

Committee Substitute for Senate Bill No. 786

An act relating to fees imposed on tire and battery sales; amending s. 403.718, F.S.; imposing a fee on the sale of new motor vehicle tires sold to governmental entities; amending s. 403.7185, F.S.; imposing a fee on the sale of new or remanufactured lead-acid batteries sold to governmental entities; specifying that certain amendments are remedial in nature and are intended for clarification; providing that certain dealers are not eligible for a refund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail, including those sold to any governmental entity, is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. The fee imposed under this section shall be stated separately on the invoice to the purchaser. Such fee shall be imposed at the rate of \$1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the month in which the sale occurs. For purposes of this section, 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. This fee does not apply to recapped tires. Such fee shall be subject to all applicable taxes imposed in chapter 212.

Section 2. Subsection (1) of section 403.7185, Florida Statutes, is amended to read:

403.7185 Lead-acid battery fees.—

(1) For the privilege of engaging in business, a fee for each new or remanufactured lead-acid battery sold at retail, including those sold to any governmental entity, is imposed on any person engaging in the business of making retail sales of lead-acid batteries within this state. Such fee shall be imposed at the rate of \$1.50 for each new or remanufactured lead-acid battery sold. However, the fee shall not be imposed on any battery which has previously been taxed pursuant to s. 206.9935(2), provided the person claiming exemption from the tax can document payment of such tax. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The department may authorize a quarterly return under the conditions described in s. 212.11(1)(c). A dealer selling motor vehicles, vessels, or aircraft

at retail can purchase lead-acid batteries exempt as a sale for resale by presenting a sales tax resale certificate. However, if a dealer thereafter withdraws any such battery from inventory to put into a new or used motor vehicle, vessel, or aircraft for sale, to use on her or his own motor vehicle, vessel, or aircraft, to give away, or any purpose other than for resale, the dealer will owe the fee at the time the battery is withdrawn from inventory. If the dealer sells the battery at retail, that sale will be subject to the fee. If the dealer sells it to a purchaser who presents her or him a sales tax resale certificate, the dealer will owe no fee. 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 this state is subject to the fee one time. Such fee shall be subject to all applicable taxes imposed in chapter 212. The provisions of s. 212.07(4) shall not apply to the provisions of this section. When a sale of a lead-acid battery, upon which the fee has been paid, is canceled or the battery is returned to the seller, and the sale price, taxes, and fees are refunded in full to the purchaser, the seller may take credit for the fee previously paid. If, instead of refunding the purchase price of the battery, the customer is given a new or remanufactured battery in exchange for the returned battery, the dealer cannot take credit for the fee on the returned battery, but no fee is due on the new or remanufactured battery that is given in exchange. However, no credit shall be taken by the dealer for returns resulting in partial refunds or partial credits on purchase of replacement batteries.

Section 3. The amendments to sections 1 and 2 of this act are remedial in nature and are intended as clarifying provisions, and any dealer who has remitted waste tire fees or lead-acid battery fees on retail sales to any governmental entity is not eligible for a refund of those fees.

Section 4. This act shall take effect July 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.