

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2153

**Introduced by Assembly Member Cristina Garcia
(Coauthor: Assembly Member Santiago)**

February 17, 2016

An act to add Chapter 7.5 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. Lead-Acid Battery Recovery and Recycling Act.

Existing law requires a retailer of various specified products, including rechargeable batteries and cellular telephones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.

This bill would establish the Used Lead-Acid Battery Recovery and Recycling Act. The bill would require a qualified industry association, as defined, to establish a lead-acid battery recycling organization, as defined. The bill would authorize the Department of Resources Recycling and Recovery to certify that a lead-acid battery recycling organization has been established. The bill would require the lead-acid battery recycling organization to develop, implement, and administer a lead-acid battery recycling program pursuant to the act. The bill would require manufacturers, retailers, and recyclers of lead-acid batteries to

register with the lead-acid battery recycling organization on or before January 1, 2018.

This bill would prohibit, on and after January 1, 2019, a manufacturer, recycler, or retailer from, among other things, selling a lead-acid battery, or importing a lead-acid battery into this state, except in compliance with the bill's requirements.

This bill would require the lead-acid battery recycling organization, by July 1, 2018, to develop a plan for recycling used lead-acid batteries in the state that includes specified goals and elements and to submit the plan to the department, as specified. The plan would be required, among other things, to ensure that it addresses the impact of the requirement of the California Constitution that a local government submit the imposition, extension, or increase in a tax to the electorate for approval, with regard to local governments participating in the program. The bill would require the organization, by July 1, 2018, to annually prepare and approve a proposed used lead-acid battery recycling program plan budget for the next calendar year and to submit the budget to the department for approval, as specified. The bill would require the department to notify the organization of the department's costs that are directly related to implementing and enforcing the act and would require the organization to reimburse the department for those direct costs. The bill would require the department to deposit these amounts submitted by the organization into the Used Lead-Acid Battery Recycling Fund, which the bill would establish in the State Treasury. The bill would require the department to expend the moneys in the fund, upon appropriation by the Legislature, to administer and enforce the act and to reimburse any outstanding loans made from other funds used to finance the startup implementation costs to the department, as provided.

This bill would require the organization to annually set the amount of a state lead-acid battery recycling charge that would be added to the purchase price of a lead-acid battery, and would require a manufacturer, recycler, retailer, wholesaler, distributor, or other party that sells a lead-acid battery to add the charge to the purchase price for the lead-acid battery and remit the charges collected, less refunds, quarterly to the organization, as specified. *The bill would require the lead-acid battery recycling charge to be charged in lieu of any voluntary core charge being collected by retailers.* The bill would require the organization to remit \$1 from the sale of each lead-acid battery to be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill. Moneys in the Lead-Acid Battery Cleanup Fund would be continuously

appropriated to the Department of Toxic Substances Control for the cleanup of areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries. The bill would require the organization to suspend and resume remitting the \$1 from the sale of each lead-acid battery to the Lead-Acid Battery Cleanup Fund based on the balance in the fund.

This bill would require a manufacturer, recycler, retailer, or distributor to affix a California recycling sticker, as determined by the Department of Resources Recycling and Recovery, to each lead-acid battery at the point of sale. The bill would require that every consumer who returns a lead-acid battery with a California recycling sticker to a manufacturer, retailer, or other entity that sells lead-acid batteries to the ultimate user be given a refund of the recycling charge minus \$3, as specified. The bill would prohibit a refund from being given to a consumer who returns a lead-acid battery without a California recycling sticker. The bill would require a retailer that sells a used lead-acid battery to a manufacturer to remit 75% of the sale price of the used lead-acid battery to the organization for deposit into the Lead-Acid Battery Cleanup Fund.

This bill would authorize the department to impose an administrative civil penalty on a manufacturer, organization, recycler, or retailer in violation of the act, and the department would be authorized to expend the moneys, upon appropriation by the Legislature, to implement the act.

The bill would authorize the department to adopt emergency regulations establishing a process for the submission and approval of the used lead-acid battery recovery and recycling plan, and for the submission and approval of the proposed used lead-acid battery recycling program budget.

This bill would provide for the ~~reimbursement~~ *repayment of a portion* of a specified General Fund loan from the Lead-Acid Battery Cleanup Fund, and would make that ~~reimbursement~~ *repayment* money available for further loans, as specified.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 7.5 (commencing with Section 42420)
- 2 is added to Part 3 of Division 30 of the Public Resources Code, to
- 3 read:

1 CHAPTER 7.5. LEAD-ACID BATTERY RECOVERY AND RECYCLING
2 ACT

3
4 Article 1. Declarations and Definitions
5

6 42420. (a) The Legislature finds and declares that in order to
7 reduce illegal dumping, increase recycling, and substantially reduce
8 public agency costs for the end-of-life management of lead-acid
9 batteries, the Lead-Acid Battery Recovery and Recycling Act is
10 hereby established by this chapter to require manufacturers of
11 lead-acid batteries sold in this state to develop, finance, and
12 implement a convenient and cost-effective program to recover and
13 recycle lead-acid batteries generated in this state.

14 (b) It is the intent of the Legislature in enacting this chapter that
15 all of the following occur:

16 (1) That consumers have the opportunity to drop off their
17 lead-acid batteries free of charge.

18 (2) That existing lead-acid battery recycling, resale, refurbishing,
19 and reuse operations that are in compliance with state and federal
20 law shall not be adversely affected by this chapter.

21 (3) That domestic processing of lead-acid batteries and the
22 utilization of recycled materials from lead-acid batteries are
23 encouraged.

24 42420.2. This chapter shall be known, and may be cited, as the
25 Lead-Acid Battery Recovery and Recycling Act.

