

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1090

By: Leist

COMMITTEE SUBSTITUTE

An Act relating to public health and safety and taxation; amending 63 O.S. 1991, Section 1-2005.3A, as last amended by Section 15, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2005.3A), which relates to hazardous waste; clarifying language; providing for certain fees in event of certain determinations; specifying fees; amending 68 O.S. 1991 Sections 53002 and 53003, which relate to the Oklahoma Waste Tire Recycling Act; clarifying language; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, as last amended by Section 15, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2005.3A), is amended to read as follows:

Section 1-2005.3A A. Every hazardous waste treatment facility, storage facility, underground injection facility, ~~or~~ or other disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Disposal Act shall pay an annual fee on the amount of hazardous waste managed by such facility to the ~~State~~ Department of ~~Health~~ Environmental Quality for deposit in the ~~Public Health Special~~ Department of Environmental Quality Revolving Fund.

1. Such fees shall be, subject to the qualifications provided in ~~paragraph~~ paragraphs 2 through 7 of this subsection:

- a. For hazardous waste generated within the State of Oklahoma, Nine Dollars (\$9.00) per ton for on-site or off-site storage, treatment or land disposal.
- b. For hazardous waste generated within the State of Oklahoma, or elsewhere in the case of regeneration, Four Dollars (\$4.00) per ton for off-site recycling.

- c. For hazardous waste generated within the State of Oklahoma, three cents (\$0.03) per gallon for on-site or off-site underground injection.
- d. (1) Effective May 1, 1993, the fee applicable to waste generated outside the State of Oklahoma except as provided in subparagraph b of this paragraph shall be based on the primary purpose for which the waste is imported into the State of Oklahoma, and shall be a reciprocal fee at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment, disposal or recycling of such waste in the state, country or territory where the waste was generated, as determined by the ~~State~~ Department of ~~Health~~ Environmental Quality. In no case, however, shall the fee levied on hazardous waste generated outside the State of Oklahoma be less than the rate charged at the time of its storage, treatment, disposal or recycling for hazardous waste generated and stored, treated, disposed or recycled in the State of Oklahoma.
- (2) Any person storing, treating, disposing, or recycling such hazardous waste in the State of Oklahoma shall file with the ~~State~~ Department of ~~Health~~ Environmental Quality an affidavit showing the applicable tax or fee for any hazardous waste received from another state, country or territory had it been stored, treated, or disposed of in a like manner in that state, country or territory. In preparing the required affidavit, the recipient of the waste is legally entitled to rely upon all information contained in the manifest document accompanying the shipment of waste.

2. There shall be a minimum fee per facility as follows:

- a. Except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
- b. Any person owning or operating an on-site hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, the annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00).
- c. Any person owning or operating an off-site facility for the recycling of hazardous waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
- d. Any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars (\$10,000.00) each state fiscal year.

3. Off-site facilities may charge persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

4. The facility shall become liable for payment of the fee on each ton or gallon of hazardous waste at the time it is received. The fee shall be payable by the facility to the Department of ~~Health~~ Environmental Quality only as provided for in subsection C of this section.

5. The fee imposed by the provisions of this section shall be payable by the facility only once without regard to any subsequent handling of the hazardous waste. The fee shall be based on the purpose for which the waste was generated by or brought to the facility. In no event shall a facility be required to pay a fee

on each step or process involved in the storage, treatment, recycling or disposal of the waste at the facility or a related facility under common control.

6. In computing the amount of the fee specified in subparagraph b of paragraph 1 and subparagraph a of paragraph 7 of this subsection ~~A of this section~~ for the off-site recycling or regeneration of hazardous waste, the assessment for regeneration shall be made on a dry weight basis.

