

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1313

By: Stottlemyre

AS INTRODUCEDAn Act relating to the environment and natural resources; amending 68 O.S. 1991, Sections 53001, as amended by Section 191, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53002, as amended by Section 192, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 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, 53004, as amended by Section 194, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 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, 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, 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, 53008, as amended by Section 198, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53009, as amended by Section 199, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, and 53010, as amended by Section 200, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Sections 2-11-401, 2-11-402, 2-11-403, 2-11-404, 2-11-405, 2-11-406, 2-11-407, 2-11-408, 2-11-409 and 2-11-410), which relate to the Oklahoma Waste Tire Act; amending 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), which relates to powers and duties of Board of Environmental Quality; renaming the Oklahoma Waste Tire Act to the Oklahoma Waste Tire Management Act; modifying terms; modifying powers and duties of Board of Environmental Quality; removing certain exemptions relating to assessments; renaming the Waste Tire Recycling Indemnity Fund to the Waste Tire Recycling Promotion Fund; modifying certain percentages for administrative costs; modifying payment process for reimbursement; modifying certain conditions; removing certain restrictions for reimbursement; providing for certain plans for tire collection; modifying certain procedures; modifying certain reports; requiring certain submissions; and providing an effective date.

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

ARTICLE XIII

OKLAHOMA WASTE TIRE MANAGEMENT ACT

Part 1. Short Title, Purpose and Definitions

SECTION 1. AMENDATORY 68 O.S. 1991, Section 53001, as amended by Section 191, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-401), is amended to read as follows:

Section 2-11-401. This ~~part~~ article shall be known and may be cited as the "Oklahoma Waste Tire ~~Recycling~~ Management Act".

SECTION 2. AMENDATORY 68 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~~  
Management Act:

1. "Agricultural purposes" means the use of waste tires as bumpers on agricultural equipment or as a ballast to maintain covers or structures at an agricultural site or other uses specifically authorized and approved by the Oklahoma State Department of Agriculture;

2. "Altered tire" means a waste tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, waste tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. "Alteration" or "altering" means action which produces an altered tire;

3. "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale;

4. "Dispose" means to deposit, dump, spill or place any waste tire on any land or into any waters of the State of Oklahoma;

5. "Person" means the United States, the State of Oklahoma, or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity;

6. "Store" or "storage" means the placing of waste tires in a manner that does not constitute disposal of the waste tires;

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

8. "Tire retailer" means any person engaged in the business of selling new tires;

9. "Tire wholesaler" means a person who transfers tires to a person who is not a consumer;

~~2.~~ 10. "Tires" means any solid or air-filled coverings for motor vehicle wheels; ~~and~~

11. "Waste tire" means a tire that is not on the wheel of a vehicle and is no longer suitable for its original intended use due to wear, damage, defect, or deviation from the manufacturer's specifications, including, but not limited to, all used tires, altered waste tires, recappable casings and scrap tires. The term "waste tire" includes tires that have been altered by processes including, but not limited to, shredding, chopping and slicing;

12. "Waste tire collection facility" means a site licensed pursuant to the Solid Waste Management Act used for the storage or collection of more than fifty discarded vehicle tires under ten thousand (10,000) pounds. The term waste tire collection facility shall not include:

- a. sites at which tires are used for agricultural purposes, erosion control, bank stabilization or other conservation projects or recreational purposes, or
- b. tire manufacturers, retailers, wholesalers, or retreaders who store two thousand five hundred (2,500) tires or less at their place of business or designated off-premises storage site;

~~3.~~ 13. "Waste tire processing 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~~ waste 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;

14. "Registered waste tire transporter" means a person who as a part of a commercial business:

- a. transports waste tires,

- b. is approved and registered by the Department to transport waste tires to a tire recycler, a waste tire collection facility or a waste tire processing facility, and
- c. desires to receive reimbursement for the transportation of tires from the Waste Tire Recycling Promotion Fund; and

15. "Waste tire disposal facility" means any place which is permitted as a solid waste disposal site in accordance with the Oklahoma Solid Waste Management Act at which waste tires are collected for ultimate disposal, including but not limited to places which utilize whole tires or altered tires for production of energy or energy recovery.