26 42421. For purposes of this chapter, the following definitions
27 shall apply:

28 (a) (1) “Consumer” means an owner of a lead-acid battery,
29 including a person, business, corporation, limited partnership,
30 nonprofit organization, or governmental entity, including the
31 ultimate purchaser, owner, or lessee of a lead-acid battery.

32 (2) “Consumer” does not include a governmental organization
33 or other party that obtains one or more used lead-acid batteries in
34 the course of collecting used lead-acid batteries for recycling for
35 purposes of this chapter, or through the ordinary collection and
36 handling of municipal solid waste.

37 (b) “Distributor” means a company that has a contractual
38 relationship with one or more manufacturers to market and sell
39 lead-acid batteries to retailers.

1 (c) “Good-faith effort” means all reasonable and economically
2 practical efforts, consistent with the components identified in the
3 approved plan and annual budget of a lead-acid battery recycling
4 organization.

5 (d) “Importer” means a party qualifying as an “importer of
6 record” for purposes of Section 1484(a)(2)(B) of Title 19 of the
7 United States Code, with regard to the import of a finished
8 lead-acid battery sold in the state that was manufactured or
9 assembled by a company outside the United States.

10 (e) “Lead-acid battery” means any battery that consists of lead
11 and sulfuric acid and is used as a power source.

12 (f) “Lead-acid battery recycling organization” or “organization”
13 means an organization exempt from taxation under Section
14 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code of
15 1986, that is established by a qualified industry association,
16 composed of manufacturers, recyclers, retailers, and environmental
17 justice organizations, and certified pursuant to Section 42422, to
18 develop, implement, and administer the lead-acid battery recycling
19 program established pursuant to this chapter.

20 (g) (1) “Manufacturer” means any of the following:

21 (A) The person who manufactures a lead-acid battery and who
22 sells, offers for sale, or distributes a lead-acid battery in the state.

23 (B) The person who imports the lead-acid battery into the state
24 for sale or distribution if there is no person who is a manufacturer
25 of a lead-acid battery for purposes of subparagraph (A).

26 (2) A retailer that brings a lead-acid battery into its store
27 locations from an out-of-state warehouse or distribution center is
28 not a manufacturer.

29 (h) “Program” or “lead-acid battery recycling program” means
30 the program implemented by the lead-acid battery recycling
31 organization pursuant to a lead-acid battery recycling plan approved
32 by the department.

33 (i) “Qualified industry association” means the Battery Council
34 International, or a successor of that organization, or a group of
35 lead-acid battery manufacturers that collectively represent at least
36 35 percent of the volume of lead-acid batteries manufactured in
37 the United States.

38 (j) “Recycle” or “recycling” has the same meaning as defined
39 in Section 40180.

1 (k) “Recycler” means a person that engages in the manual or
2 mechanical separation of lead-acid batteries to substantially recover
3 components and commodities contained in lead-acid batteries for
4 the purpose of reuse or recycling.

5 (l) “Recycling charge” or “charge” means the charge imposed
6 on the sale of a new lead-acid battery at the point of sale and
7 collected by the recycling organization to fund the recycling of
8 used lead-acid batteries pursuant to this chapter.

9 (m) “Retailer” means a person who sells lead-acid batteries in
10 the state or offers to a consumer a lead-acid battery in the state
11 through any means, including, but not limited to, remote offering,
12 including sales outlets or catalogs, electronically through the
13 Internet, by telephone, or through the mail.

14 (n) “Sale” or “sell” means the transfer of title of a lead-acid
15 battery for consideration, including by a manufacturer, a distributor,
16 or a retailer, for eventual consumption to a consumer in the state,
17 including remote sales conducted through sales outlets, catalogs,
18 or the Internet or any other similar electronic means.

19 (o) “Solid waste facility” means, for purposes of this chapter,
20 a solid waste facility that accepts, under its normal operating
21 conditions, used lead-acid batteries from the public for collection,
22 storing, and handling, whether for recycling or disposal.

23 (p) “Used lead-acid battery recovery and recycling plan” or
24 “plan” means the plan for recycling used lead-acid batteries that
25 is developed by the lead-acid battery recycling organization
26 pursuant to this chapter.

27 28 Article 2. Lead-Acid Battery Recycling Plan

29
30 42422. (a) (1) On or before July 1, 2017, a qualified industry
31 association shall establish a lead-acid battery recycling organization
32 for purposes of this chapter, which shall be composed of
33 manufacturers, recyclers, and retailers and be certified pursuant
34 to this section to develop, implement, and administer the lead-acid
35 battery recycling program established pursuant to this chapter.

36 (2) Within 60 days of receipt of a request for certification, the
37 department shall certify the organization as specified in paragraph
38 (1) or notify the requesting qualified industry association of the
39 department’s decision not to certify the organization.

1 (3) Prior to certification by the department, the department's
2 director shall appoint an advisory committee to advise the lead-acid
3 battery recycling organization.

4 (A) The advisory committee shall be composed of members of
5 the environmental community, the solid waste industry, local
6 governmental entities, public and private entities involved in the
7 collection, processing, and recycling of used lead-acid batteries,
8 and other interested parties.

9 (B) The lead-acid battery recycling organization shall consult
10 the advisory committee at least once during the development of
11 the plan required pursuant to Section 42422.2, and annually prior
12 to the submittal of the annual report required pursuant to Section
13 42425.2 and the annual budget required pursuant to Section 42423.

14 (C) The advisory committee shall provide ongoing feedback to
15 a recycling organization on the implementation of the recycling
16 organization's plan.

17 (b) On or before January 1, 2018, each manufacturer, retailer,
18 and recycler shall register with the lead-acid battery recycling
19 organization.

