

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1736

BY: CROCKER

AS INTRODUCED

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY;

REQUIRING OPPORTUNITY TO RECYCLE; REQUIRING CERTAIN  
RECYCLING LOCATIONS; PROVIDING FOR DEFINITION;  
PROVIDING FOR CERTAIN PROMOTIONAL PROGRAMS;  
PROVIDING FOR DEVELOPMENT OF CERTAIN MATERIALS AND  
ASSISTANCE; PROHIBITING CERTAIN ACTION; PROHIBITING  
DISPOSAL OF CERTAIN PRODUCTS; REQUIRING FEE AT  
PURCHASE OF CERTAIN BATTERIES; REQUIRING  
ACCEPTANCE; PROVIDING FOR NOTICE; REQUIRING CERTAIN  
ACTIONS; AUTHORIZING RETAINING CERTAIN REFUNDS;  
PROVIDING FOR REFUND; PROVIDING PROCEDURES AND  
RESTRICTIONS; PROVIDING FOR PENALTY; MAKING CERTAIN  
ACTIONS UNLAWFUL; REQUIRING CERTAIN ADVERTISEMENTS;  
AMENDING 63 O.S. 1981, SECTIONS 277, AS RENUMBERED  
BY SECTION 9, CHAPTER 311, O.S.L. 1988, AND AS LAST  
AMENDED BY SECTION 2, CHAPTER 145, O.S.L. 1990,  
2767, AS RENUMBERED BY SECTION 9, CHAPTER 311,  
O.S.L. 1988, AND AS LAST AMENDED BY SECTION 3,  
CHAPTER 145, O.S.L. 1990, SECTION 4, CHAPTER 311,  
O.S.L. 1988, AS AMENDED BY SECTION 4, CHAPTER 145,  
O.S.L. 1990, SECTION 5, CHAPTER 311, O.S.L. 1988,  
AS AMENDED BY SECTION 5, CHAPTER 145, O.S.L. 1990  
AND SECTION 6, CHAPTER 311, O.S.L. 1988, AS AMENDED  
BY SECTION 6, CHAPTER 145, O.S.L. 1990 (63 O.S.

SUPP. 1990, SECTIONS 85.51, 85.52, 85.53, 85.54 AND 85.55), WHICH RELATE TO THE OKLAHOMA STATE RECYCLING AND RECYCLED MATERIALS PROCUREMENT ACT; ADDING TO TERMS; MODIFYING PURPOSE; INCLUDING RECYCLED MATERIALS AND PRODUCTS MANUFACTURED WITH RECYCLED MATERIALS; ADDING TO RULES AREAS TO BE INCLUDED FOR REVIEW; REQUIRING CERTAIN PREFERENCES; SETTING STANDARDS FOR PURCHASE; PROVIDING FOR CERTAIN AGREEMENTS; REQUIRING TECHNICAL ASSISTANCE; ENCOURAGE PROCUREMENT PRACTICES; REQUIRING CLEARINGHOUSE OF INFORMATION; AUTHORIZING CERTAIN AGREEMENTS; REQUIRING CERTAIN USES OF WASTE TIRES; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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 1-2444 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Municipalities with a twenty-five thousand (25,000) population or more shall ensure that residents have an opportunity to recycle. At least one (1) recycling location shall be available in each municipality. The recycling location may be publicly or privately owned or operated. An opportunity to recycle may include:

1. A recycling location in the municipality and sites for collecting recyclable materials that are located in areas convenient for persons to use them; or
2. Curbside pickup, centralized drop-off, or a local recycling location for at least four kinds of recyclable materials; or
3. Such other program that will encourage recycling.

B. 1. As funds become available, each municipality shall provide information on how, when, and where materials may be recycled, including a promotional program that publishes notices at least once every three (3) months and encourages source separation of residential, commercial, industrial, and institutional materials.

2. The Oklahoma State Department of Health shall develop materials for municipalities to use in providing information on and promotion of recycling.

3. The Oklahoma State Department of Health shall provide technical assistance to municipalities to help municipalities implement recycling programs.