7. In the event that the fee structure set forth in paragraph 1 of this subsection shall be determined invalid by an order or judgment of a state or federal court of competent jurisdiction, then the following fees shall apply in lieu of those set forth in paragraph 1, subject to paragraphs 2 through 6:

- a. Fifty Dollars (\$50.00) per ton for the storage, treatment or disposal of hazardous waste which carries a "P" or "U" hazardous waste code designation under 40 CFR, Part 261, Subpart D,
- b. Thirty-five Dollars (\$35.00) per ton for the storage, treatment or disposal of hazardous waste which carries a "K" hazardous waste code designation under 40 CFR, Part 261, Subpart D,
- c. Nine Dollars (\$9.00) per ton for the storage, treatment or disposal of hazardous waste which carries an "F" hazardous waste code designation under 40 CFR, Part 261, Subpart D or a "D" hazardous waste code designation under 40 CFR, Part 261, Subpart C,
- d. Four Dollars (\$4.00) per ton for off-site recycling or regeneration of hazardous waste. The provisions of this subparagraph shall not include cement kilns, boilers, or industrial furnaces burning hazardous waste as fuel, and
- e. In the case of the storage, treatment or disposal of a hazardous waste carrying multiple hazardous waste code designations under 40 CFR, Part 261, the

highest applicable fee from subparagraphs a through c of this paragraph.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. Facilities engaged only in the on-site recycling of hazardous waste; and

2. Facilities which have not generated or received new hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for hazardous waste received by the facility during the prior quarter. Such quarterly payments shall be due on the first day ~~of the month of the~~ following the quarter ~~during the state fiscal year~~ in which the hazardous waste is received. ~~All payments~~ Each payment shall be made within thirty (30) days from the date it becomes due.

D. ~~The~~ For facilities required to pay fees pursuant to this section, the fees required by this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically required by the Oklahoma Hazardous Waste Disposal Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected from an off-site hazardous waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section 1-2005.3C of this title. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the off-site hazardous waste facilities within the Trust area.

2. ~~The State Commissioner of Health~~ Executive Director shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma Hazardous Waste ~~Disposal~~ Management Act,
- b. The development of an inventory of hazardous wastes currently produced in Oklahoma and management needs for the identified wastes,
- c. The implementation of information exchange, technical assistance, public information, and educational programs,
- d. The development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. Increased inspection of hazardous waste facilities which may include full time inspectors at off-site hazardous waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the ~~Commissioner~~ Executive Director shall only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act for remediation or related action upon a site within the state;

2. Response, including but not limited to containment and removal, to emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by hazardous waste or hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by

the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 53002, is amended to read as follows:

Section 53002. As used in the Oklahoma Waste Tire Recycling Act:

1. "Tires" means any solid or air-filled coverings for motor vehicle wheels; ~~and~~

2. "Waste tire facility" means any place which is permitted as a solid waste disposal site, in accordance with the Oklahoma Solid Waste Management Act, Section 2251 et seq. of Title 63 of the Oklahoma Statutes, at which discarded tires are collected or deposited for processing, by shredding or other technology which alters the form of the tires, for the purpose of facilitating the future extraction of useful materials for recycling, reuse or energy recovery; and

3. "New tire" means an originally manufactured tire and shall not include any remanufactured, recapped or otherwise restored tire.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 53003, is amended to read as follows:

Section 53003. A. At the time any new tire for use on automobiles or on light trucks with a laden weight of ten thousand (10,000) pounds or less is sold by a wholesale or retail dealer not for resale, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire unless the purchaser in such sale is a political subdivision or any agency, public trust, or instrumentality thereof.

B. The wholesaler or retailer shall remit such fee to the Oklahoma Tax Commission in the same manner as provided by Section 1365 of this title. At the time of filing any report as required by the Oklahoma Tax Commission, the wholesaler or retail dealer shall remit therewith to the Tax Commission, except as otherwise

provided by this section, ninety-seven and three-quarters percent (97.75%) of the fee due pursuant to this section. Failure to remit such fee at the time of filing the returns shall cause said fee to become delinquent. If said fee becomes delinquent the wholesaler or retail dealer forfeits his claim to the discount authorized by this section and shall remit to the Tax Commission one hundred percent (100%) of the amount of the fee due plus any penalty due.

~~C. For the purpose of this section, "new tire" means an originally manufactured tire and shall not include any remanufactured, recapped or otherwise restored tire.~~

~~D.~~ The provisions of this section shall expire on December 31, 1999.

SECTION 4. 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.

44-1-6650

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