20 (c) On and after January 1, 2019, a retailer shall not sell,
21 distribute, or offer for sale a lead-acid battery in the state unless
22 the retailer is in compliance with this chapter and the manufacturer
23 or recycler of the lead-acid battery sold by the retailer is listed in
24 compliance with this chapter.

25 (d) On and after January 1, 2019, a manufacturer or recycler
26 shall not sell or offer for sale in this state, or import into this state,
27 a lead-acid battery, or sell or distribute a lead-acid battery to a
28 distributor or retailer in this state, unless the manufacturer or
29 recycler is in compliance with this chapter.

30 42422.2. On or before July 1, 2018, the lead-acid battery
31 recycling organization shall develop and submit to the department
32 a plan for recycling used lead-acid batteries in the state in an
33 economically efficient and practical manner that includes all of
34 the following goals and elements:

35 (a) Program objectives consistent with the state's solid waste
36 management hierarchy.

37 (b) The names of manufacturers, recyclers, and brands, including
38 the types of lead-acid batteries, covered under the plan, and contact
39 information of manufacturers and producers covered under the
40 plan.

1 (c) A description of a consultation process with affected
2 stakeholders, including, but not limited to, local government
3 representatives, recyclers, and solid waste industry representatives,
4 undertaken during plan development, and a process for receiving
5 continuous feedback from stakeholders during plan
6 implementation.

7 (d) Methods to increase the number of used lead-acid batteries
8 diverted from landfills, reduce the number of illegally dumped
9 used lead-acid batteries, and increase the quantity of used
10 lead-acid-battery-related materials recovered and recycled for other
11 uses.

12 (e) A description of how the goals will be achieved and how
13 results will be measured, including an estimate of the amount of
14 lead-acid batteries with California recycling stickers that will be
15 recovered compared to the amount of lead-acid batteries sold in
16 the state.

17 (f) Roles and responsibilities of key players along the product
18 chain, including the names and locations of transporters, recyclers,
19 and disposal facilities, and a description of how lead-acid batteries
20 with California recycling stickers and their components will be
21 collected, transported, and managed.

22 (g) Strategies for managing and reducing the life cycle impacts
23 of lead-acid batteries, including finding an alternative to the use
24 of lead in batteries.

25 (h) Conducting research, as needed, related to improving
26 collection and recycling operations for used lead-acid batteries
27 with California recycling stickers, including pilot programs to test
28 new processes, methods, or equipment on a local, regional, or
29 otherwise limited basis.

30 (i) An itemized budget, including total program cost.

31 (j) (1) The establishment and administration of a mechanism
32 that distributes the lead-acid battery recycling organization's costs
33 uniformly over all lead-acid batteries sold in the state.

34 (2) The funding mechanism shall provide sufficient funding for
35 the lead-acid battery recycling organization to carry out the plan,
36 including the administrative, operational, and capital costs of the
37 plan.

38 (k) Financing methods, including financial assurance, for the
39 program and an explanation of how the recycling organization will

1 provide evidence of adequate collection, handling, and recycling
2 or disposal of lead-acid batteries with California recycling stickers.

3 (l) The publishing of an annual report for each calendar year of
4 operation.

5 (m) A program performance measurement that shall collect
6 program data for the purpose of the annual report. The information
7 shall include:

8 (1) A methodology for estimating the amount of lead-acid
9 batteries sold in the state and for quantifying the number of used
10 lead-acid batteries with California recycling stickers collected and
11 recycled in the state.

12 (2) A methodology for determining the proportion of lead-acid
13 batteries sold in the state by the manufacturers that are members
14 of the lead-acid battery recycling organization.

15 (n) A description of methods used to coordinate activities with
16 other used lead-acid battery collecting and recycling programs,
17 including nonprofit lead-acid battery recyclers, and other relevant
18 parties, as appropriate, with regard to the proper management or
19 recycling of discarded or abandoned lead-acid batteries for
20 purposes of providing the efficient delivery of services and
21 avoiding unnecessary duplication of effort and expense.

22 (o) Entering into contracts or agreements, which may include
23 contracts and agreements with nonprofit or for-profit recyclers,
24 that are necessary and proper for the lead-acid battery recycling
25 organization to carry out these duties consistent with the terms of
26 this chapter.

27 (p) Establishment of a financial incentive to encourage parties
28 to collect for recycling used lead-acid batteries discarded or
29 illegally dumped in the state.

30 (q) Ensuring, to the maximum extent possible, that urban and
31 rural local governments and participating solid waste facilities that
32 accept lead-acid batteries are provided with a mechanism for the
33 recovery of illegally disposed used lead-acid batteries that is funded
34 at no additional cost to the local government or solid waste facility.

35 (r) Providing outreach efforts and education to consumers,
36 manufacturers, and retailers, for the purpose of promoting the
37 recycling of used lead-acid batteries and options available to
38 consumers for the free drop-off of used lead-acid batteries.

39 (s) A provision that allows an individual to drop off, at no
40 charge, a lead-acid battery at a lead-acid battery recycling center,

1 permitted solid waste facility, or other municipal facility that
2 accepts lead-acid batteries, and that provides for reasonable
3 payment to a municipal or solid waste facility that accepts lead-acid
4 batteries for collecting, storing, transporting, and handling used
5 lead-acid batteries.

6 (t) Ensuring that the impact of Article XIII C of the California
7 Constitution is addressed for local governments participating in
8 the program.

9 (u) A report from the advisory committee, established pursuant
10 to paragraph (3) of subdivision (a) of Section 42422, that includes
11 a summary of the consultative process between the advisory
12 committee and the lead-acid battery recycling organization during
13 the development of the plan, as well as any other information
14 deemed pertinent by the advisory committee to maximizing the
15 recovery and recycling of used lead-acid batteries in the state.

