

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1458

By: DeWitt

AS INTRODUCED

An Act relating to the environment and natural resources; amending 27A O.S. 2001, Section 2-11-403, as amended by Section 1, Chapter 502, O.S.L. 2002 (27A O.S. Supp. 2002, Section 2-11-403), which relates to the Oklahoma Waste Tire Recycling Act; prohibiting assessment of certain fees in situations and conditions; exempting certain vehicles and tires from certain assessments and providing for tire recycling fee exemption certificates; requiring motor license agents to remit certain portion of fees assessed to the Oklahoma Tax Commission; providing for procedures for collection and remittance of fees by motor license agents; providing for process for tire recycling fee exemption certificate; providing for applications; providing for issuance of certificate; specifying certain restrictions; prohibiting certain acts; specifying certain penalties; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-403, as amended by Section 1, Chapter 502, O.S.L. 2002 (27A O.S. Supp. 2002, Section 2-11-403), is amended to read as follows:

Section 2-11-403. A. 1. Except as otherwise provided by this section, the following assessments shall be made for tires for use on motor vehicles as such term is defined by Section 1-134 of Title 47 of the Oklahoma Statutes.

a. At the time any tire:

- (1) with a rim diameter of seventeen and one-half (17 1/2) inches rim diameter or less is sold by a tire dealer, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire,

(2) with a rim diameter greater than seventeen and one-half (17 1/2) inches is sold by a tire dealer, there shall be assessed a waste tire recycling fee of Three Dollars and fifty cents (\$3.50) per tire, and

(3) is sold by a tire dealer for use on a motorcycle, minibike, motor-driven cycle or motorized bicycle as defined in Sections 1-135, 1-133.1, 1-136 and 1-136.1 of Title 47 of the Oklahoma Statutes, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire.

b. At any time a motor vehicle with a tire rim diameter of seventeen and one-half (17 1/2) inches or less is first registered in this state, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire.

c. At any time a motor vehicle with a tire rim diameter of greater than seventeen and one-half (17 1/2) inches is first registered in this state, there shall be assessed, except as otherwise provided by subparagraph d of this paragraph, a waste tire recycling fee of Three Dollars and fifty cents (\$3.50) per tire.

d. At any time a motorcycle, minibike, motor-driven cycle or motorized bicycle is first registered in this state, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire.

2. Motor vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be exempt from the provisions of this subsection.

3. a. No fee shall be assessed by a tire dealer for used tires or retreaded tires for which the tire dealer can

document that the recycling fee has been previously paid.

b. No fee shall be assessed by a tire dealer for any tire sold when the waste tire generated as a result of the sale will be managed by the dealer. The tire dealer shall obtain a Tire Recycling Fee Exemption Certificate pursuant to Section 2 of this act.

B. Any person who furnishes to a tire dealer or to a motor license agent a valid Tire Recycling Fee Exemption Certificate issued according to Section 2 of this act shall be exempt from the assessments of subsection A of this section.

C. 1. The tire dealer and motor license agent shall remit such fee to the Oklahoma Tax Commission in the same manner as provided by Section 1365 of Title 68 of the Oklahoma Statutes. At the time of filing any report as required by the Oklahoma Tax Commission, the tire 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. Motor license agents shall remit all but One Dollar (\$1.00) of the fee assessed on each vehicle registered. The fees authorized to be retained by motor license agents pursuant to this paragraph shall not be considered compensation but may be retained in addition to the maximum sum of compensation authorized by Section 1143 of Title 47 of the Oklahoma Statutes.

3. Failure to remit such fee at the time of filing the returns shall cause the fee to become delinquent. If the fee becomes delinquent the tire dealer or motor license agent forfeits any 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.~~ D. 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.~~ E. If any fee due under subsection A of this section, or any part thereof, is not paid within fifteen (15) days after such fee 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.~~ F. All penalties or interest imposed by this section 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.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-403.2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. 1. Any person may apply to the Department for a Tire Recycling Fee Exemption Certificate. Applications must be on forms of the Department and must include a copy of a current contract providing for the transportation to a licensed processor.

2. Tire dealers who manage their waste tires may also apply for a Tire Recycling Fee Exemption Certificate, and must demonstrate that the designated receiving facility is permitted or authorized by the receiving state to process waste tires, and must maintain and make available to either the Department or the Tax Commission, upon request, documentation that the waste tires are actually arriving at a proper out-of-state facility.

B. If the Department has no reason to believe that all of the waste tires of the person will not be lawfully recycled or processed under the contract, the Department shall issue a Tire Recycling Fee Exemption Certificate showing the name of the person and the period of time of the contract.

C. The Department shall provide a copy of each Tire Recycling Fee Exemption Certificate to the Oklahoma Tax Commission. The Oklahoma Tax Commission shall neither require a fee or provide reimbursement under a Tire Recycling Fee Exemption Certificate.

D. Any person who avoids paying waste tire recycling fees with a Tire Recycling Fee Exemption Certificate and fails to comply with the contract upon which the Certificate was issued shall, in addition to any other penalties provided by law, be subject to revocation of the Certificate and a penalty of Five Hundred Dollars (\$500.00).

SECTION 3. This act shall become effective November 1, 2003.

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