Part 2. Powers and Duties

SECTION 3. AMENDATORY 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), is amended to read as follows:

Section 2-10-601. A. ~~The Board shall promulgate rules for the permitting of waste tire facilities under the Solid Waste Management Act and for the administration of the certification of waste tire facilities for compensation under the provisions of the Oklahoma Waste Tire Recycling Act governing waste tires which will:~~

1. Provide for the collection, distribution and reimbursement of monies required pursuant to the provisions of this article. The rules promulgated by the Board shall either establish and implement a plan for a regional collection system which shall be designed to promote the collection of waste tires on a statewide basis, or shall require that each registered waste tire recycler provide statewide service in the transportation of waste tires;

2. Establish standards and guidelines for transporting, collection, disposal and recycling of waste tires; and

3. Otherwise provide for the implementation and enforcement of this article.

B. The rules promulgated pursuant to this section shall include the following proper requirements concerning the following:

1. Proper storage of waste tires;

2. Contingency plans concerning the minimization of hazards to human health and the environment at waste tire collection sites;

3. Recordkeeping guidelines concerning the quantity of waste tires collected, transported and processed;

4. The amount of any financial assurance required pursuant to the provisions of the Oklahoma Waste Tire Management Act; and

5. The establishment of the fee required by the provisions of the Oklahoma Waste Tire Management Act in an amount necessary to cover the costs incurred in administering the Oklahoma Waste Tire Management Act.

C. The rules shall be drawn to effectuate such provisions of the Waste Tire ~~Recycling~~ Management Act and the Solid Waste Management Act.

Part 3. Waste Tire Recycling Promotion Fund Program.

SECTION 4. 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~~ is sold by a wholesale dealer or a retail dealer to a consumer 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. 1. 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~~ Title 68 of the Oklahoma Statutes. 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.

2. 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.

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

SECTION 5. AMENDATORY 68 O.S. 1991, Section 53004, as amended by Section 194, Chapter 145, O.S.L. 1993, and as renumbered

by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-404), is amended to read as follows:

Section 2-11-404. A. There is hereby created within the Oklahoma Tax Commission the "Waste Tire Recycling ~~Indemnity~~ Promotion Fund". The ~~Indemnity~~ Promotion Fund shall be administered by the Oklahoma Tax Commission pursuant to the provisions of Section ~~195~~ 6 of this act.

B. The ~~Indemnity~~ Promotion Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section ~~193~~ 4 of this act;

2. Interest attributable to investment of money in the ~~Indemnity~~ Promotion Fund; and

3. Money received by the Commission in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Waste Tire ~~Recycling~~ Management Act.

C. The monies deposited in the ~~Indemnity~~ Promotion Fund shall at no time become part of the general budget of the Commission or any other state agency. Except as provided for in Section ~~195~~ 6 of this act, no monies from the ~~Indemnity~~ Promotion Fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

SECTION 6. 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~~ Promotion Fund, ~~four~~ two percent (~~4%~~ 2%) 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~~ Management 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. The remaining monies in the Waste Tire Recycling ~~Indemnity~~ Promotion Fund shall be allocated pursuant to the provisions of the Waste Tire ~~Recycling~~ Management Act to ~~waste tire facilities~~ eligible applicants 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 complied with the provisions of the Oklahoma Waste Tire Management Act and rules promulgated thereto.

SECTION 7. 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 processing facilities meeting the requirements of the Waste Tire ~~Recycling~~ Management Act shall be eligible for compensation from the Waste Tire Recycling ~~Indemnity~~ Promotion Fund, for processing waste tires ~~discarded~~ in the State of Oklahoma, to the extent that funds are therein contained, at a rate not to exceed fifty cents (\$0.50) for each waste tire processed in any calendar year by the facility as demonstrated through the application and submission of documentation to the Department of Environmental Quality. Such amount shall not be payable unless and until such tires have been processed and sold to recycling or reuse facilities.

2. In addition to other requirements of the Waste Tire Recycling Management 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 processing facility were collected from tire dumps as identified through placement on a priority enforcement list by the Department of Environmental Quality.