16 (v) Other information requested by the department that is
17 reasonably related to compliance with the recycling plan and that
18 the organization can reasonably compile.

19 42422.4. The recycling organization, in developing the plan
20 pursuant to Section 42422.2, may include market development
21 opportunities that would provide incentives to universities and
22 research companies to find alternatives to lead.

23 42422.6. (a) The department shall review the plan for
24 compliance with this chapter and shall approve, disapprove, or
25 conditionally approve the plan within 90 days of receipt of the
26 plan. If the department fails to act within 90 days of the receipt of
27 the plan, the plan shall be deemed approved.

28 (b) If the department disapproves the plan pursuant to
29 subdivision (a), the department shall explain, in writing, how the
30 plan does not comply with this chapter, and the lead-acid battery
31 recycling organization shall resubmit a plan to the department. If
32 the department finds that the plan as resubmitted by the
33 organization does not comply with the requirements of this chapter,
34 the lead-acid battery recycling organization shall be deemed not
35 in compliance with this chapter until the organization submits a
36 plan that the department finds complies with the requirements of
37 this chapter. The lead-acid battery recycling organization shall not
38 resubmit the plan more than two times to the department.

39 (c) The approved plan shall be a public record, except that
40 financial, production, or sales data reported to the department by

1 the lead-acid battery recycling organization is not public record
2 for purposes of the California Public Records Act (Chapter 3.5
3 (commencing with Section 6250) of Division 7 of Title 1 of the
4 Government Code) and shall not be open to public inspection. The
5 department may release financial, production, or sales data in
6 summary form only so that the information cannot be attributable
7 to a specific manufacturer, retailer, or other entity.

8 42422.8. Within 90 days after approval or conditional approval
9 by the department of the plan, but no later than January 1, 2019,
10 the lead-acid battery recycling organization shall implement the
11 approved plan.

12 42422.9. (a) On or before January 1, 2021, based on
13 methodology contained in the plan and information contained in
14 the first annual report, the department, in consultation with the
15 organization and after taking into consideration relevant economic
16 and practical considerations and other information, shall establish
17 and make public the following:

18 (1) The state baseline amount of recycling of lead-acid batteries
19 with California recycling stickers.

20 (2) The state recycling goals for lead-acid batteries with
21 California recycling stickers.

22 (b) Beginning July 1, 2022, and annually thereafter, the annual
23 report required pursuant to Section 42425.2 shall demonstrate the
24 lead-acid battery recycling organization's good-faith effort to
25 comply with the state lead-acid battery recycling goals established
26 pursuant to this section.

27 (c) On or before July 1, 2023, and every four years thereafter,
28 the department shall review, including reviewing for consistency
29 with Section 41780.01, and update, as necessary, the baseline
30 amount and goals to ensure that the program advances the state
31 recycling goal.

32

33

Article 3. Budget

34

35 42423. On or before July 1, 2018, and on or before July 1
36 annually thereafter, the lead-acid battery recycling organization
37 shall prepare and submit to the department a proposed used
38 lead-acid battery recycling program budget for the following
39 calendar year that includes all of the following:

1 (a) Anticipated revenues and costs of implementing the program,
2 including related programs, projects, contracts, and administrative
3 expenses.

4 (b) A recommended funding level sufficient to cover the plan's
5 budgeted costs and to operate the lead-acid battery recycling
6 program over a multiyear period in a prudent and responsible
7 manner.

8 (c) The amount of the lead-acid battery recycling charge and
9 an itemization of the costs of the program.

10 42423.2. (a) On or before October 1, 2018, and annually
11 thereafter, the department shall approve or disapprove a final used
12 lead-acid battery recycling program budget. If the department fails
13 to act or does not disapprove a final used lead-acid battery recycling
14 program budget, the budget shall be deemed approved.

15 (b) (1) If the department disapproves the budget, the department
16 shall explain, in writing, how the budget does not comply with
17 this article, and the lead-acid battery recycling organization shall
18 submit a revised budget addressing the department's written
19 reasons for its decision within 30 days of the disapproval.

20 (2) The department, within 30 days from the date the lead-acid
21 battery recycling organization submits a revised budget, shall
22 approve or disapprove a final used lead-acid battery recycling
23 program budget. If the department fails to act or does not
24 disapprove a final program budget within those 30 days, the budget
25 shall be deemed approved.

26 42423.4. (a) The department shall notify the lead-acid battery
27 recycling organization of the department's costs that are directly
28 related to implementing and enforcing this chapter relating to the
29 lead-acid battery recycling organization's activities. This may
30 include the direct costs associated with regulatory development
31 prior to submittal of the plan required pursuant to Section 42422.2.
32 The total amount shall not exceed the department's direct costs to
33 implement and enforce this chapter.

34 (b) On or before July 1, 2019, and once every three months
35 thereafter, and within the fiscal year ending June 30, the lead-acid
36 battery recycling organization shall reimburse the department for
37 costs the department incurs of which the organization is notified
38 pursuant to subdivision (a).

39 (c) The department shall deposit all moneys submitted pursuant
40 to this section into the Used Lead-Acid Battery Recycling Fund,

1 which is hereby established in the State Treasury. Upon
2 appropriation by the Legislature, moneys in the fund shall be
3 expended by the department to administer and enforce this chapter,
4 as well as reimburse any outstanding loans made from other funds
5 used to finance startup costs of the department's activities pursuant
6 to this chapter. The funds collected pursuant to this section shall
7 not be expended for any other purpose.