C. No action shall be taken by a county under this section to preclude a person generating or collecting solid waste from delivering recyclable materials to a recycling location of the generator's or collector's choice.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2445 of Title 63, unless there is created a duplication in numbering, reads as follows:

After January 1, 1992, no person shall dispose of any of the following in a solid waste landfill:

1. lead batteries;
2. waste tires; or
3. waste oil.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2446 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in this state shall:

1. Accept, at the point of transfer, lead acid batteries from customers;

2. Charge a fee of Five Dollars (\$5.00) per battery sold unless the customer returns a used battery to the retailer; and

3. post written notice, which must be at least eight and one-half (8 1/2) inches by eleven (11) inches in size and shall contain the universal recycling symbol and the following language:

- a. "It is illegal to put a motor vehicle battery in the garbage.";
- b. "Recycle your used batteries."; and
- c. "State law requires us to accept motor vehicle batteries for recycling."

B. Any person selling lead acid batteries at wholesale or offering lead acid batteries for sale at wholesale shall accept, at the point of transfer, lead acid batteries from customers.

C. 1. A person who purchases a lead acid battery at retail shall:

- a. return a lead acid battery to the retailer; or
- b. pay the retailer a five-dollar surcharge.

2. A person who has paid a five-dollar surcharge under paragraph 1 of this subsection shall receive a five-dollar refund from the retailer if the person returns a lead acid battery with a receipt for the purchase of a new battery from that retailer within thirty (30) days after purchase of lead acid battery.

D. A retailer may keep the unrefunded surcharges for lead acid batteries not returned within thirty (30) days.

E. A person who sells lead acid batteries at retail shall accept lead acid batteries from consumers and shall not charge to receive the lead acid batteries. A consumer shall not deliver more than five (5) lead acid batteries to a retailer at one time.

F. A retailer of lead acid batteries shall recycle the lead acid batteries received from consumers.

G. A retailer who violates subsection F of this section is guilty of a misdemeanor. Each lead acid battery that is not recycled is a separate violation.

H. A person who sells lead acid batteries at retail shall post the notice in paragraph I of this subsection in a manner clearly visible to a consumer making purchasing decisions.

I. The notice must be at least eight and one-half (8 1/2) inches by eleven (11) inches and contain the universal recycling symbol and state:

"NOTICE: USED BATTERIES

This retailer is required to accept your used lead acid batteries, EVEN IF YOU DO NOT PURCHASE A BATTERY. When you purchase a new battery, you will be charged an additional Five Dollars (\$5.00) unless you return a used battery within thirty (30) days.

Improper disposal of a lead acid battery is a crime."

J. An advertisement for sale of new lead acid batteries at retail in newspapers published in this state shall contain the notice in subsection K this section.

K. The notice shall state:

"Five Dollars (\$5.00) additional charge unless a used lead acid battery is returned. Improper disposal of a lead acid battery is a crime."

SECTION 4. AMENDATORY 63 O.S. 1981, Section 2766, as renumbered by Section 9, Chapter 311, O.S.L. 1988 and as last amended by Section 2, Chapter 145, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.51), is amended to read as follows:

Section 85.51 As used in the Oklahoma State Recycling and Recycled Materials Procurement Act:

1. "Office" means the Office of Public Affairs;
2. "Paper recycling" means the processing of scrap paper or other such recoverable waste paper into reusable products. Such collection and recycling of recoverable waste paper shall be done in an environmentally acceptable manner;

3. "State public entity" means the State Legislature and any state commission, or authority, including but not limited to, any state university, agency, or political subdivision of the state which is using state funds;

4. "Recoverable waste paper" generated by businesses or consumers, which has served its intended use and has been separated from solid waste for purposes of collection and recycling, shall include, but is not limited to, such paper as computer cards, computer print-out papers, copy paper, white office papers, colored office papers, corrugated boxes, newspapers, envelope coatings, bindery trimmings, printing scrap and butt rolls. Mill broke repulped internally within a paper manufacturing facility shall not be considered recoverable waste paper;

5. "Director" means the State Purchasing Director of the Office of Public Affairs;

6. "Division" means the Purchasing Division of the Office of Public Affairs;

7. "Recycled paper products" means all paper products manufactured from recoverable waste paper with not less than ten percent (10%) of their total weight consisting of waste paper. There shall be no minimum waste paper content specified for high speed copier paper and computer print out; ~~and~~

