

SHORT TITLE: Waste tires; modifying the Oklahoma Waste Tire Recycling Act. Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1218

By: Morgan

AS INTRODUCED

An Act relating to waste tires; amending 68 O.S.

1991, Sections 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 191, O.S.L. 1995, 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 1, Chapter 170, O.S.L. 1996, 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 6, Chapter 191, O.S.L. 1995, Section 3, Chapter 170, O.S.L. 1996, 53008, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 170, O.S.L. 1996, 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. 1997, Sections 2-11-402, 2-11-405, 2-11-406, 2-11-407.1, 2-11-408 and 2-11-410), which relate to the Oklahoma Waste Tire Recycling Act; defining term; authorizing compensation for energy recovery processing; modifying amount of certain compensation for processing waste tires; providing for Department of Environmental Quality to create certain priority cleanup list; stating requirements for prioritization; stating procedures for Department to include certain tire dumps on certain cleanup list; modifying amount of compensation for

collection and transportation of certain waste tires; deleting certain requirements for compensation for waste tire collection; modifying requirement for waste tire facilities to collect certain amount of discarded tires; modifying requirements for reimbursements for conservation projects; modifying amount of compensation for certain collection, transportation, delivery, and processing of waste tires for certain purposes; deleting requirement for certain final report; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 191, O.S.L. 1995 (27A O.S. Supp. 1997, Section 2-11-402), is amended to read as follows:

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

1. "Department" means the Department of Environmental Quality;
2. "Priority cleanup list" means a list of unpermitted waste dumps which:
  - a. did not exist when the owner took possession of the property where the tires are located, and
  - b. were created without the consent of or benefit to the owner of the property;
3. "Tire" means any solid or air-filled covering for motor vehicle wheels;

~~3.~~ 4. "Tire dealer" means any person engaged in the business of selling new and used tires to final consumers, not for resale; and

~~4.~~ 5. "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 waste 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 2. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 1, Chapter 170, O.S.L. 1996 (27A O.S. Supp. 1997, 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 2-11-411 of this title.

B. Of the ninety-two percent (92%) of the remaining monies in the Waste Tire Recycling Indemnity Fund, ten percent (10%) 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 purchased on or after January 1, 1995, at a rate of Twenty Dollars

(\$20.00) per ton of processed waste tires consumed in the manufacturing or energy recovery process. Funds shall be awarded 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 the Oklahoma Waste Tire Recycling Indemnity Act.

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

SECTION 3. AMENDATORY 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 6, Chapter 191, O.S.L. 1995 (27A O.S. Supp. 1997, Section 2-11-406), is amended to read as follows:

Section 2-11-406. A. 1. Waste tire facilities meeting the requirements of the Oklahoma Waste Tire Recycling Act shall be eligible for compensation from the Waste Tire Recycling Indemnity Fund, for processing tires discarded in this state to the extent that funds are therein contained, at a rate not to exceed ~~fifty cents (\$0.50) for each eighteen and seven-tenths (18.7) pounds~~ Fifty-three Dollars and forty-eight cents (\$53.48) per ton of ~~tires~~ processed tire material in any calendar year by the facility as

demonstrated through the application and submission of documentation to the Tax Commission.

2. In addition to other requirements of the Oklahoma 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~~ the priority enforcement cleanup list by the Department of Environmental Quality or community-wide cleanup events approved by the Department. In developing the priority cleanup list required by this section and Section 2-11-407.1 of this title, the Department shall prioritize those dumps where the landowner was a victim of illegal dumping. Any other tire dump may be placed on the priority cleanup list in cases where the administrative enforcement process has been exhausted. Upon the Department's filing an action and giving the landowner notice and an opportunity to be heard, the Department or its representative may enter the property to clean up such tire dump. The Department may initiate a court action to recover the actual cost of cleanup, attorney fees, court costs, and all other monies expended in connection with the cleanup. The Department shall deposit any funds recovered through such action into the Waste Tire Recycling Indemnity Fund.

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 shall be eligible for compensation at the rate of ~~thirty-five cents (\$0.35)~~ Thirty-seven Dollars and forty-three cents (\$37.43) per ~~eighteen and seven-tenths (18.7) pounds~~ ton of processed ~~tires~~ tire material for the collection and transportation of waste tires obtained from dealers, automotive dismantlers, parts recyclers, solid waste landfill sites, and dumps certified by the Department's enforcement priority list, and delivering such tires to

~~the waste tire facility. The number of collected waste 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 for those waste tires collected from automotive dismantlers and parts recyclers, the number of collected waste 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 C of this section.~~

2. The collection and transportation of waste tires shall be on a statewide basis and shall be provided by the waste tire facility at no additional cost. No tire 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 tire dealer shall issue a receipt which will entitle the customer to deliver the waste tire to the dealer at a later date. The Department 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 that such facility is regularly engaged in the collection, transportation and delivery of waste 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 or her waste tires were last collected.

C. Compensation pursuant to this section shall be payable only for the tires collected and processed in accordance with the purposes of the Oklahoma 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 registered in Oklahoma by an automotive dismantler and parts recycler, licensed pursuant to the Automotive ~~Dismantler~~ Dismantlers and Parts ~~Recyclers~~ Recycler Act, for the collection and transportation of up to five waste tires per salvage vehicle purchased on or after January 1, 1996. The Environmental Quality Board shall promulgate rules to ensure proper verification and proof of purchase information.

