

# The 2008 Florida Statutes

## [Title XXIX](#) PUBLIC HEALTH

## [Chapter 403](#) ENVIRONMENTAL CONTROL

### **403.7192 Batteries; requirements for consumer, manufacturers, and sellers; penalties.--**

(1) As used in this section, the term:

(a) "Cell" means a galvanic or voltaic device weighing 25 pounds or less consisting of an enclosed or sealed container containing a positive and negative electrode in which one or both electrodes consist primarily of cadmium or lead and which container contains a gel or liquid starved electrolyte.

(b) "Cell manufacturer" means an entity which manufactures cells in the United States; or imports into the United States cells or units for which no unit management program has been put into effect by the actual manufacturer of the cell or unit.

(c) "Marketer" means any person who manufactures, sells, distributes, assembles, or affixes a brand name or private label or licenses the use of a brand name on a unit or rechargeable product. Marketer does not include a person engaged in the retail sale of a unit or rechargeable product.

(d) "Rechargeable battery" means any small, nonvehicular, rechargeable nickel-cadmium or sealed lead-acid battery, or battery pack containing such a battery, weighing less than 25 pounds and not used for memory backup.

(e) "Unit" means a cell, a rechargeable battery, or a rechargeable product with nonremovable rechargeable batteries.

(f) "Unit management program" means a program or system for the collection, recycling, or disposal of units put in place by a marketer in accordance with this section.

(2)(a) A person may not distribute, sell, or offer for sale in this state an alkaline-manganese or zinc-carbon battery that contains any intentionally introduced mercury and more than 0.0004 percent mercury by weight.

(b) For any alkaline-manganese battery resembling a button or coin in size and shape, the limitation shall be 25 milligrams of mercury.

(c) A person may not distribute, sell, or offer for sale in this state a consumer button dry cell battery containing a mercuric oxide electrode or a product containing such a battery.

(d) The secretary of the department may exempt a specific type of battery from this subsection if there is not a battery that meets those requirements and that reasonably can be substituted for the battery for which the exemption is sought.

(3)(a) A person may not knowingly place in a mixed solid waste stream a dry cell battery that uses a mercuric oxide electrode or a product containing such a battery, and that was purchased for use or used by a consumer or by a government, industrial, communications, or medical facility that is a conditionally exempt small quantity generator of hazardous waste under 40 C.F.R. s. 261.5.

(b) A person may not knowingly place in a mixed solid waste stream a rechargeable battery, or a product containing such a rechargeable battery, which was purchased for use or used by a consumer or by a government, industrial, commercial, communications, or medical facility that is a conditionally exempt small quantity generator of hazardous waste under 40 C.F.R. s. 261.5.

(c) Each government, industrial, commercial, communications, or medical facility shall collect and segregate its batteries to which the prohibitions in paragraphs (a) and (b) apply and send each segregated collection of batteries back to a collection site designated by the manufacturer or distributor in the case of mercuric oxide batteries, to a collection site designated by a marketer or cell manufacturer of rechargeable batteries, or the products powered by nonremovable batteries, or to a facility permitted to dispose of those batteries.

(4) A cell manufacturer or marketer shall not sell or offer for sale in this state any consumer product or nonconsumer product that is powered by a rechargeable battery unless:

(a) In the case of consumer products, the battery can be easily removed by the consumer, or the battery is contained in a battery pack that is separate from the product and can be easily removed from the product.

(b) In the case of nonconsumer products, the battery can be removed or is contained in a battery pack that is separate from the product.

(c) The product or the battery, or the package in the case of a consumer product, is labeled with a recycling symbol and includes, as an indication of the chemical composition of the battery, the term "Cd" for nickel-cadmium batteries or "Pb" for small sealed lead batteries.

(d) The instruction manual for the product or, in the case of a consumer product, the package containing the product states that the sealed lead or nickel-cadmium battery must be recycled or disposed of properly.

(5) The secretary of the department may authorize the sale of a consumer or nonconsumer product that does not comply with paragraphs (4)(a) and (b), if the secretary finds that the design of the product, to comply with the requirements of this subsection, would result in significant danger to public health and safety.

(6) Manufacturers and distributors of mercuric oxide batteries and products containing these batteries and marketers of rechargeable batteries or the products powered by such batteries, excluding those used solely for memory, whose batteries and products are sold and distributed in this state and that are subject to the requirements of subsection (3), must:

(a) Implement a unit management program, other than a local government curbside program and other local government collection system, unless the local government agrees

otherwise, through which the discarded batteries or products powered by nonremovable batteries may be returned to designated collection sites and submit this information to the department. The unit management program must be accessible for consumers or local governments collecting batteries or products from consumers, for returning the discarded batteries or products. In addition to other requirements which cell manufacturers have as marketers, cell manufacturers shall accept rechargeable batteries collected in this state. Cell manufacturers shall accept rechargeable batteries returned to them of the same general type, including differing brands, not to exceed the same annual rate as batteries manufactured by them are sold in this state. Cell manufacturers shall have the sole responsibility for reclamation and disposal of rechargeable batteries returned to them.

(b) Clearly inform each purchaser of the prohibition on the disposal in the solid waste stream of these batteries and products powered by nonremovable batteries and of the system for return available to the purchaser for their proper collection, transportation, recycling, or disposal. A telephone number must be provided to each final purchaser of the batteries, or products powered by these batteries, so that the final purchasers can call to get information on returning the discarded batteries or products for recycling or proper disposal. The telephone number must also be provided to the department.

(c) Accept waste batteries or products containing these batteries returned to their designated collection sites as allowed by federal, state, and local laws and regulations.

(d) Ensure that each battery is clearly identifiable as to the type of electrode used in the battery.

(7) Representative organizations of manufacturers shall supply to the department a list of those organization members for whom the association is conducting the unit management program.

(8) Manufacturers and importers of mercuric oxide batteries and cell manufacturers and marketers of rechargeable batteries or products powered by these batteries that do not comply with the requirements in subsection (6) may not sell, distribute, or offer for sale in this state these batteries or products powered by these batteries. Manufacturers or marketers may satisfy the requirements of subsection (6) individually, as part of a representative organization of manufacturers, or by contracting with private or government parties. Any such contractual arrangements may include appointment of agents, allocation of costs and duties, and such indemnifications as the parties deem appropriate.

(9) Any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#). A manufacturer or distributor who violates such provision is subject to a minimum fine of \$100 per violation.

(10) In an enforcement action under this section in which the state prevails, the state may recover reasonable administrative expenses, court costs, and attorney's fees incurred to take the enforcement action, in an amount to be determined by the court.