8. "Products manufactured with recycled materials" means products that contain at least a minimum percentage of specified materials recovered from the recycling of post-consumer products as defined in rules and regulations promulgated by the Division;

9. "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including but not limited to paper, glass, plastics, metals, automobile oil, and batteries. Refuse derived fuel or other material that is destroyed by incineration is not a recyclable material; and

10. "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

SECTION 5. AMENDATORY 63 O.S. 1981, Section 2767, as renumbered by Section 9, Chapter 311, O.S.L. 1988 and as last amended by Section 3, Chapter 145, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.52), is amended to read as follows:

A. It is the intent of the Legislature that all agencies and authorities of this state, as well as other government entities, including but not limited to, any state university, municipality, school district, agency, or political subdivision of the state which is using state funds, be required to collect and recycle recoverable waste paper and recyclable material to the greatest extent possible. The Office of Public Affairs shall coordinate recycling efforts among the state public entities. The Director of the Office of Public Affairs shall adopt such rules, regulations, and orders as are necessary for the implementation of the Oklahoma State Recycling and Recycled Materials Procurement Act. The rules and regulations at a minimum shall establish procedures for:

1. The identification, handling, hauling, storing, safety factors, and disposition of recoverable waste paper and recyclable materials;

2. The separation of recoverable waste paper and recyclable materials from solid waste generated by state public entities;

3. A system for the collection of recoverable waste paper and recyclable materials from solid waste generated by state public entities; ~~and~~

4. Assuring that the recoverable waste paper and recyclable materials ~~is~~ are made available to private industries for collection and recycling at the greatest economic value and to the greatest extent feasible, including the letting of multiple contracts as necessary to serve other government entities and different geographic areas of the state. In addition to the preference

provisions of Section 85.53 of this title, rules and regulations governing availability of recoverable waste paper and products manufactured with recycled materials shall give preference to private recycled paper products industries and to industries using products with recycled materials that operate in Oklahoma, and that will employ residents of the state to handle, transport and sort the ~~recycled paper~~ products or materials;

5. Requirements for a state public entity to provide adequate space in or adjacent to the building in which the public entity is located for the separation, temporary storage and collection of recoverable waste paper and other recyclable materials;

6. The purchase of uncoated office paper and printed paper whenever practicable; and

7. Separating for the purpose of recycling all lead acid batteries, waste oil and major appliances that are generated as solid waste.

B. All state public entities shall comply with the procedures and systems established pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act.

C. The Director of the Office of Public Affairs may exempt any single activity or facility of any state public entity from compliance with the Oklahoma State Recycling and Recycled Materials Procurement Act if the Director determines it to be not economically feasible. Any exemption shall be for a period not in excess of one (1) year, but additional exemptions may be granted for periods not to exceed one (1) year. The Director of the Office of Public Affairs shall make public all exemptions together with the reasons for granting such exemptions.

SECTION 6. AMENDATORY Section 4, Chapter 311, O.S.L. 1988, as amended by Section 4, Chapter 145, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.53), is amended to read as follows:



Section 85.53 A. ~~It is the intent of the Legislature that all~~  
All agencies and authorities of the state, as well as other  
government entities, including but not limited to, any state  
university, municipality, school district, agency, or political  
subdivision of the state which is using state funds, ~~be required to~~  
shall procure products or materials with the recycled content levels  
required and in such manner specified by rules promulgated by the  
Division when such products or materials are available and if the  
grade, quality and price are otherwise equal.

B. By July 1, 1992, the Division when accepting bids for state  
purchases of paper products or products manufactured with recycled  
materials shall give preference to the suppliers of such paper and  
products if:

1. The bids of such suppliers do not exceed by more than five  
percent (5%) the lowest bid or price quoted by the supplies offering  
nonrecycled paper or products; and

2. The quality and grade requirements are met.

C. 1. By July 1, 1992, any agency not subject to the Central  
Purchasing Act shall give preference to the purchase of recycled  
paper products and products manufactured with recycled materials.

2. Such agency shall give preference to recycled paper products  
and products manufactured from recycled materials if:

a. the bids of such suppliers do not exceed by more than  
five percent (5%) the lowest bid or price quoted by  
the suppliers offering nonrecycled paper or products,  
and

b. the quality and grade requirements are met.