SECTION 4. AMENDATORY Section 3, Chapter 170, O.S.L. 1996 (27A O.S. Supp. 1997, Section 2-11-407.1), is amended to read as follows:

Section 2-11-407.1 A. Any person, corporation or other legal entity who has obtained a permit or other authorization from the United States Army Corps of Engineers or a local Conservation District to provide services for erosion control, bank stabilization or other conservation projects shall be eligible for reimbursement from the Waste Tire Recycling Indemnity Fund if:

1. The legal entity collects or provides for the collection, processing and utilization of waste tires having a tire rim diameter of greater than seventeen and one-half (17 1/2) inches pursuant to the provisions of the Oklahoma Waste Tire Recycling Act in an erosion control, bank stabilization or other conservation project in

accordance with a written ~~conservation~~ plan approved by the United States Army Corps of Engineers or by a local Conservation District;

2. The tires are processed on the site of the erosion control, bank stabilization or other conservation project; ~~and~~

3. The project includes the planting of trees or other suitable vegetation in accordance with a planting plan developed in conjunction with the Division of Forestry of the State Department of Agriculture; and

4. The legal entity completes and maintains the proper information and records as required by the Oklahoma Tax Commission and the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act and in all other manner complies with any storage, transportation and disposal requirements promulgated by the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Code.

B. 1. Any person, corporation or other legal entity meeting the requirements specified by this section shall be eligible for compensation from the Waste Tire Recycling Indemnity Fund, to the extent that funds are therein contained for processing of waste tires discarded in this state having a tire rim diameter of greater than seventeen and one-half (17 1/2) inches ~~discarded in this state~~ ~~to the extent that funds are therein contained,~~ at a rate not to exceed ~~One Dollar and fifty cents (\$1.50)~~ Two Dollars and twenty-five cents (\$2.25) per tire and for tires having a rim diameter less than or equal to seventeen and one-half (17 1/2) inches at a rate not to exceed forty-five cents (\$0.45) per tire processed in any calendar year by the legal entity as demonstrated through the proper application and submission of proper documentation to the Oklahoma Tax Commission.

2. In addition to other requirements of the Oklahoma 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,~~ all of the tires processed by the legal entity for which compensation is requested were collected from tire dumps or landfills as identified through placement on a the ~~priority enforcement~~ cleanup list ~~by the Department~~ or community-wide cleanup events approved by the Department.

C. Compensation pursuant to this section shall be payable only for the tires collected and processed in accordance with the purposes of the Oklahoma Waste Tire Recycling Act and as authorized by the Department pursuant thereto.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 53008, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 170, O.S.L. 1996 (27A O.S. Supp. 1997, Section 2-11-408), is amended to read as follows:

Section 2-11-408. A. Upon receiving completed applications and upon determining that there are sufficient monies in the Waste Tire Recycling Indemnity Fund, the Oklahoma Tax Commission shall compensate waste tire facilities and any person, corporation or other legal entity authorized to receive reimbursement pursuant to Section ~~3~~ 2-11-407.1 of this ~~act~~ title as applicable for:

1. Processing the number of tires documented in the application at the rate of ~~one-half dollar (\$0.50)~~ Fifty-three Dollars and forty-eight cents (\$53.48) per ~~eighteen and seven-tenths (18.7)~~ pounds ton of tires processed tire material;

2. The collection, transportation and delivery of waste tires documented in the application at the rate of ~~thirty-five cents (\$0.35)~~ Thirty-seven Dollars and forty-three cents (\$37.43) per ~~eighteen and seven-tenths (18.7)~~ pounds ton of tires processed tire material. This amount shall not be payable, however, unless and until such tires have been actually processed according to the facility's solid waste permit; and

3. Collecting, processing and utilizing tires ~~having a tire rim diameter of greater than seventeen and one-half (17 1/2) inches~~ for erosion control, bank stabilization or other conservation projects pursuant to Section ~~3~~ 2-11-407.1 of this ~~act~~ title documented in the application at the rate of ~~One Dollar and fifty cents (\$1.50) per tire~~ Two Dollars and twenty-five cents (\$2.25) each for tires having a tire rim diameter greater than seventeen and one-half (17 1/2) inches or at a rate of forty-five cents (\$0.45) each for tires having a rim diameter equal to or less than seventeen and one-half (17 1/2) inches. This amount shall not be payable unless and until such tires have been actually processed and utilized for the erosion control, bank stabilization or other conservation project, and the legal entity has otherwise complied with the provisions of Section ~~3~~ 2-11-407.1 of this ~~act~~ title.

B. If the Indemnity Fund contains insufficient funds in any 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 shall evaluate each waste tire facility and legal entity authorized to receive reimbursement pursuant to Section ~~3~~ 2-11-407.1 of this ~~act~~ title every three (3) years. Upon completion of the evaluation, the Department of Environmental Quality shall recertify for compensation only those waste tire facilities or other legal entities which have provided for recycling, reuse or energy recovery from waste tires.

SECTION 6. 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. 1997, Section 2-11-410), is amended to read as follows:

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

SECTION 7. 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.

46-2-2215

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