§ 27-1701. Lead-acid battery recycling.

1. Legislative findings. The legislature hereby finds that the improper disposal of lead-acid batteries is a direct threat to the health and safety of the citizens of this state. Further, the legislature finds that the disposal of these batteries constitutes a waste of recyclable materials. Therefore, the legislature finds and declares it to be in the public interest to facilitate the collection and recycling of lead-acid batteries in this state by prohibiting the improper disposal of lead-acid batteries, establishing a financial incentive for the return of used batteries, and requiring lead-acid battery retailers and distributors to accept used batteries free of charge from the public.

2. Definitions. When used in this section:

a. "Authorized hazardous waste facility" means any hazardous waste treatment, storage and disposal facility permitted pursuant to section 27-0913 of this article which is authorized to accept lead-acid batteries.

b. "Collector" means any person who accepts lead-acid batteries in order to transfer them to a recycling facility, an authorized hazardous waste facility or another collector.

c. "Consumer" means any person who purchases a lead-acid battery for use other than resale, provided however, that consumer does not mean a person who purchases a new or used vehicle containing a lead-acid battery.

d. "Dispose" or "disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment. Disposal also means the thermal destruction of waste or hazardous waste and the burning of such wastes as fuel for the purpose of recovering useable energy.

e. "Distributor" means any person who sells lead-acid batteries to a retailer in this state, including any manufacturer who sells to retailers in the state.

f. "Lead-acid battery" means any battery with a capacity of six or more volts which contains lead and sulfuric acid and which is used as a power source in a vehicle.

g. "Manufacturer" means any person who manufactures lead-acid batteries.

h. "Mixed municipal solid waste" means any material managed at a solid waste management facility as defined in section 27-0701 of this article.

i. "Recycling facility" means any person who processes lead-acid batteries and/or parts thereof in order to recover the materials contained therein for later use.

j. "Retailer" means any person in this state who sells new lead-acid batteries to consumers.

k. "Return incentive payment" means a payment pursuant to subdivision five of this section to a retailer from a consumer who does not return a used lead-acid battery at the time of purchasing a new lead-acid battery from such retailer.

l. "Vehicle" means any motor powered device which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons, including, but not limited to, automobiles, buses, trucks, boats, motorcycles, snowmobiles and lawn and garden equipment.

3. Lead-acid battery disposal prohibitions. a. No person shall dispose of a lead-acid battery in mixed municipal solid waste or otherwise dispose of a lead-acid battery except by delivery to a retailer, distributor, collector, recycling facility or as a method of last resort to an authorized hazardous waste facility.

b. No retailer shall dispose of a lead-acid battery except by delivery to a distributor, collector, recycling facility or as a method of last resort to an authorized hazardous waste facility.

c. No distributor shall dispose of a lead-acid battery except by delivery to a collector, recycling facility or as a method of last resort to an authorized hazardous waste facility.

d. No collector shall dispose of a lead-acid battery except by delivery to a recycling facility, another collector, or as a method of last resort to an authorized hazardous waste facility.

e. No recycling facility or authorized hazardous waste facility shall store, recycle or dispose of a lead-acid battery except in accordance with regulations promulgated pursuant to this chapter.

4. Lead-acid battery collection. a. Every retailer shall accept up to two used lead-acid batteries per calendar month from any individual at no charge to such individual.

b. Every distributor shall accept up to two used lead-acid batteries per calendar month from any individual at no charge to such individual and shall accept used lead-acid batteries from any retailer to which the distributor sells lead-acid batteries at no charge to such retailer.

5. a. Any consumer purchasing a new lead-acid battery who does not return a used lead-acid battery to the retailer at the time of such purchase shall pay such retailer a return incentive payment of five dollars per lead-acid battery sold.

b. A retailer shall refund to a consumer the five dollar return incentive payment collected pursuant to this subdivision if, within thirty days of the date of the purchase of a new lead-acid battery, the consumer returns to such retailer a used lead-acid battery. Any return incentive payment not refunded to the consumer pursuant to this subdivision shall be retained by the retailer.

c. In collecting a return incentive payment pursuant to this subdivision, the retailer shall inform the consumer of the retailer's obligation to refund such return incentive payment to such consumer should the consumer return a used lead-acid battery within thirty days.

6. Posting requirements. Every retailer and distributor shall post a conspicuous sign, open to public view, displaying the universal recycling symbol and stating: "IT IS ILLEGAL TO DISCARD VEHICLE BATTERIES. STATE LAW REQUIRES US TO ACCEPT VEHICLE BATTERIES AT NO CHARGE FOR RECYCLING."

7. Applicability of other laws. For the purposes of this section, any retailer, distributor, or collector who complies with the requirements set forth in this section shall be exempt from the provisions of titles seven and nine of this article and article seventy-two of this chapter.

8. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the collection, return or recycling of lead-acid batteries which is inconsistent with any provision of this title shall upon the effective date of this title be preempted, provided, however, that such preemption shall not extend to any provision of a local law or ordinance prohibiting the illegal disposal of lead-acid batteries.

9. The provisions of this title shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held invalid, the remainder of this title and the application thereof shall not be affected thereby.