

# Lead-Acid Battery Stewardship Bill Introduced in California

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Product Stewardship and Sustainability Report

On April 6, 2016, California Assemblymembers Christina Garcia and Miguel Santiago filed amendments to AB 2153 that would require establishment of a new product stewardship organization to, among other things, “increase recycling, and substantially reduce public agency costs for the end-of-life management of lead-acid batteries.” The proposal comes notwithstanding the unchallenged documentation that approximately 99 percent of the lead used in batteries is collected and recycled (and used to make new batteries). Indeed, lead batteries are recognized by the EPA as the nation’s most highly recycled consumer product.

It is not coincidental that close to Assemblymember Santiago’s legislative district includes the now-closed, highly controversial Exide Vernon secondary smelter, and Assemblymember Garcia’s district is located between the former Exide smelter and Quemetco, Inc.’s surviving City of Industry smelter. Nor is it coincidental that the proposed amendments to AB 2153 would impose a “recycling charge” on battery sales to fund a \$100 million Lead-Acid Battery Cleanup Fund. The fund would be available to finance cleanups of residences near smelters and other “lead-contaminated” areas of the State.

Other provisions of the bill are described in the box at the end of this article.

The sponsors’ staff justifies the recycling provisions of the bill with the argument that many California auto battery retailers are not returning to consumers the “core charges” that manufacturers credit to them

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upon return of a used battery. When California in 1988 adopted the model legislation promoted by the Battery Council International, one of the few provisions not included in California law was a mandatory “deposit-in-lieu-of-trade” that would have required such returns. Rather than simply now incorporating that requirement in state law, however, the staff has argued that the massive supervisory structure that would be established by the proposed legislation is necessary to assure future compliance. And, of course, the bill would also divert a significant portion of the deposit money to state coffers.

The amendments to AB 2153 are to be heard by the Assembly’s Environmental Safety and Toxic Materials Committee on April 12th. In light of the makeup of that committee, the bill seems likely to be reported out. Its ultimate enactment is highly uncertain, however: under California’s Constitution, legislation imposing a tax must be approved by two-thirds of both the Assembly and Senate. Few, if any Republicans are likely to support the bill, and Democrats are a few votes short of a two-thirds majority in both houses. One would also hope that some Democrats will see that the recycling provisions of this bill are unnecessary, given that close to 100 percent of lead in used batteries already is recycled.

### **Key Elements of the Garcia Bill**

- A new, government-supervised organization to manage lead acid battery recycling;
- Government approval of the new organization’s plan to collect and recycle lead acid batteries;
- A “California Recycling Sticker” on every lead-acid battery sold in California;
- A fee of \$15-\$20 to be charged on the purchase of every lead acid battery sold in California;
- \$1 of the fee to go to a state Lead-Acid Battery Cleanup Fund;
- \$2 of the fee to go to pay for the organization;
- Consumer is refunded the fee, less \$3, if a returned battery has a California sticker – no refunds without the sticker;
- 75% of any core purchase paid by a manufacturer to a retailer to be redirected to the state (not the retail collector).