STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1340 BY: SETTLE

AS INTRODUCED

AN ACT RELATING TO REVENUE AND TAXATION; CREATING THE MANUFACTURER RECYCLING INCENTIVE ACT; DEFINING TERMS; PROVIDING A CREDIT AGAINST INCOME TAX LIABILITY FOR INVESTMENTS IN FACILITIES FOR RECYCLING; PROVIDING FOR APPLICATIONS; PROVIDING FOR DUTIES AND AUTHORITY OF THE OKLAHOMA TAX COMMISSION; PROVIDING FOR LIMITATIONS; PROVIDING FOR COOPERATION; REQUIRING CERTIFICATION; PROVIDING FOR RULES AND REGULATIONS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.23 of Title 68, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall be known and may be cited as the "Manufacturer Recycling Incentive Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.24 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Legislature hereby declares that it is necessary in the public interest to encourage and promote the recycling of recyclable materials. It is equally necessary that Oklahoma be made and kept an attractive location for continued industrial development, including the expansion of existing plants, thereby increasing employment and payrolls and upgrading the state's natural resources, both of which public purposes and objectives will simultaneously be aided and encouraged by the Manufacturer Recycling Incentive Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.25 of Title 68, unless there is created a duplication in numbering, reads as follows:

For purposes of the Manufacturer Recycling Incentive Act:

1. "Facility" means building, land improvements, machinery and equipment used in manufacturing as defined by the Standard Industrial Classification Code; provided that up to ten percent (10%) of the square feet of a building may be devoted to office space used to provide clerical support for the recycling operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the recycling facility is located;

2. "Recyclable materials" means those materials which have been separated, diverted or removed from the waste stream;

3. "Finished product" means a marketable product or component thereof which has an economic value to the consumer and is ready to be used without the requirement of further alteration of its form; and

4. "Recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.26 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any person, firm, corporation or other legal entity engaged, or proposing to engage, in the recycling of recyclable materials, the processing of which is verified as provided in Section 5 of this act, shall be entitled to a one-time credit against its income tax liability of not to exceed twenty percent (20%) of the investment cost of the recycling facility used for recyclable materials. Provided, that:

1. the credit allowed to be taken shall not exceed the income tax liability for such year for such person, firm, corporation or legal entity;

2. the tax credit to be allowed shall not extend to or include plant operating expenses;

3. the credit shall apply to a facility only if construction or on-site installation of the facility commences on or after January 1, 1992, and before December 31, 1995;

4. the tax credit shall be taken in the year the facility is placed in service, provided that any credit allowed but not used in any taxable year may be carried over in order, but used only once, to each of the four (4) years following the year of qualification and to the extent not used in those years in order to each of the five (5) years following the initial five-year period;

5. for purposes of the Manufacturer Recycling Incentive Act, the user of a facility or portion thereof under a lease with a term of five (5) years or more shall be treated as the owner; and

6. the credit shall not duplicate any credit under Section 2357.16 of Title 68 of the Oklahoma Statutes.

B. The investment cost of such facilities, equipment or machinery may be treated as a depreciable asset for income tax purposes.

C. Machinery and equipment qualifying for this credit shall include that used to sort, store, prepare and manufacture recyclable materials into a finished product and shall include all machinery

and equipment necessary or complementary to the proper production of the finished product, including but not limited to pollution abatement machinery and equipment.

D. A facility shall qualify for a tax credit only if the finished product is composed of at least ninety percent (90%) recyclable materials.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.27 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In order to qualify for the income tax credit specified in Section 4 of this act, said person, firm, corporation or other legal entity engaged, or proposing to engage, in such recycling enterprise shall first make application to the Oklahoma Tax Commission on forms to be provided by the Oklahoma Tax Commission and shall submit all available information relative to the applicant's operations, facilities or processes and such other relevant information bearing upon the requirements as may be required by the Oklahoma Tax Commission pursuant to the Manufacturer Recycling Incentive Act. Upon receipt of such application for tax credit and supporting information, it shall be the duty of the Oklahoma Tax Commission to make as accurately as possible:

1. a verification of the accuracy of supporting information submitted by the applicant;

2. a determination of whether the recycling facility meets the requirements of Section 4 of this act; and

3. a determination of the actual or approximate capital investment required to effectuate such installation so as to arrive at an actual or estimated cost of such recycling facility.

B. In no event shall the Oklahoma Tax Commission allow a tax credit to be taken in excess of the actual investment cost of such recycling facility.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.28 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Upon a determination of all such facts posed by the applicant's recycling facility in this state, the Oklahoma Tax Commission shall verify the actual or estimated agreed investment cost of such facility.

B. If an estimated agreed investment cost is verified by the Oklahoma Tax Commission, the Oklahoma Tax Commission shall subsequently adjust such estimate to the actual cost outlay by the applicant, for the facility, not in excess of the verified estimate, at the time the tax credit is taken. The income tax return specifying the cost outlay for the facilities or process submitted by the applicant may be accepted by the Oklahoma Tax Commission as the actual investment cost of the facility or process unless the Oklahoma Tax Commission determines that an audit of the income tax return or income tax liability of the applicant is warranted. In conducting an audit, the Oklahoma Tax Commission is authorized to request such records and documentation as it determines to be necessary to verify the accuracy of the return. The person, firm, corporation or other legal entity taking such tax credit shall be required to submit to the Oklahoma Tax Commission evidence of the actual capital outlay for the installation of such process or facilities at the time such credit is to be taken for income tax purposes or when otherwise requested by the Oklahoma Tax Commission. Provided, however, if an audit by the Oklahoma Tax Commission to determine the actual cost outlay is not completed within the audit period permitted for the return claiming the credit, the investment cost on the return shall be deemed final.

C. The Commission shall allow the tax credit to be taken as and to the extent provided herein.

D. Should any facility for which credit is granted pursuant to the Manufacturer Recycling Incentive Act cease to meet all requirements hereof during the five (5) years following the year in which the facility is first placed in service, the amount of credit allowed and actually used shall be an addition to tax for such following year.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.29 of Title 68, unless there is created a duplication in numbering, reads as follows:

It shall be the further duty of the Oklahoma Tax Commission and any other state agency called upon for assistance in the proper enforcement of the Manufacturer Recycling Incentive Act, to cooperate each with the other in its administration so as to accomplish the purposes set forth in the Manufacturer Recycling Incentive Act. The Oklahoma Tax Commission and the Department of Commerce shall inform manufacturing and processing industries within and without the state of this tax credit benefit, and in every way possible gain the most favorable publicity and increased activity for Oklahoma resulting from this enactment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.30 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall promulgate rules and regulations necessary to administer the Manufacturer Recycling Incentive Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.31 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Manufacturer Recycling Incentive Act shall be effective for tax years beginning after December 31, 1991.

SECTION 10. This act shall become effective September 1, 1991.