8
9 Article 4. Lead-Acid Battery Recycling Charge

10
11 42424. (a) The lead-acid battery recycling organization shall
12 set the amount of the lead-acid battery recycling charge that shall
13 be added to the purchase price of a lead-acid battery at the point
14 of sale and include the charge amount in the annual budget.

15 (b) The lead-acid battery recycling charge shall meet all of the
16 following:

17 (1) It shall be based on the value of lead.

18 (2) It shall be no more than twenty dollars (\$20) and no less
19 than fifteen dollars (\$15).

20 (3) It shall be a flat rate and not a percentage of the purchase
21 price of the lead-acid battery.

22 (c) The recycling organization shall not set more than two
23 different charges to accommodate lead-acid battery size
24 differentials.

25 (d) *The lead-acid battery recycling charge shall be charged in*
26 *lieu of any voluntary core charge being collected by retailers*
27 *covered under this chapter.*

28 ~~(d)~~

29 (e) If the amount of the lead-acid battery recycling charge
30 changes pursuant to subdivision ~~(e)~~, (f), the recycling organization
31 shall notify retailers and any other entities that collect the recycling
32 charge.

33 ~~(e)~~

34 (f) (1) In the first 12 months during which the lead-acid battery
35 recycling charge is collected, the lead-acid battery recycling
36 organization may change the amount of the lead-acid battery
37 recycling charge, in accordance with subdivision (b), and shall
38 provide no less than 90 days' notice to the public of any change
39 in the amount of the charge.

1 (2) After one year from the date when the collection of the
2 lead-acid battery recycling charge commences, the lead-acid battery
3 recycling organization may change the amount of the charge, in
4 accordance with subdivision (b), but the lead-acid battery recycling
5 organization shall not change the amount of the charge more
6 frequently than annually and shall provide no less than 180 days'
7 notice to the public before the change in the amount of the charge
8 takes effect.

9 (f)

10 (g) The amount of the *lead-acid battery recycling* charge shall
11 be included in the annual program budget for approval by the
12 department.

13 42424.1. (a) On a quarterly basis, a manufacturer, recycler,
14 retailer, or distributor shall submit all moneys collected pursuant
15 to this article, minus the amount disbursed to consumers for the
16 return of lead-acid batteries with California recycling stickers
17 pursuant to Section 42427, to the recycling organization along
18 with any additional paperwork required by the department.

19 (b) (1) The recycling organization shall remit to the state one
20 dollar (\$1) from the sale of each lead-acid battery with a California
21 recycling sticker to be deposited in the Lead-Acid Battery Cleanup
22 Fund, which is hereby created. Money in the Lead-Acid Battery
23 Cleanup Fund shall be continuously appropriated, without regard
24 to fiscal year, to the Department of Toxic Substances Control for
25 the cleanup of areas of the state that have been contaminated by
26 the production, recycling, or improper disposal of lead-acid
27 batteries and activities described in Article 11 (commencing with
28 Section 42431).

29 (2) The balance in the Lead-Acid Battery Cleanup Fund shall
30 not be more than one hundred million dollars (\$100,000,000). If
31 the balance in the Lead-Acid Battery Cleanup Fund reaches one
32 hundred million dollars (\$100,000,000), notice shall be given to
33 the organization, and a retailer of lead-acid batteries and other
34 collectors of the lead-acid battery recycling charge shall decrease
35 the amount of the lead-acid battery recycling charge by one dollar
36 (\$1) and the recycling organization shall suspend remitting moneys
37 pursuant to paragraph (1). When the fund reaches thirty million
38 dollars (\$30,000,000), notice shall be given to the organization,
39 and the retailer or collector of the recycling charge shall increase
40 the lead-acid battery recycling charge by one dollar (\$1) and the

1 recycling organization shall resume remitting moneys pursuant to
2 paragraph (1).

3 42424.2. (a) Commencing 90 days after the date the department
4 approves or conditionally approves the plan pursuant to Section
5 42422.6, each manufacturer, recycler, retailer, or distributor that
6 sells a lead-acid battery to a consumer or to the ultimate end user
7 of the lead-acid battery in the state shall add the charge to the
8 purchase price of the lead-acid battery.

9 (b) In each transaction described in subdivision (a), the charge
10 shall be clearly visible as a separate line item on the invoice,
11 receipt, or functionally equivalent billing document provided by
12 the retailer to the consumer.

13 (c) The lead-acid battery recycling organization shall develop
14 reimbursement criteria to enable retailers to recover administrative
15 costs associated with collecting the charge.

16 (d) The lead-acid battery recycling organization shall determine
17 the rules and procedures that are necessary and proper to implement
18 the collection of the charge in a fair, efficient, and lawful manner.

19 42424.4. (a) The lead-acid battery recycling organization may
20 conduct an audit of the parties that are required to remit the charge
21 to the lead-acid battery recycling organization to verify that the
22 charges paid are proper and accurate and to ensure all parties
23 required by this chapter to pay or collect the charge are paying or
24 collecting the proper amount.

25 (b) An audit conducted pursuant to this section shall be carried
26 out in accordance with generally accepted auditing practices and
27 shall be limited in scope to confirming whether the charge has
28 been properly collected on all sales of lead-acid batteries to
29 consumers in the state.

30 (c) For purposes of conducting audits pursuant to this section,
31 the lead-acid battery recycling organization shall hire independent
32 third-party auditors.

33 (d) If the lead-acid battery recycling organization conducts an
34 audit pursuant to this section, the organization shall provide a copy
35 of the audit to the department.

36 42424.6. (a) Except as provided in Section 42424.1, the
37 lead-acid battery recycling organization shall deposit the charges
38 and other moneys collected by the lead-acid battery recycling
39 organization pursuant to this chapter in accounts that are
40 maintained and disbursed by the organization.

