

SHORT TITLE: Revenue and taxation; increasing amount of waste tire recycling fee and modifying procedures; emergency.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 311

By: Hobson

AS INTRODUCED

An Act relating to public health and safety and revenue and taxation; amending 63 O.S. 1991, Section 1-2324, which relates to waste tires; amending 68 O.S. 1991, Sections 53002, 53003, 53007 and 53008, which relate to the Oklahoma Waste Tire Recycling Act; deleting certain weight requirements; modifying definitions; defining terms; modifying tires to which certain fee applies and increasing amount of fee; deleting expiration date of certain provisions; modifying time period for State Department of Health to evaluate and certify applications; specifying payment procedure; providing for annual adjustment of certain compensation after certain date; providing that certain provisions be stayed under certain circumstances; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2324, is amended to read as follows:

Section 1-2324. A. It shall be unlawful for any person to own or operate a site used for the storage, collection or disposal of more than fifty discarded vehicle tires ~~under ten thousand (10,000) pounds~~ except at a site or facility permitted to accept discarded vehicle tires by the State Department of Health.

B. The provisions of subsection A of this section shall not apply to:

1. The use of used tires for agricultural purposes as recognized by the State Department of Agriculture;

2. The use of used tires for erosion control, bank stabilization and other conservation projects if practiced in accordance with a written conservation plan approved by an Oklahoma Conservation District; or

3. Tire manufacturers, retailers, wholesalers and retreaders who store 2,500 or fewer used tires at their place of business or designated off premise storage site.

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, Section 53001 et seq. of this title:

1. "Tires" means any ~~solid or~~ air-filled coverings for ~~motor vehicle~~ wheels of a vehicle, except for tires for tractors, as defined in Section 118 of Title 47 of the Oklahoma Statutes, and bicycle tires; 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;

3. "Dealer" means any person, firm or corporation engaged within this state in the business of selling or offering for sale to the ultimate consumer new vehicle tires; and

4. "Sale" means any transfer, exchange or barter of new tires to the ultimate consumer in any manner or by any means whatsoever,

for money or other consideration including the giving of tires as gifts or for advertising purposes.

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)~~ Two Dollars (\$2.00) 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. AMENDATORY 68 O.S. 1991, Section 53007, is amended to read as follows:

Section 53007. A. 1. A waste tire facility desiring to be compensated from the Waste Tire Recycling Indemnity Fund for the

purposes authorized by Section 53006 of this title, shall first make application to the State Department of Health on forms prescribed by that Department and containing such information as that Department determines is needed to comply with the Oklahoma Waste Tire Recycling Act, Section 53001 et seq. of this title.

2. On ~~at least a quarterly~~ monthly basis, the State Department of Health shall evaluate applications and certify them to the Oklahoma Tax Commission.

B. Applicants for compensation for tire processing are encouraged to report tire processing activity in terms of weight. The State Department of Health shall certify the numbers of tires processed based on eighteen and seven-tenths (18.7) pounds per tire. The waste tire facility shall, in addition to any other information required by the Department, provide sufficient information to verify that the disposal site has processed vehicle tires into particles not larger than four (4) square inches and otherwise in accordance with the purposes of the Oklahoma Waste Tire Recycling Act.

C. Applicants desiring compensation for the collection, transportation and delivery of discarded vehicle tires shall, in addition to any other information required by the Department of Health, submit a plan designating statewide collection routes, affidavits specifying the name of the entity from whom collection of the tires was made, and the number of discarded vehicle tires collected at each collection point.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 53008, is amended to read as follows:

Section 53008. A. Upon receiving applications properly certified by the State Department of Health and upon determining that there are sufficient monies in the Waste Tire Recycling Indemnity Fund, the Oklahoma Tax Commission shall compensate waste tire facilities as applicable for:

1. Processing the number of tires documented in the application at the rate of one-half dollar (\$0.50) per tire; and

2. The collection, transportation and delivery of discarded vehicle tires documented in the application at the rate of thirty-five cents (\$0.35) per tire. This amount shall not be payable, however, unless and until such tires have been actually processed into particles not larger than four (4) square inches.

B. No later than July 1, 1993, and each year thereafter, the Department shall adjust the compensation amounts specified in paragraphs 1 and 2 of subsection A of this section and Section 53006 of this title to reflect changes in the United States Consumer Price Index for Urban Consumers as certified to the Department by the Department of Commerce for the preceding calendar year.

C. If the Indemnity Fund contains less than this amount of funds in any ~~quarter~~ month, then the Oklahoma Tax Commission shall apportion the payments among all the qualifying applicants according to the percentage of tires collected, transported, delivered or processed.

~~C.~~ D. The State Department of Health shall evaluate each waste tire facility every three (3) years. Upon completion of the evaluation, the Department shall recertify for compensation only those waste tire facilities which have acted to provide for recycling, reuse or energy recovery from discarded vehicle tires.

E. In the event that all tire dumps placed on the priority enforcement list by the State Department of Health have been declared cleaned up by the Department and all credits for such cleanup operations have been exhausted, then the requirements to qualify for compensation as set forth in paragraph 2 of subsection A of Section 53006 of this title shall no longer be in effect until such time as the Department declares otherwise.

SECTION 6. 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.

44-1-0202

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