ENGROSSED HOUSE
BILL NO. 1877

By: Erwin, Plunk and Hiett of the House

and

Rabon and Wilkerson of the Senate

An Act relating to environment and natural resources; amending 68 O.S. 1991, Sections 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 11, Chapter 1, O.S.L. 1999 and 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 1999, Sections 2-11-402 and 2-11-406), which relate to the Waste Tire Recycling Indemnity Fund; modifying definitions; prohibiting certain fees for disposal or recycling of certain waste tires; providing for compensation; setting rate; requiring affidavit; providing procedures; authorizing withholding of certain monies; clarifying scope of law; providing for permits for baling waste tires; prohibiting use of tires from certain persons or entities; requiring promulgation of rules; providing for codification; and providing an effective date.

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 11, Chapter 1, O.S.L. 1999 (27A O.S. Supp. 1999, 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 were created without the consent of or benefit to the owner of the property, and

b. such other tire dumps designated by the Department pursuant to Section 2-11-406 of this title;

3. "Tire" means any solid or air-filled covering for motor vehicle wheels;

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

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 not otherwise provided for in the Oklahoma Waste Tire Recycling Act, which alters the form of at least one-half of the tires collected, for the purpose of facilitating the future extraction of useful materials for recycling, reuse or energy recovery; and

6. "Waste tire processing" means ~~the preparation of waste tires to facilitate use for recycling, reuse or energy recovery~~ the following:

a. altering the form of the tires to facilitate use for recycling, reuse or energy recovery,

b. the proper installation or baling of tires in a project as authorized by Section 2-11-407.1 or by Section 3 of this act, or

c. direct utilization of whole tires for energy recovery.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 1999, 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-three Dollars and forty-eight cents ($53.48) per ton of processed tire material in any calendar year by the waste tire facility as demonstrated through the application and submission of documentation to the Tax Commission.

2. a. 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 the priority cleanup list by the Department of Environmental Quality or community-wide cleanup events approved by the Department.

b. 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.

c. For those illegal tire dumps placed on the list where administrative enforcement has been exhausted, the Department may provide for the cleanup of such dumps pursuant to Section 2-11-413 of this title.

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-seven Dollars and forty-three cents ($37.43) per ton of processed 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 priority cleanup list, and delivering such tires to the waste tire facility.

2. a. 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.

b. 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.

c. A tire dealer who collects waste tires for which the waste tire recycling fee has been paid and transports such tires to a waste tire processing facility shall be eligible for compensation at the rate of Thirty-seven Dollars and forty-three cents ($37.43) per ton of whole tires transported. When the tire dealer delivers waste tires to the processing facility, the dealer shall also present an affidavit that the waste tire recycling fee has been paid on each tire delivered. The processing facility to which the tires are delivered shall issue a receipt to the dealer for the weight of waste tires delivered. The dealer shall present such receipts to the Oklahoma Tax Commission the next time the dealer remits waste tire recycling fees collected. The dealer is authorized to withhold the amount of transportation reimbursement from the total of waste tire recycling fees remitted.

d. 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. No waste tire facility shall charge a person any fee for the disposal or recycling of waste tires regardless of whether the waste tire recycling fee has been assessed upon the waste tires when such person collects and voluntarily transports ten or fewer waste tires to the processing facility. Compensation to a waste tire facility shall be authorized by the Department for waste tires received pursuant to this section.

e. 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 the dealer's 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 Dismantlers and Parts 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.

D. The provisions of this section shall not be construed to require:

1. A waste tire facility to accept more waste tires than the number of tires authorized by the solid waste disposal permit of such waste tire facility issued pursuant to the Oklahoma Solid Waste Management Act; or

2. A tire dealer to accept more tires than the total amount authorized by Section 2-11-413 of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-407.2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Any unit of local or county government may apply to the Department of Environmental Quality for a waste tire processing permit to bale waste tires for use in approved engineering projects.

B. Waste tires processed by baling pursuant to this section cannot be obtained from tire manufacturers, retailers, wholesalers, retreaders, or parts dismantlers.

C. The Board of Environmental Quality shall promulgate rules necessary to implement the use of baled tires in accordance with the provisions of this section.

SECTION 4. This act shall become effective November 1, 2000.

Passed the House of Representatives the 6th day of March, 2000.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2000.

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President of the Senate