

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1107

By: Lawler of the Senate

and

Sweeden of the House

(waste tires - relating to the Oklahoma Waste Tire

Recycling Act -

emergency)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"An Act relating to waste tires; amending 27A O.S. 2001, Sections 2-11-402, 2-11-405, as amended by Section 1, Chapter 472, O.S.L. 2003, 2-11-406, and 2-11-407.1, as amended by Section 2, Chapter 502, O.S.L. 2002 (27A O.S. Supp. 2003, Sections 2-11-405 and 2-11-407.1), which relate to the Oklahoma Waste Tire Recycling Act; modifying definition; reducing amount of certain administrative reimbursements for the Department of Environmental Quality and the Tax Commission; making certain portion of fee available to the State Auditor and Inspector for certain purpose; reducing percentage of certain tire collection; providing one year moratorium on collection of certain waste tires; stating exception; stating liability of certain entities for conservation project cleanup or remediation for certain time period; restricting eligibility for certain reimbursement from the Waste Tire Recycling Indemnity Fund; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, 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-third~~ five percent (5%) of the tires collected by weight, for the purpose of facilitating the future extraction of useful materials for recycling, reuse, energy or fuel recovery; and

6. "Waste tire processing" means the preparation of waste tires to facilitate use for recycling, reuse, 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 27A O.S. 2001, Section 2-11-405, as amended by Section 1, Chapter 472, O.S.L. 2003 (27A O.S. Supp. 2003, Section 2-11-405), is amended to read as follows:

Section 2-11-405. A. 1. Of the monies accruing annually to the Waste Tire Recycling Indemnity Fund, ~~four percent (4%)~~ three and one-half percent (3.5%) thereof shall be available to the Oklahoma Tax Commission and ~~four percent (4%)~~ three and one-half percent

(3.5%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act.

2. In addition, an amount not to exceed:

- a. 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, and
- b. until July 1, 2006, one percent (1%) shall be available to the State Auditor and Inspector for a pilot program for random compliance audits of the Oklahoma Waste Tire Recycling Program.

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 tons of processed waste tires consumed. Such businesses may apply for compensation monthly to the Tax Commission, and shall supply any information required by the Tax Commission to document compliance with the provisions of the Oklahoma Waste Tire Recycling 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. AMENDATORY 27A O.S. 2001, 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 to the extent that funds are therein contained for processing tires collected from this state at a rate not to exceed Forty-nine Dollars (\$49.00) per ton of processed tire material.

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

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%)~~ five percent (5%) 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.
- d. From the effective date of this act for a period of one (1) year, the requirement to collect waste tires from tire dumps or landfills identified by the Department according to the provisions of subparagraph a of this paragraph shall be suspended unless an applicant is requested to make such a collection 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 shall be eligible for compensation at the rate of 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 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 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 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 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 4. AMENDATORY 27A O.S. 2001, Section 2-11-407.1, as amended by Section 2, Chapter 502, O.S.L. 2002 (27A O.S. Supp. 2003, 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 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 plan approved by the United States Army Corps of Engineers or by a local Conservation District;

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

3. The landowner agrees to plant 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 at a rate not to exceed Two Dollars and eighty cents (\$2.80) 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 eighty cents (\$0.80) per tire from tire dumps or landfills as identified through placement on the priority cleanup list or community-wide cleanup events approved by the Department and 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. 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 at least ten percent (10%) 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 the priority cleanup list or community-wide cleanup events approved by the Department.

b. The collection and transportation of waste tires having a rim diameter of greater than seventeen and one-half (17 1/2) inches shall be on a statewide basis

and shall be provided by the legal entity at no additional cost.

- c. The Department shall not require a legal entity to collect less than three hundred discarded tires at any one location.
- d. Entities receiving funds pursuant to this section may only collect tires with a rim diameter of less than seventeen and one-half (17 1/2) inches from tire dumps or landfills as identified through placement on the priority cleanup list or community-wide cleanup events approved by the Department.

C. 1. 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.

2. The Department may determine the amount of and authorize partial compensation, during the course of the project, as tires are processed in accordance with the written plan.

D. Any person, corporation or other legal entity deemed eligible for reimbursement under the provisions of this section shall be liable for the conservation project for a period of five (5) years. If additional cleanup or remediation of a conservation project is required, due to failure or negligence on the part of the original contractor during the ensuing five-year period, the original contractor shall be responsible for cleanup costs and shall not be eligible for any additional compensation from the Waste Tire Recycling Indemnity Fund for costs related to that conservation project.

SECTION 5. 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."

Passed the House of Representatives the 14th day of April, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate