

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1387

By: Leist of the House

and

Easley of the Senate

COMMITTEE SUBSTITUTE

( environment and natural resources - amending various sections in Titles 27A, 63 and 68 - Waste Tire Recycling Act - Tax Commission - recodification - effective date )

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2324, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 35, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-10-602), is amended to read as follows:

Section 2-10-602. A. Except as otherwise provided by this section, it shall be unlawful for any person to:

1. Own or operate a site used for the storage, collection or disposal of more than fifty ~~discarded vehicle~~ waste tires except at a site or facility permitted by the Department of Environmental Quality to accept ~~discarded vehicle~~ waste tires; however, the provisions of this paragraph shall not apply to tire manufacturers, retailers, wholesalers and retreaders who store two thousand five

hundred or fewer waste tires at their place of business or designated off-premises storage site;

2. Dispose of waste tires at any site or facility other than a site or facility for which a permit has been issued by the Department; ~~or~~

3. Knowingly transport or knowingly allow waste tires under his or her control or in his or her possession to be transported to an unpermitted site or facility; or

4. Remove more than ten used tires from a dealer except by providing a manifest form approved by the Department which documents the removal and approved disposition or sale of the tires. Dealers, haulers, and waste tire facilities shall keep copies of manifests for inspection for five (5) years.

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

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

2. The use of waste tires for erosion control, bank stabilization and other conservation projects if practiced in accordance with a written conservation plan approved by the U.S. Army Corps of Engineers or the local Conservation District in accordance with designated best management practices established for such uses by the Oklahoma Conservation Commission;

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

~~4. Any municipal or county-designated waste tire collection center.~~

C. The provisions of paragraphs 2 and 3 of subsection A of this section shall not be construed so as to prevent an individual from disposing of waste tires previously used by the individual as vehicle or equipment tires; provided, such disposal is upon property

owned by such individual and such disposal does not create a nuisance or pose a hazard to the public health or environment.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 53002, as amended by Section 192, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-402), is amended to read as follows:

Section 2-11-402. As used in the Oklahoma Waste Tire Recycling Act:

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

~~2. "Department" means the Department of Environmental Quality;~~

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

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

SECTION 3. AMENDATORY 68 O.S. 1991, Section 53003, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 42, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-403), is amended to read as follows:

Section 2-11-403. 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~~ of seventeen and one-half (17 1/2) inches rim diameter or less is sold by a wholesale or retail dealer not for resale or a motor vehicle is first registered in this state, 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.~~

This fee shall not be assessed on used tires for which the dealer can document that the recycling fee has been previously paid. At the time any tire with a rim diameter greater than seventeen and one-half (17 1/2) inches is sold by a wholesale or retail dealer not for resale, there shall be assessed a waste tire recycling fee of Five Dollars (\$5.00) per tire.

B. The wholesaler ~~or~~, retailer, or motor license agent 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, or motor license agent 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. If any amount of fee imposed or levied by subsection A of this section, or any part of such amount, is not paid before such fee becomes delinquent, there shall be collected on the total delinquent fee interest at the rate of one and one-quarter percent (1 1/4%) per month from the date of the delinquency until paid.

D. If any fee due under subsection A of this section, or any part thereof, is not paid within fifteen (15) days after such tax becomes delinquent, a penalty of ten percent (10%) on the total amount of fee due and delinquent shall be added thereto, collected and paid.

E. All penalties or interest imposed by this act shall be recoverable by the Tax Commission as a part of the fee imposed and all penalties and interest will be apportioned as provided for the

apportionment of the fee on which such penalties or interest are collected.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 36, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-405), is amended to read as follows:

Section 2-11-405. A. Of the monies accruing annually to the Waste Tire Recycling Indemnity Fund, four percent (4%) thereof shall be available to the Oklahoma Tax Commission and four percent (4%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act. In addition, an amount not to exceed Fifty Thousand Dollars (\$50,000.00) per required audit shall be available to the State Auditor and Inspector for the purpose of conducting audits of the Oklahoma Waste Tire Recycling Program pursuant to Section ~~38~~ 2-11-411 of this ~~act~~ title.

B. Ten percent (10%) of the remaining monies in the Waste Tire Recycling Indemnity Fund shall be allocated to businesses located in Oklahoma who manufacture new products or derive energy benefits from waste tires which have been processed according to the requirements of the Oklahoma Waste Tire Recycling Act. Such businesses shall be eligible for compensation in a total amount not to exceed fifty percent (50%) of their capital investment in equipment necessary to utilize processed waste tires, at a rate of Twenty Dollars (\$20.00) per ton of processed waste tires consumed in the manufacturing process. Funds shall be calculated based on a proportionate share of the funds available and based on the relative amount of each capital investment. Such businesses may apply for compensation monthly to the Oklahoma Tax Commission, and shall supply any information required by the Commission to document compliance with the provisions of this act.

C. The remaining monies in the Waste Tire Recycling Indemnity Fund shall be allocated pursuant to the provisions of the Waste Tire Recycling Act to waste tire facilities which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality, demonstrate that such facilities have successfully processed discarded vehicle tires pursuant to the Waste Tire Recycling Act.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 37, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-406), is amended to read as follows:

Section 2-11-406. A. 1. Waste tire facilities meeting the requirements of the Waste Tire Recycling Act shall be eligible for compensation from the Waste Tire Recycling Indemnity Fund, for processing tires discarded in ~~the State of Oklahoma~~ this state to the extent that funds are therein contained, at a rate not to exceed fifty cents (\$0.50) for each ~~waste tire~~ eighteen and seven-tenths (18.7) pounds of tires processed in any calendar year by the facility as demonstrated through the application and submission of documentation to the ~~Department of Environmental Quality~~ Tax Commission.

2. In addition to other requirements of the Waste Tire Recycling Act, in order to qualify for such compensation, the applicant shall demonstrate that over the life of the facility prior to each request for compensation, at least ten percent (10%) of the tires processed by the waste tire facility were collected from tire dumps or landfills as identified through placement on a priority enforcement list by the Department ~~of Environmental Quality~~ or community-wide cleanup events approved by the Department.

B. 1. In addition to the compensation authorized by subsection A of this section, any waste tire facility that is in good standing with the Department ~~of Environmental Quality~~ shall be eligible for

compensation at the rate of thirty-five cents (\$0.35) per eighteen and seven-tenths (18.7) pounds of processed ~~tire~~ tires for the collection, transportation of discarded ~~vehicle~~ tires obtained from dealers, automotive dismantlers, parts recyclers, solid waste landfill sites, and dumps certified by the ~~Department of Environmental Quality~~ Department's enforcement priority list, ~~municipal and county designated collection sites~~ and delivering such tires to the waste tire facility. ~~Beginning July 1, 1994, and for each month thereafter, the~~ The number of collected discarded tires on which initial compensation may be sought by any waste tire facility shall not exceed the number of tires for which each dealer, from whom the facility has collected tires, remitted waste tire recycling fees to the Oklahoma Tax Commission. Beginning November 1, 1995, and for each month thereafter, the number of collected and discarded tires on which initial compensation may be sought by any waste tire facility shall not exceed the number of tires for which each automotive dismantler and parts recycler licensed pursuant to the Automotive Dismantler and Parts Recyclers Act, from whom the facility has collected tires, has provided the information specified pursuant to subsection D of this section.

2. The collection and transportation of discarded ~~vehicle~~ tires shall be on a statewide basis and shall be provided by the waste tire facility at no additional cost ~~to a participating dealer.~~ No dealer shall charge any customer any additional fee for the management, recycling, or disposal of any waste tire upon which the waste tire recycling fee has been remitted to the Oklahoma Tax Commission. For customers who choose not to leave a waste tire upon which the waste tire recycling fee has been remitted to the Oklahoma Tax Commission, the dealer shall issue a receipt which will entitle the customer to deliver the waste tire to the dealer at a later date. The ~~Department of Environmental Quality~~ shall not require a

waste tire facility to collect less than one thousand discarded vehicle tires at any one location.

3. To be eligible for compensation pursuant to this subsection, the waste tire facility shall:

- a. demonstrate to the satisfaction of the Department ~~of Environmental Quality~~, that such facility is regularly engaged in the collection, transportation and delivery of discarded ~~vehicle~~ tires, on a statewide basis, and from each county of the state, and
- b. provide documentation to the Oklahoma Tax Commission, signed by a participating dealer at the time of collection, which certifies the total amount of waste tire recycling fees, itemized by month, remitted by the dealer since the date his waste tires were last collected.

C. Compensation pursuant to this section shall be payable only for the ~~equivalent number of~~ tires collected and processed in accordance with the purposes of the Waste Tire Recycling Act and as authorized by the Department pursuant thereto. In lieu of proof of remitted tire recycling fees, the waste tire facility shall accept proof of purchase of a salvage vehicle by an automotive dismantler and parts recycler licensed pursuant to the Automotive Dismantler and Parts Recyclers Act for the collection and transportation of up to five waste tires per salvage vehicle purchased on or after November 1, 1995. The Department shall promulgate rules to ensure proper verification and proof of purchase information.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 53007, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 39, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-407), is amended to read as follows:

Section 2-11-407. A. 1. A waste tire facility desiring to be compensated from the Waste Tire Recycling Indemnity Fund shall first

make application to the ~~Department of Environmental Quality Tax Commission~~ on forms prescribed by the ~~Department Tax Commission~~ containing documentation as required by the Waste Tire Recycling Act and such other information as the ~~Department Tax Commission~~ determines is needed to comply with the Waste Tire Recycling Act.

2. On at least a monthly basis, the ~~Department of Environmental Quality Tax Commission~~ shall evaluate and process applications ~~and certify them to the Oklahoma Tax Commission.~~

B. Applicants for compensation shall report and certify tire processing activity in terms of weight. ~~The Department of Environmental Quality shall certify the numbers of tires processed based on eighteen and seven-tenths (18.7) pounds per tire.~~ The waste tire facility shall by sworn affidavit provide sufficient information to verify that the facility has processed ~~vehicle~~ tires into particles not larger than four (4) square inches and otherwise and sold processed tires for actual recycling or reuse in accordance with the purposes of the Waste Tire Recycling Act. Waste tire facilities are not eligible for compensation if such facilities have accumulated processed material in an amount greater than that for which they have provided financial assurance under their solid waste permit, or have accumulated processed material from three (3) years of operation, whichever is the lesser amount.

C. Applicants for compensation for the collection, transportation and delivery of discarded vehicle tires shall ~~submit a plan designating statewide collection routes. At the time application for initial and subsequent compensation is made, the waste tire facility shall~~ submit dealer certification when applicable, 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 7. AMENDATORY 63 O.S. 1991, Section 53008, as amended by Section 198, Chapter 145, O.S.L. 1993, and as renumbered

by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-408), is amended to read as follows:

Section 2-11-408. A. Upon receiving adequate applications ~~properly certified by the Department of Environmental Quality~~ 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~~ eighteen and seven-tenths (18.7) pounds of tires; 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~~ eighteen and seven-tenths (18.7) pounds of tires. 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~~ according to the facility's solid waste permit.

B. 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. The Department ~~of Environmental Quality~~ 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~~ provided for recycling, reuse or energy recovery from discarded vehicle tires.

SECTION 8. RECODIFICATION 63 O.S. 1991, Section 1-2325, as amended by Section 158, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-601), shall be recodified as Section 2-11-412 of Title 27A of the Oklahoma Statutes.

SECTION 9. RECODIFICATION 63 O.S. 1991, Section 1-2324, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-602), and as last amended by Section 1 of this act, shall be recodified as Section 2-11-413 of Title 27A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 10. This act shall become effective November 1, 1995.

45-1-1080 MJM