~~B. 1. In addition to the compensation authorized by subsection A of this section, any waste tire facility~~ Any registered waste tire transporter 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 ~~processed~~ tire for the collection, transportation of ~~discarded vehicle~~ tires obtained from dealers, solid waste landfill sites, dumps certified by the Department of Environmental Quality enforcement priority list, municipal and county designated collection sites and delivering such tires to the waste tire processing facility. ~~Beginning July 1, 1994, and for each month thereafter, 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.~~

2. The collection and transportation of ~~discarded vehicle~~ waste tires shall be on a regional or statewide basis and shall be provided by the registered waste tire ~~facility~~ transporter at no additional cost to a ~~participating~~ dealer. ~~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, signed by a participating dealer at the time of collection, which certifies the total amount of waste tire recycling fees 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~~ Management Act and as authorized by the Department pursuant thereto.

SECTION 8. 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 processing facility or registered waste tire transporter desiring to be compensated from the Waste Tire Recycling ~~Indemnity~~ Promotion Fund shall first make application to the Department of Environmental Quality on forms prescribed by the Department containing documentation as required by the Waste Tire ~~Recycling~~ Management Act and such other information as the Department determines is needed to comply with the Waste Tire Recycling Management Act.

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

B. Applicants for compensation pursuant to the Oklahoma Waste Tire Management Act shall report 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 provide sufficient information to verify that the facility has processed vehicle tires into particles not larger than four (4) square inches and otherwise in accordance with the purposes of the Waste Tire Recycling Act.~~

~~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 9. AMENDATORY 68 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 applications properly certified by the Department of Environmental Quality and upon determining that there are sufficient monies in the Waste Tire Recycling ~~Indemnity~~ Promotion Fund, the Oklahoma Tax Commission shall compensate ~~waste tire facilities~~ eligible applicants as applicable for:

1. Processing the number of tires documented in the application at the rate of one-half dollar (\$0.50) per tire. This amount shall not be payable, however, unless and until such tires have been actually processed and sold to a recycling or reuse facility; and or

2. The ~~collection,~~ transportation and delivery of ~~discarded vehicle~~ waste 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. If the ~~Indemnity~~ Fund contains less ~~than this amount of~~ funds in any quarter, ~~then~~ than claims, 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 for recycling, reuse or energy recovery from discarded vehicle tires.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 53009, as amended by Section 199, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-409), is amended to read as follows:

Section 2-11-409. A. The Oklahoma Tax Commission shall promulgate rules to carry out the provisions of the Waste Tire ~~Recycling~~ Management Act which pertain to the remittance of fees and to the allocation of monies accruing to the Waste Tire Recycling ~~Indemnity~~ Promotion Fund.

B. The Board of Environmental Quality shall promulgate rules to carry out the provisions of the Waste Tire ~~Recycling~~ Management Act which pertain to the ~~permitting and certifying~~ licensing of waste tire recycling facilities and waste tire processing facilities and the registration of waste tire transporters.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 53010, as amended by Section 200, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-410), is amended to read as follows:

Section 2-11-410. A. The Department of Environmental Quality shall ~~file a report with the Legislature and Governor detailing the~~

~~administration of the Waste Tire Recycling Act and its effectiveness in bringing about the clean-up of existing waste tire dumps and in preventing the development of new dumps. The first report shall be filed by no later than December 31, 1992. Subsequent reports shall be filed every three (3) years thereafter. A final report shall be filed no later than March 31, 2000, unless the provisions of Section 193 of this act are extended by law beyond December 31, 1999~~ submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate containing the total number of applicants requesting disbursement from the Waste Tire Recycling Promotion Fund during the preceding year; the total amount disbursed for such payments; the total number of applicants denied disbursement from the Fund during the preceding year, and the total amount denied for such disbursement; the average time frame for providing disbursements to applicants; a historical comparison of disbursements in regard to applicants requesting disbursement, applicants denied disbursement, and average time frame for providing disbursement; a detailed summary of administrative expenditures related to the waste tire program; other information which the Department believes is pertinent regarding the waste tire program; and any other information requested by the Speaker of the House of Representatives or the President Pro Tempore of the Senate regarding the program.

B. The Oklahoma Tax Commission shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the amount of assessments collected for deposit to the Waste Tire Recycling Promotion Fund.

SECTION 12. This act shall become effective November 1, 1995.

45-1-5216

KSM