D. The Division and any agency not subject to the Central  
Purchasing Act shall ensure that the recycled or recovered content  
of all paper purchased by the Division or agency, measured as a  
proportion, by weight, of paper products purchased in a calendar  
year, is not less than the following:

1. By 1994, ten percent (10%) of all purchased paper.
2. By 1996, twenty-five percent (25%) of all purchased paper.
3. By 1998, forty percent (40%) of all purchased paper.

E. In writing specifications under this section, the office and any other state public entity shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state. All specifications under this section shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

F. For materials that are not otherwise recycled, the Division and each agency not subject to the Central Purchasing Act shall, to the extent practicable, negotiate agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing.

SECTION 7. AMENDATORY Section 5, Chapter 311, O.S.L. 1988, as amended by Section 5, Chapter 145, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.54), is amended to read as follows:

Section 85.54 A. The Division shall review the procurement specifications currently used by the Office in order to eliminate, wherever economically feasible, discrimination against the procurement of recycled paper and other products manufactured with recycled materials.

B. The Division shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of recycled paper products.

C. The Director shall review and incorporate, where appropriate, guidelines published in the Federal Register.

D. The Director shall promulgate rules and regulations to encourage recycling and conservation of purchased products.

E. The Director of the Office of Public Affairs shall prepare and submit to the Governor and the Speaker of the House of Representatives and to the President Pro Tempore of the Senate on or before January 15 of each year, a report specifying:

1. The total amount of waste paper sold during the previous fiscal year;

2. The amount of recycled paper products and other products manufactured with recycled material purchased during the previous fiscal year;

3. The total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act; and

4. Any recommendations for program expansion or improvement.

F. The Director of the Office of Public Affairs shall prepare and submit to the Governor, the Speaker of the House of Representatives and to the President Pro Tempore of the Senate on or before January 15, 1991, an assessment of the effectiveness of procurement programs in other states with and without price preferences.

G. The Division in cooperation with the Oklahoma State Department of Health shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste reduction and development of markets for recyclable materials and compost through procurement policies and practices.

SECTION 8. AMENDATORY Section 6, Chapter 311, O.S.L. 1988, as amended by Section 6, Chapter 145, O.S.L. 1990 (74 O.S. Supp. 1990, Section 85.55), is amended to read as follows:

Section 85.55 A. Each state public entity whether or not subject to the Central Purchasing Act which purchases paper and other products manufactured with recycled materials shall:

1. Be subject to the rules and regulations of the Central Purchasing Division in relation to the purchase of recycled products;

2. Establish management practices in accordance with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act;

3. Report by December 31 of each year to the Director of the Office of Public Affairs the following:

- a. the total amount of waste paper sold during the previous fiscal year,
- b. the amount of procured recycled paper products and other products manufactured with recycled materials, and
- c. the total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act; and

4. The Director of the Office of Public Affairs shall coordinate the information provided by state public entities and report and submit such information to the Governor, the President Pro Tempore of the Senate, and to the Speaker of the House of Representatives on or before January 15 of each year.

B. Political subdivisions, educational institutions, and other public agencies shall aggressively pursue procurement practices that encourage solid waste reduction, recycling, and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.55a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The office shall maintain a clearinghouse of information regarding products made from recycled paper products and products manufactured with recycled materials for purchase by state public

entities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled paper products and products manufactured with recycled materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable materials from state public entities. The office shall develop a mechanism to make this information available to all state public entities.

B. The office may enter into agreements with purchasing agents of any other state or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services consistent with this act.

C. The office may cooperate with purchasing agents and other interested parties of any other state or the federal government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 306.3 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Department of Transportation shall use or encourage the use of the maximum possible amount of rubber recovered from waste tires as surfacing material, structural material and fill for all highway improvements, consistent with standard engineering practices. The Department shall promulgate rules specifying the proportion of recovered rubber that may be used in various types of highway or road improvements.

SECTION 11. Sections 2 and 3 of this act shall become effective January 1, 1992.

SECTION 12. Sections 1 and 4 through 10 of this act shall become effective July 1, 1991.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5860

KSM