1 (b) The lead-acid battery recycling organization may enter into
2 a joint venture, agreements, or contracts with third parties,
3 including, but not limited to, corporations, partnerships, nonprofit
4 entities, and governmental agencies, to undertake activities on the
5 lead-acid battery recycling organization's behalf that are consistent
6 with this chapter.

7

8 Article 5. Records, Audits, and Annual Report

9

10 42425. (a) The lead-acid battery recycling organization shall
11 keep minutes, books, and records that clearly reflect the activities
12 and transactions of the organization.

13 (b) (1) The accounting books of the lead-acid battery recycling
14 organization shall be audited at the organization's expense by an
15 independent certified public accountant retained by the organization
16 at least once each calendar year.

17 (2) The audit shall include, but is not limited to, the recycling
18 organization's program results and the number of lead-acid
19 batteries with California recycling stickers that have been returned
20 pursuant to Article 7 (commencing with Section 42427) in
21 comparison to the number of lead-acid batteries sold in the state.

22 (c) The lead-acid battery recycling organization shall arrange
23 for each audit conducted since the prior annual report to be
24 delivered to the department, along with the annual report required
25 pursuant to Section 42425.2. The department shall review each
26 audit for compliance with this chapter and consistency with the
27 plan created pursuant to this chapter. The department shall notify
28 the lead-acid battery recycling organization of any compliance
29 issues or inconsistencies. The lead-acid battery recycling
30 organization may obtain copies of the audits upon request. The
31 department shall not disclose any confidential proprietary
32 information in an audit.

33 (d) The department may conduct its own audit if it determines
34 that an audit is necessary to enforce the requirements of this chapter
35 and that audits conducted pursuant to subdivision (b) are not
36 adequate for this purpose.

37 42425.2. On or before July 1, 2020, and each year thereafter,
38 the lead-acid battery recycling organization shall submit to the
39 department and make publicly available on its Internet Web site

1 a report that includes, for the preceding calendar year, all of the
2 following:

3 (a) The lead-acid battery recycling organization’s costs and
4 revenues.

5 (b) The quantity of discarded used lead-acid batteries with
6 California recycling stickers collected for recycling in the program.

7 (c) The quantity of used lead-acid batteries with California
8 recycling stickers collected for recycling from different types of
9 collection points.

10 (d) The quantity of materials recycled, disaggregated by
11 material.

12 (e) The uses for the recycled materials, disaggregated by
13 material.

14 (f) The quantity of materials disposed of without recycling.

15 (g) A description of methods used, and the best management
16 practices, to collect, transport, and process used lead-acid batteries
17 in this state.

18 (h) In the first report pursuant to this section, examples of
19 educational materials that were provided to consumers during the
20 program’s first year, and, in subsequent years, any changes to those
21 materials.

22 (i) The total volume, number, and weight of used lead-acid
23 batteries with California recycling stickers collected, recycled, and
24 reused in this state during the preceding calendar year, including
25 any conversion factor used to determine the number of lead-acid
26 batteries recovered.

27 (j) A report by the advisory committee, established pursuant to
28 paragraph (3) of subdivision (a) of Section 42422 that includes a
29 summary of the consultative process between the advisory
30 committee and the lead-acid battery recycling organization relating
31 to the ongoing implementation of the plan, as well as any other
32 information deemed pertinent by the advisory committee to
33 maximizing the recovery and recycling of used lead-acid batteries
34 in the state.

35 (k) For reports submitted on and after April 1, 2023, a
36 demonstration of good-faith effort with the state lead-acid battery
37 recycling goals established pursuant to Section 42422.9.

38 (l) (1) Any modifications or revisions to the lead-acid battery
39 recycling plan including those required pursuant to Section

1 42422.2, necessary to achieve the state lead-acid battery recycling
 2 goals established pursuant to Section 42422.9.

3 (2) Any proposed modifications or revisions to the lead-acid
 4 battery recycling plan shall be submitted to the department and
 5 are subject to the department review process prescribed in Section
 6 42422.6.

7 (3) Within 90 days after approval or conditional approval by
 8 the department, the lead-acid battery recycling organization shall
 9 implement the revised plan.

10 (m) Other information relevant to compliance with the plan.

11 42425.4. No later than 60 days after the date the department
 12 receives the annual report, the department shall notify the lead-acid
 13 battery recycling organization of any deficiencies in the report.
 14 No later than 60 days after receiving this notice from the
 15 department, the lead-acid battery recycling organization shall
 16 provide additional information, or modify or make corrections in
 17 the report, in response to the department’s notification.

18

19 Article 6. Lead-Acid Battery Recycling

20

21 42426. (a) On or before July 1, 2020, and annually thereafter,
 22 a person that is engaged in business as a recycler shall submit a
 23 report to the department that includes the following:

24 (1) The number of lead-acid batteries with California recycling
 25 stickers received and recycled in the state during the preceding
 26 calendar year.

27 (2) Other information deemed necessary by the department that
 28 is reasonably related to compliance with this chapter and that can
 29 be reasonably compiled.

30 (b) For purposes of determining the used lead-acid battery
 31 recycling rate, on or before July 1, 2020, and annually thereafter,
 32 the operator of a solid waste landfill facility within the state shall
 33 report to the department, if requested, in a form and manner
 34 determined by the department, regarding the number of used
 35 lead-acid batteries with California recycling stickers received by
 36 that facility that were recycled or disposed of in the preceding
 37 calendar year.

38 (c) The department shall make the information provided pursuant
 39 to this section available to interested parties and to the public.

