STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 197 By: Easley of the Senate

and

Erwin of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 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. 2000, Section 2-11-402), which relates to the Oklahoma Waste Tire Recycling Act; modifying definitions; 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-11-405), which relates to waste tire recycling indemnity funds; providing compensation for using processed tires for certain energy or fuel recovery; stating compensation; requiring demonstration documentation; authorizing the Department of Environmental Quality to be reimbursed for certain clean-up costs; requiring documentation; 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. 2000, Section 2-11-406), which relates to compensation for waste tire facilities; modifying amount of certain compensation; requiring demonstration documentation; modifying requirement for collection of discarded tires; requiring demonstration of collection, transportation and delivery of waste tires to certain waste tire facilities; clarifying reference; 68 O.S. 1991, Section 53008, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 5, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-11-408), which relates to waste tire facilities compensation; updating statutory reference; modifying amount of compensation for processing certain waste tires; modifying amount of compensation for collection and transportation of waste tires; providing compensation for utilization of processed tires for certain energy or fuel recovery; creating the Oklahoma Safe Playground Surfaces Act; authorizing the Oklahoma Tax Commission to award matching grants to certain public schools or institutions and state parks and recreation areas for reimbursement for installation of certain playground surfacing material; providing for distribution of certain monies for grants; defining terms; stating eligibility; stating limitation of certain funds;

authorizing the Tax Commission to retain funds for administrative costs; authorizing the Tax Commission to promulgate rules; repealing Section 4, Chapter 191, O.S.L. 1995, as amended by Section 2, Chapter 159, O.S.L. 1997 (27A O.S. Supp. 2000, Section 2-11-403.1), which relates to Tire Recycling Fee Exemption Certificates; 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. 2000, 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, which alters the form of at least ~~one-half~~ <u>one-third</u> of the

tires collected by weight, for the purpose of facilitating the future extraction of useful materials for recycling, reuse ~~or~~, energy or fuel recovery; and

6. "Waste tire processing" means the preparation of waste tires to facilitate use for recycling, reuse ~~or~~, energy or fuel recovery, including the cleaning, sorting and delivery of whole tires, in a ready-to-use condition, to businesses that utilize processed tires for energy or fuel 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 12, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 2000, 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 one hundred percent (100%) 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.

D. Businesses located in Oklahoma that use processed tires for energy or fuel recovery shall be eligible for compensation from the fund at a rate not to exceed Twenty-nine Dollars ($29.00) per ton of processed tires to be used for energy or fuel recovery. The business shall demonstrate the utilization through the application and submission of required documentation to the Tax Commission.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-405.1 of Title 27A, unless there is created a duplication in numbering, reads as follows:

To the extent that monies accruing to the Waste Tire Recycling Indemnity Fund exceed the monies needed for the purposes previously specified in the Oklahoma Waste Tire Recycling Act, the Department of Environmental Quality may be reimbursed from the remaining funds for necessary costs associated with remediation of sites at which

waste tires or other wastes incidental to the waste tires present a threat to human health or the environment. Upon its receipt of documentation from the Department showing expenditures relating to the remediation of such sites, the Tax Commission shall reimburse the Department for its documented expenditures.

SECTION 4. 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. 2000, 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 <u>for processing tires collected from this state</u> at a rate not to exceed ~~Fifty-three Dollars and forty-eight cents ($53.48)~~ <u>Forty-nine Dollars ($49.00)</u> per ton of processed tire material ~~in any calendar year by the facility as demonstrated through the application and submission of documentation to the Tax Commission~~.

2. <u>The waste tire facility shall demonstrate the processing or utilization through the application and submission of required documentation to the Tax Commission.</u>

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)~~ Forty-eight Dollars ($48.00) 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. 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.

d. The Department shall not require a waste tire facility to collect less than ~~one thousand~~ three hundred 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 to a waste tire facility, 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.

