Protection Agency to be nearly 97 percent nationally since 2000.

Section 403.7185, Florida Statutes, requires retail sellers of batteries to pay a \$1.50 fee on the retail sale of any new or remanufactured lead acid battery sold. The fee which is passed on to the user is then remitted to the DOR. The DOR deducts its administrative expenses and then deposits the remainder into the state's Water Quality Assurance Trust Fund.

According to a representative from the Department of Management Services (DMS), the state contracts with manufacturers to meet the state's tire and battery replacement needs. The cost of fees, such as

¹ <http://www.batterycouncil.org/recycling.html>

the waste tire and waste battery fee, are figured into the contract's terms. Therefore, the tire and battery sellers are responsible for the disposal fee that is submitted to the DOR, which is not paid by the state entity when the tires or batteries are replaced. In a sense, the fee is paid twice; once by the state in its contract with the manufacturer, and again by the retail seller, however, the only monies that are sent to the Trust Funds are those paid in by the retail sellers. According to the DMS representative, some sellers have charged the fee anyway, which resulted in a "double payment" of that particular fee.

Effect of Proposed Change

The bill clarifies that the retail seller of tires or batteries is not exempt from paying the \$1.00 fee imposed on the retail sale of any new motor vehicle tire, or the \$1.50 fee imposed on the retail sale of any new or remanufactured lead acid battery when these items are sold to a governmental entity. The bill makes it clear that governmental entities have to pay the \$1.00 and \$1.50 fee, since the fee is required to be listed separately on the invoice to the purchaser.

C. SECTION DIRECTORY:

Section 1: Amends s. 403.718, Florida Statutes.

Section 2: Amends s. 403.7185, Florida Statutes.

Section 3: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

To the extent that governmental entities have not been paying the fees to the retailers, this bill makes it clear that they must pay the fees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of the State Constitution is not applicable because: this bill does not require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Finance and Tax Committee adopted a strike-all amendment at its meeting on April 12, 2005. The original bill exempted retailers from collecting the tire and battery fees from governmental entities. The amendment clarifies that governmental entities are required to pay these fees.