

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1969

Short Title: Lead-Acid Battery Tax.

(Public)

Sponsors: Representative Hackney.

Referred to: Finance.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO IMPOSE A PRIVILEGE TAX ON THE SALE OF LEAD-ACID BATTERIES, TO IMPOSE AN EXCISE TAX ON LEAD-ACID BATTERIES THAT ARE PURCHASED FOR STORAGE, USE, OR CONSUMPTION IN THIS STATE, AND TO PROVIDE FOR THE CLEANUP OF NUISANCE LEAD-ACID BATTERY COLLECTION SITES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5D.

"LEAD-ACID BATTERY TAX.

"§ 105-187.30. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except the term 'sale' does not include lease or rental.

"§ 105-187.31. Tax imposed.

A privilege tax is imposed on a lead-acid battery retailer at the rate of one percent (1%) of the sales price of each new lead-acid battery sold at retail by the retailer. A privilege tax is imposed on a lead-acid battery retailer and on a lead-acid battery wholesale merchant at the rate of one percent (1%) of the sales price of each new lead-acid battery sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new lead-acid battery purchased for storage, use, or consumption in this State or for placement in this State on a vehicle

1 offered for sale, lease, or rental. This excise tax is at the rate of one percent (1%) of the
2 cost of the lead-acid battery. These taxes are in addition to all other taxes.

3 **"§ 105-187.32. Administration.**

4 (a) The privilege tax this Article imposes on a lead-acid battery retailer who sells
5 new lead-acid batteries at retail is an additional State sales tax and the excise tax this
6 Article imposes on the storage, use, or consumption of a new lead-acid battery in this
7 State is an additional State use tax. Except as otherwise provided in this Article, these
8 taxes shall be collected and administered in the same manner as the State sales and use
9 taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the
10 additional State sales tax paid when a new lead-acid battery is sold is a credit against the
11 additional State use tax imposed on the storage, use, or consumption of the same lead-
12 acid battery.

13 (b) The privilege tax this Article imposes on a lead-acid battery retailer and on a
14 lead-acid battery wholesale merchant who sell new lead-acid batteries for placement in
15 this State on a vehicle offered for sale, lease, or rental is a tax on the wholesale sale of
16 the lead-acid batteries. This tax and the excise tax this Article imposes on a new lead-
17 acid battery purchased for placement in this State on a vehicle offered for sale, lease, or
18 rental shall, to the extent practical, be collected and administered as if they were
19 additional State sales and use taxes. The privilege tax paid when a new lead-acid
20 battery is sold for placement on a vehicle offered for sale, lease, or rental is a credit
21 against the use tax imposed on the purchase of the same lead-acid battery for placement
22 in this State on a vehicle offered for sale, lease, or rental.

23 **"§ 105-187.33. Exemptions.**

24 The taxes imposed by this Article do not apply to lead-acid batteries sold for
25 placement on newly manufactured vehicles. The exemptions in G.S. 105-164.13 and
26 the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this
27 Article.

28 **"§ 105-187.34. Use of tax proceeds.**

29 (a) The Secretary shall distribute the taxes collected under this Article, less the
30 allowance to the Department of Revenue for administrative expenses, in accordance
31 with this section. The Secretary may retain the cost of collection by the Department,
32 not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as
33 reimbursement to the Department.

34 (b) Each quarter, the Secretary shall credit ten percent (10%) of the net tax
35 proceeds to the Solid Waste Management Trust Fund and shall credit ninety percent
36 (90%) of the net tax proceeds to the Scrap Lead-Acid Battery Disposal Account."

37 Sec. 2. Part 2C of Article 9 of Chapter 130A of the General Statutes is
38 amended by adding the following new sections:

39 **"§ 130A-309.74. Use of lead-acid battery tax; nuisance lead-acid battery correction**
40 **sites.**

41 (a) As used in this section, 'nuisance' means an unreasonable danger to public
42 health, safety, or welfare or to the environment, and 'scrap lead-acid battery' means a
43 lead-acid battery that has been discarded.

1 (b) Article 5D of Chapter 105 imposes a tax on new lead-acid batteries to provide
2 funds for the environmentally safe management of scrap lead-acid batteries at nuisance
3 scrap lead-acid battery collection sites. If the Department determines that a scrap lead-
4 acid battery collection site is a nuisance, it shall notify the person responsible for the
5 nuisance and request that the scrap batteries be processed or removed within 90 days. If
6 the person fails to take the requested action within 90 days, the Department shall order
7 the person to abate the nuisance within 90 days. If the person responsible for the
8 nuisance is not the owner of the property on which the scrap lead-acid battery collection
9 site is located, the Department may order the property owner to permit abatement of the
10 nuisance. If the person responsible for the nuisance fails to comply with the order, the
11 Department shall take any action necessary to abate the nuisance, including entering the
12 property where the scrap lead-acid battery collection site is located and confiscating the
13 scrap lead-acid batteries, or arranging to have the scrap lead-acid batteries processed or
14 removed.

15 (c) When the Department abates the nuisance pursuant to subsection (b) of this
16 section, the person responsible for the nuisance shall be liable for the actual costs
17 incurred by the Department for its nuisance abatement activities and its administrative
18 and legal expenses related to the abatement. The Department may request the Attorney
19 General to initiate a civil action to recover these costs from the person responsible for
20 the nuisance. Nonpayment of the actual costs incurred by the Department shall result in
21 the imposition of a lien on the owner's real property on which the scrap lead-acid battery
22 collection site was located.

23 (d) This section does not limit the authority of the Department to enforce any
24 other law or rule, and does not limit the right of any person to abate a nuisance.

25 **"§ 130A-309.75. Scrap Lead-Acid Battery Disposal Account.**

26 (a) Creation. – The Scrap Lead-Acid Battery Disposal Account is established as a
27 nonreverting account within the Department. The Account consists of revenue credited
28 to the Account from the proceeds of the lead-acid battery tax imposed by Article 5D of
29 Chapter 105 of the General Statutes.

30 (b) Cleanup of Nuisance Scrap Lead-Acid Battery Collection Sites. – The
31 Department may use the revenue in the Account only to clean up nuisance scrap lead-
32 acid battery collection sites pursuant to G.S. 130A-309.74. The Department may use
33 funds in the Account to clean up a nuisance scrap lead-acid battery collection site only
34 if no other funds are available for that purpose.

35 (c) Report. – The Department shall make quarterly reports on the Scrap Lead-
36 Acid Battery Disposal Account to the Environmental Review Commission. The report
37 shall show the beginning and ending balances in the Account for the reporting period,
38 the amount credited to the Account during the quarter, and the amount of revenue used
39 to clean up nuisance scrap lead-acid battery collection sites. A quarterly report shall be
40 filed within 60 days after the end of a calendar quarter.

41 **"§ 130A-309.76. Preemption.**

42 This Part preempts any local ordinance regarding the disposal of scrap lead-acid
43 batteries to the extent that any local ordinance is inconsistent with this Part or rules
44 adopted pursuant to this Part."

1 Sec. 3. This act becomes effective for the tax year beginning 1 January 1995.