1 Article 7. California Lead-Acid Battery Consumer Recycling
2 Program

3
4 42427. (a) On and after the same date a manufacturer, recycler,
5 retailer, or distributor described in Section 42424.2 is required to
6 add the recycling charge to the purchase price of a lead-acid
7 battery, that manufacturer, recycler, retailer or distributor shall
8 affix a California recycling sticker, as determined by the
9 department, to each lead-acid battery at the point of sale. Every
10 lead-acid battery sold in California on and after that date shall be
11 labeled with that California recycling sticker.

12 (b) (1) Except as provided in paragraph (2), a consumer who
13 returns a lead-acid battery with a California recycling sticker to a
14 manufacturer, retailer, or other entity that sells lead-acid batteries
15 to the ultimate user shall be given a refund of the recycling charge
16 minus three dollars (\$3).

17 (2) If at the time the consumer returns a lead-acid battery the
18 recycling organization is not remitting one dollar (\$1) into the
19 Lead-Acid Battery Cleanup Fund, as described in paragraph (2)
20 of subdivision (b) of Section 42424.1, the refund shall be the
21 recycling charge minus two dollars (\$2).

22 (3) One dollar (\$1) of the three dollars (\$3) described in
23 paragraph (1) shall be used as the one dollar (\$1) remitted to the
24 Lead-Acid Battery Cleanup Fund pursuant to Section 42424.1.
25 The remaining two dollars (\$2) shall be used by the lead-acid
26 battery recycling organization for administration and
27 implementation of the program.

28 (c) A consumer who returns a lead-acid battery without a
29 California recycling sticker shall not be given a refund.

30 42427.2. If the total amount of refunds given out by an entity
31 exceeds the total amount of recycling charge collected by the entity,
32 the entity shall receive moneys from the recycling organization in
33 the amount of the difference.

34 42427.4. An entity that sells or distributes a lead-acid battery
35 in California to the ultimate user shall accept a used lead-acid
36 battery regardless if the lead-acid battery has a California recycling
37 sticker.

38 42427.6. A retailer that sells a used lead-acid battery to a
39 manufacturer shall remit 75 percent of the sale price of the used

1 lead-acid battery to the lead-acid battery recycling organization
2 for deposit into the Lead-Acid Battery Cleanup Fund.

3

4

Article 8. Enforcement

5

6 42428. (a) On or before March 1, 2018, and annually thereafter,
7 the department shall post on its Internet Web site a list of
8 manufacturers and recyclers that are in compliance with this
9 chapter.

10 (b) A manufacturer or recycler that is not listed on the
11 department’s Internet Web site pursuant to this section, but
12 demonstrates compliance with *the requirements directly imposed*
13 *by* this chapter before the next notice is required to be posted
14 pursuant to this section, may request a certification letter from the
15 department stating the manufacturer or recycler is in compliance.
16 The manufacturer or recycler that receives the letter shall be
17 deemed to be in compliance with this chapter.

18 (c) A retailer that distributes or sells a lead-acid battery shall
19 monitor the department’s Internet Web site to determine if the
20 manufacturer or recycler is in compliance with this chapter. A
21 retailer otherwise in compliance with this chapter shall be deemed
22 in compliance with the chapter if, on the date the retailer ordered
23 or purchased a lead-acid battery, or within 120 calendar days before
24 or after that date, the manufacturer or recycler was listed as
25 compliant on the department’s Internet Web site, unless it is shown
26 the retailer was actually aware of the manufacturer’s or recycler’s
27 noncompliance.

28 (d) A retailer may sell or distribute lead-acid batteries through
29 sales to the public if those batteries were initially ordered or
30 purchased from a manufacturer or recycler when the manufacturer
31 or recycler was in compliance with the requirements of this chapter
32 or the retailer is deemed compliant in regard to those batteries
33 pursuant to subdivision (c).

34 (e) The sale, distribution, or offering for sale of any lead-acid
35 battery in stock prior to the commencement of the collection of
36 the lead-acid battery recycling charge pursuant to this chapter shall
37 be deemed to be in compliance with this chapter.

38 (f) If the department determines a manufacturer or recycler is
39 not in compliance with this chapter, the department shall remove
40 the manufacturer or recycler from the department’s Internet Web

1 site pursuant to this section and the manufacturer or recycler shall
2 not sell a lead-acid battery in the state until the department
3 determines the manufacturer or recycler is in compliance with this
4 chapter.

5 42428.2. (a) The department may impose an administrative
6 civil penalty on any manufacturer, lead-acid battery recycling
7 organization, recycler, or retailer that is in violation of this chapter.
8 The amount of the administrative civil penalty shall not exceed
9 one thousand dollars (\$1,000) per day, but if the violation is
10 intentional, knowing, or reckless, the department may impose an
11 administrative civil penalty of not more than ten thousand dollars
12 (\$10,000) per day.

13 (b) The department shall not impose a penalty on the lead-acid
14 battery recycling organization pursuant to this section for a failure
15 to comply with this chapter if the organization demonstrates it
16 received false or misleading information from a member of the
17 organization or another party that was the direct cause of its failure
18 to comply.

19 (c) The department shall deposit all penalties collected pursuant
20 to this section into the Lead-Acid Battery Recovery and Recycling
21 Penalty Account, which is hereby created in the Used Lead-Acid
22 Battery Recycling Fund. Upon appropriation by the Legislature,
23 moneys deposited into the Lead-Acid Battery Recovery and
24 Recycling Penalty Account shall be expended by the department
25 to administer and enforce this chapter, including offsetting the
26 costs incurred by the department as specified in subdivision (a) of
27 Section 42423.4.

