

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: General Government Appropriations Committee

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BILL: CS/SB 786

SPONSOR: General Government Appropriations and Senator Clary

SUBJECT: Fees Imposed on Tires and Battery Sales

DATE: April 11, 2005

REVISED: 4/12/05

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<b>Favorable</b>
3.	<u>DeLoach</u>	<u>Hayes</u>	<u>GA</u>	<b>Fav/CS</b>
4.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

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## I. Summary:

The committee substitute clarifies that governmental entities are required to pay the \$1 per tire fee imposed on the retail sale of new motor vehicle tires and the \$1.50 fee imposed on the retail sale of any new or remanufactured lead-acid battery.

This bill amends sections 403.718 and 403.7185 of the Florida Statutes.

## II. Present Situation:

The Solid Waste Management Trust Fund was created in 1988 with the passage of the Solid Waste Management Act. This provision provided for a waste tire management program and imposed a waste tire fee. Initially, the fee was \$0.50 per tire for the period January 1, 1989 to December 31, 1989, and increased to \$1 per tire beginning January 1, 1990. The fee is currently \$1 per tire for each new tire sold at retail.

The waste tire management program addressed a problem that existed nationwide and posed a serious environmental threat to Florida. In 1990 it was estimated that at least 20 million old tires were known to be stored in massive piles in Florida. The largest of such piles was located in the Green Swamp, an environmentally sensitive area in northern Polk County. There were estimated to be 7 million tires in this site alone.<sup>1</sup> Tires provide stagnant water containers that provide breeding grounds for mosquitoes and the diseases they carry.

Over the years, the waste tire fees have supported programs to abate the huge tire piles in the state and provide grants to promote recycling, including waste tires. The Solid Waste

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<sup>1</sup> Senate Staff Analysis and Economic Impact Statement, CS/SB 2528, May 24, 1990.

Management Trust Fund currently is funded primarily by the waste tire fees. Other revenue sources include business registration fees, recycling or collector registration fees, and interest earnings on the investment of idle cash. The fee is imposed on each new motor vehicle tire sold at retail and is to be stated separately on the invoice to the purchaser. A motor vehicle tire sold at retail includes such tires when sold as a component part of a motor vehicle. The terms “sold at retail” and “retail sales” do not include the sale of new motor vehicle tires to a person solely for the purpose of resale, provided the subsequent retail sale in this state is subject to the fee (s. 403.718, F.S.). The statute does not provide for any other exemptions from the fee, e.g. sales to governmental entities. The DEP estimates that approximately 271,308 vehicle tires are replaced annually by local and state governments.<sup>2</sup>

The Water Quality Assurance Trust Fund was established in 1983 to provide a source of funding to clean up hazardous and toxic waste sites, to provide for emergency response operations for hazardous or toxic waste contamination, and to rehabilitate contaminated drinking water systems. The trust fund is funded by an excise tax on pollutants, lead-acid battery fees, dry cleaning gross receipt taxes, documentary stamp taxes, annual dry cleaner facility registration fees, and operator certification licenses.<sup>3</sup>

Section 403.7185, F.S., imposes a fee of \$1.50 for each new or remanufactured lead-acid battery sold at retail in this state. However, the fee is not imposed on any battery which has previously been taxed pursuant to s. 206.9935(2), F.S. The terms “sold at retail” and “retail sales” do not include the sale of lead-acid batteries to a person solely for the purpose of resale; however, a subsequent retail sale of a new or remanufactured battery in Florida is subject to the fee once. The statute does not provide for any other exemptions from the fee, e.g. sales to governmental entities. The DEP estimates that 50,870 batteries from governmental vehicles are subject to the fee yearly.<sup>4</sup> Historically, the revenues from the battery fee have accounted for approximately 29 percent of the total revenues to the Water Quality Assurance Trust Fund.<sup>5</sup>

Retailers are required to take back spent batteries as trade-ins. Also, some scrap dealers buy back spent lead-acid batteries at solid waste/household hazardous waste facilities. The recycling rate for vehicular lead-acid batteries is estimated by the battery industry to be almost 93 percent nationally. There are no specific estimates for Florida, but the rates are believed to be consistent with the national average.<sup>6</sup>

Local governments are exempt from the state’s sales tax assessment pursuant to s. 212.08 (6), F.S. No specific statutory exemption is currently provided for the waste tire and battery fees. However, in some cases local governmental entities refuse payment based on rulings of the Florida courts that government entities specified in the State Constitution are immune from state taxation. This issue as it relates to waste tires and battery fees has not been litigated.

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<sup>2</sup> Section 376.307, F.S., and DEP Trust Fund Status and Activity Reports, June, 2004.

<sup>3</sup> Section 376.307, F.S., and DEP Trust Fund Status and Activity Reports, June, 2004.

<sup>4</sup> Estimate derived from a total of 203,481 governmental vehicles (cars, buses, trucks, boat trailers), 1 battery per vehicle with a 4-year service life.

<sup>5</sup> Senate Staff Analysis and Economic Impact Statement for SB 1434, March 9, 1999.

<sup>6</sup> Solid Waste Management in Florida 2001-2002, Department of Environmental Protection.

**III. Effect of Proposed Changes:**

The committee substitute amends sections 403.718 and 403.7185, F.S., to clarify that the \$1 per tire waste fee and the \$1.50 lead-acid battery fee sold at retail sale includes governmental entities.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The committee substitute clarifies that governmental entities are to be assessed for the fees for waste tire and lead-acid battery products at the retail sales.

**B. Private Sector Impact:**

Indeterminate. The bill could have a positive fiscal impact to retail sellers of motor vehicle tires and lead-acid batteries. These entities currently are required to pay both tire and battery fees by the Department of Revenue for any purchases made by local governments.

**C. Government Sector Impact:**

Indeterminate. Governmental entities would be required to pay the \$1 per tire fee on the retail sale of each new motor vehicle tire sold in Florida. Also, governmental entities would be required to pay the \$1.50 fee on the retail sale of new or remanufactured batteries sold in Florida. Data is not available to determine the level of governmental entities currently paying the fees and those that do not pay the fees.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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