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 5, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-11-408), is amended to read as follows:

Section 2-11-408. A. Upon reviewing 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 Sections 2-11-405, 2-11-406 and 2-11-407.1 of this title as applicable for:

1. Processing the number of tires documented in the application at the rate of ~~Fifty-three Dollars and forty-eight cents (53.48)~~ Forty-nine Dollars ($49.00) per ton of ~~processed~~ tire material processed by shredding or processed by cleaning, sorting and delivery to businesses that utilize processed tires for energy or fuel recovery;

2. The collection~~,~~ and transportation ~~and delivery~~ of waste tires to a waste tire facility documented in the application at the rate of ~~Thirty-seven Dollars and forty-three cents ($37.43)~~ Forty-eight Dollars (48.00) per ton of 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 for erosion control, bank stabilization or other conservation projects pursuant to Section 2-11-407.1 of this title documented in the application at the rate of Two Dollars and twenty-five cents ($2.25) each for tires having a tire rim diameter greater than seventeen and one-half (17 ½) inches or at a rate of ~~forty-five cents ($0.45)~~ fifty cents ($0.50) each for tires having a rim diameter equal to or less than seventeen and one-half (17 ½) inches. This amount shall not be payable unless and until stabilization or other conservation

project, and the legal entity has otherwise complied with the provisions of Section 2-11-407.1 of this title~~.~~; and

4. Utilization of processed tires for energy or fuel recovery pursuant to Section 2-11-405 of this title documented in the application at the rate of Twenty-nine Dollars ($29.00) per ton of processed tires utilized for energy or fuel recovery.

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 2-11-407.1 of this 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 entity which have provided for recycling, reuse or energy recovery from waste tires.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-414 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Sections 5 and 6 of this act shall be known and may be cited as the "Oklahoma Safe Playground Surfaces Act".

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-415 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission is authorized to award matching grants, pursuant to the provisions of this act, to public schools or institutions, state parks and recreation areas for the purpose of reimbursing such entities for purchasing and installing, according to the specifications outlined in the American Standards for Testing and Materials 1292 (ASTM), playground surfacing material made from

crumb rubber or other waste tire material processed by a facility located in this state.

B. Beginning July 1, 2001, when the total amount of funds accruing to the Oklahoma Waste Tire Recyling Indemnity Fund, created pursuant to the provisions of Section 2-11-404 of Title 27A of the Oklahoma Statutes, reaches Three Million Dollars ($3,000,000.00), an amount not exceeding One Million Dollars ($1,000,000.00) may be expended from the fund within that state fiscal year for the reimbursement through matching grants of playground resurfacing material purchased pursuant to this section.

C. For the purposes of this act:

1. The term "public school or institution" means any public educational institution or other public institution located in this state and accredited for the purpose of educating or caring for children; and

2. The term "state park or recreation area" means any public recreation area owned and operated by the State of Oklahoma that contains a playground area for public use.

D. Any public school or institution, state park or recreation area shall be eligible to receive a matching grant of up to Twenty Thousand Dollars ($20,000.00) as reimbursement for purchasing and installing eligible playground surfacing material. A public school or institution may apply for any number of matching grants from the fund, but the total amount awarded shall not exceed Twenty Thousand Dollars ($20,000.00) per school or institution.

E. Grants from the fund for public schools or institutions and state parks or recreation areas shall be awarded on a first-come, first-serve basis but shall not exceed One Million Dollars ($1,000,000.00), including administrative costs as provided by subsection F of this section, in any fiscal year. Any entity applying for a matching grant that is rejected due to limited funds shall remain eligible until funds become available.

F. The Tax Commission may retain one percent (1%) of the grant monies awarded from the fund for administrative costs to implement the provisions of this act.

G. The Tax Commission is directed to promulgate rules to implement the provisions of this act.

SECTION 8. REPEALER Section 4, Chapter 191, O.S.L. 1995, as amended by Section 2, Chapter 159, O.S.L. 1997 (27A O.S. Supp. 2000, Section 2-11-403.1), is hereby repealed.

SECTION 9. This act shall become effective November 1, 2001.

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