28 42428.4. Upon a written finding that a manufacturer, lead-acid
29 battery recycling organization, recycler, or retailer has not met a
30 material requirement of this chapter, in addition to any other
31 penalties authorized under this chapter, the department may take
32 any of the following actions, after affording the manufacturer,
33 organization, recycler, or retailer a reasonable opportunity to
34 respond to or rebut the finding, to ensure compliance with the
35 requirements of this chapter:

36 (a) Revoke the lead-acid battery recycling organization's plan
37 approval or require the lead-acid battery recycling organization to
38 resubmit the plan.

1 (b) Remove the manufacturer or recycler from the department’s
 2 Internet Web site and list of compliant manufacturers and recyclers,
 3 as specified in Section 42428.

4 (c) Require additional reporting requirements relating to
 5 compliance with the material requirement identified by the
 6 department.

7 42428.6. (a) A manufacturer, recycler, retailer, and lead-acid
 8 battery recycling organization shall do both of the following:

9 (1) Upon request, provide the department with reasonable and
 10 timely access, as determined by the department and as authorized
 11 pursuant to Title 13 (commencing with Section 1822.50) of Part
 12 3 of the Code of Civil Procedure, to its facilities and operations,
 13 as necessary to determine compliance with this chapter.

14 (2) Upon request, provide the department with relevant records
 15 necessary to determine compliance with this chapter.

16 (b) The records required by this chapter shall be maintained and
 17 accessible for three years. All reports and records provided to the
 18 department pursuant to this chapter shall be provided under penalty
 19 of perjury.

20 (c) The department may take disciplinary action against a
 21 manufacturer, recycler, retailer, or lead-acid battery recycling
 22 organization if the manufacturer, recycler, retailer, or lead-acid
 23 battery recycling organization fails to provide the department with
 24 the access required pursuant to this section, including, but not
 25 limited to, imposing penalties pursuant to Section 42428.2 and
 26 posting an immediate notice on the department’s Internet Web site
 27 pursuant to Section 42428 that the manufacturer or recycler is no
 28 longer in compliance with this chapter.

29
 30 Article 9. Emergency Regulatory Authority

31
 32 42429. (a) (1) The department may adopt emergency
 33 regulations to implement this chapter with regard to establishing
 34 a process for the submission and approval of the used lead-acid
 35 battery recovery and recycling plan, pursuant to Section 42422.6,
 36 and for the submission and approval of the proposed used lead-acid
 37 battery recycling program budget, pursuant to Sections 42423 and
 38 42423.2.

39 (2) The department shall not adopt regulations pursuant to this
 40 section with regard to any other provision of this chapter.

1 (3) This section does not limit the department’s authority to
2 adopt regulations pursuant to Section 40502.

3 (b) The emergency regulations adopted pursuant to this section
4 shall be adopted in accordance with Chapter 3.5 (commencing
5 with Section 11340) of Part 1 of Division 3 of Title 2 of the
6 Government Code, and for the purposes of that chapter, including
7 Section 11349.6 of the Government Code, the adoption of these
8 regulations is an emergency and shall be considered by the Office
9 of Administrative Law as necessary for the immediate preservation
10 of the public peace, health, safety, and general welfare.
11 Notwithstanding Chapter 3.5 (commencing with Section 11340)
12 of Part 1 of Division 3 of Title 2 of the Government Code, any
13 emergency regulations adopted by the department pursuant to this
14 section shall be filed with the Office of Administrative Law.

15
16 Article 10. Antitrust Immunity

17
18 42430. (a) Except as provided in subdivision (c), an action
19 specified in subdivision (b) that is taken by a lead-acid battery
20 recycling organization or its members that relates to any of the
21 following is not a violation of the Cartwright Act (Chapter 2
22 (commencing with Section 16700) of Part 2 of Division 7 of the
23 Business and Professions Code), the Unfair Practices Act (Chapter
24 4 (commencing with Section 17000) of Part 2 of Division 7 of the
25 Business and Professions Code), or the Unfair Competition Law
26 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
27 7 of the Business and Professions Code).

28 (b) Subdivision (a) shall apply to all of the following elements
29 of the plan and actions taken by the lead-acid battery recycling
30 organization, manufacturer, or recycler:

31 (1) The creation, implementation, or management of a plan
32 approved by the department pursuant to Article 2 (commencing
33 with Section 42422) and the selection of the types or quantities of
34 used lead-acid batteries recycled or otherwise managed pursuant
35 to a plan, as described in Article 2 (commencing with Section
36 42422).

37 (2) The cost and structure of an approved plan.

38 (3) The establishment, administration, collection, or
39 disbursement of the charges associated with funding the
40 implementation of this chapter.

1 (c) Subdivision (a) shall not apply to an agreement that does
2 any of the following:

3 (1) Fixes a price of or for lead-acid batteries, except for an
4 agreement related to costs or charges associated with participation
5 in a plan approved or conditionally approved by the department
6 and otherwise in accordance with this chapter.

7 (2) Fixes the output of production of lead-acid batteries.

8 (3) Restricts the geographic area in which, or customers to
9 whom, lead-acid batteries will be sold.

10

11 Article 11. Cleanup and Corrective Action of Sites
12 Contaminated by Lead-Acid Batteries

13

14 42431. If the state loans money from the General Fund to the
15 Toxic Substances Control Account during the 2016–17 fiscal year
16 for the cleanup of lead contamination in the state, the following
17 shall apply:

18 (a) Money from the Lead-Acid Battery Cleanup Fund may be
19 used towards repaying the ~~loan~~ *loan, in an amount necessary to*
20 *fund any share of the cleanup costs for which there is no*
21 *identifiable responsible party.*

22 (b) Any moneys designated as repayment of the loan shall be
23 credited to that loan, but shall be available to be loaned to the Toxic
24 Substances Control Account for the purposes of cleaning up
25 additional contamination by lead-acid batteries.