

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2087

By: Jordan, Jackson and Covey
of the House

and

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to tires; amending 68 O.S. 2001,
12 Section 2104, which relates to vehicle excise tax;
13 requiring certain information be included in bill of
14 sale; amending 27A O.S. 2001, Section 2-11-409, as
15 amended by Section 4, Chapter 230, O.S.L. 2005, and
16 as renumbered by Section 13, Chapter 230, O.S.L. 2005
17 (27A O.S. Supp. 2006, Section 2-11-401.6), which
18 relates to the Oklahoma Waste Tire Recycling Act;
19 requiring the Oklahoma Tax Commission to initiate
20 proceedings based on certain recommendations;
21 requiring monthly reporting of certain fees by Tax
22 Commission; changing department that prescribes
23 forms; requiring Department of Environmental Quality
24 to report certain information to Tax Commission;
changing agency that performs certain inspections;
modifying scope of certain inspections; requiring
certain periodic inspections; providing enforcement
procedures; providing penalty; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2104, is
2 amended to read as follows:

3 Section 2104. A. The value of any motor vehicle, except a
4 manufactured home, for the purposes of the excise tax levied by
5 Section 2103 of this title, shall be determined as of the time the
6 person applying for a certificate of title thereto obtained either
7 ownership or possession of the vehicle, which shall be presumed to
8 be the actual date of the sale or other transfer of ownership, and
9 assignment of the certificate of title.

10 B. The value of any vehicle, for purposes of the excise tax
11 levied by Section 2103 of this title, shall be the actual sales
12 price of such a vehicle before any discounts or credits are given
13 for a trade-in. However, the value of the vehicle prior to the
14 subtraction of such discounts or credits for a trade-in shall be
15 required to be within twenty percent (20%) of the average retail
16 price value of such vehicle as listed in the automotive reference
17 material prescribed by the Oklahoma Tax Commission. The actual
18 sales price of the vehicle, which total shall be the basis of the
19 motor vehicle excise tax, as well as the number of tires on the
20 vehicle and the tire rim diameters, shall be entered on the bill of
21 sale furnished by the seller to the purchaser, or on such other form
22 as may be prescribed by the Tax Commission.

23 Upon receipt of the properly completed bill of sale or other
24 form as prescribed by the Tax Commission, and the payment of all

1 applicable taxes and fees, the Tax Commission or an appointed motor
2 license agent shall issue a vehicle certificate of title in
3 accordance with the provisions of the Oklahoma Vehicle License and
4 Registration Act.

5 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-409,
6 as amended by Section 4, Chapter 230, O.S.L. 2005, and as renumbered
7 by Section 13, Chapter 230, O.S.L. 2005 (27A O.S. Supp. 2006,
8 Section 2-11-401.6), is amended to read as follows:

9 Section 2-11-401.6 A. 1. The Oklahoma Tax Commission shall
10 promulgate rules to carry out the provisions of the Oklahoma Waste
11 Tire Recycling Act which pertain to the remittance of fees and to
12 the ~~allocation~~ payment of monies accruing to the Waste Tire
13 Recycling Indemnity Fund.

14 2. Upon receipt of any referral from the Oklahoma Department of
15 Environmental Quality, as set out in paragraph 7 of subsection B of
16 this section, the Tax Commission shall promptly undertake
17 proceedings in accordance with the recommendations of the
18 Department. The Tax Commission shall timely report the results of
19 the proceedings to the Department.

20 3. On a monthly basis, the Tax Commission shall provide to the
21 Department a report of the fees remitted by each tire dealer and
22 motor license agent pursuant to Section 2-11-401.2 of this title.

23 B. 1. The ~~Commission~~ Department of Environmental Quality shall
24 prescribe forms, containing documentation as required by the

1 Oklahoma Waste Tire Recycling Act, to be used by a waste tire
2 facility, TDF facility, or person, corporation or other legal entity
3 authorized to receive reimbursement.

4 ~~3.~~ 2. On at least a monthly basis, the Commission Department
5 shall evaluate and process applications and shall report to the Tax
6 Commission compliance and allocation information necessary for the
7 Tax Commission to issue payment of monies from the Fund.

8 ~~4.~~ 3. The Commission Department shall make periodic inspections
9 of ~~tire dealers and motor license agents to ensure compliance with~~
10 ~~the provisions of Section 2-11-401.2 of this title, and shall make~~
11 ~~periodic inspections of applicants for compensation to ensure~~
12 compliance with the provisions of Section 2-11-401.4 of this title.
13 The Commission Department shall submit a summary of the results of
14 those inspections in an annual report to the office of the State
15 Auditor and Inspector.

16 ~~B.—1.~~ 4. The Environmental Quality Board shall promulgate
17 rules for the permitting of waste tire facilities under the Oklahoma
18 Solid Waste Management Act and for the certification of any entity
19 to receive compensation under the provisions of the Oklahoma Waste
20 Tire Recycling Act.

21 ~~2.~~ 5. The Department ~~of Environmental Quality~~ shall file a
22 report with the Legislature and the Governor detailing the
23 administration of the Oklahoma Waste Tire Recycling Act and its
24 effectiveness in bringing about the cleanup of existing waste tire

1 dumps and in preventing the development of new dumps. The first
2 report shall be filed by no later than December 31, 1992.

3 Subsequent reports shall be filed every three (3) years thereafter.

4 ~~3-~~ 6. In developing the priority cleanup list, the Department
5 shall prioritize those dumps where the landowner was a victim of
6 illegal dumping. Any other tire dump may be placed on the priority
7 cleanup list in cases where the administrative enforcement process
8 has been exhausted, and in such case, the Department may provide for
9 the cleanup of the dump pursuant to Section 2-11-401.7 of this
10 title.

11 7. The Department shall make periodic inspections of tire
12 dealers throughout this state to ensure compliance with the
13 provisions of Section 2-11-401.2 of this title. Upon a finding of
14 any failure to properly remit the appropriate fee to the Tax
15 Commission, the Department shall give written notice to the alleged
16 violator and may commence administrative enforcement proceedings or
17 civil proceedings in conformance with the provisions of Sections 2-
18 3-502 and 2-3-504 of this title. If the Department determines that
19 the fee has not been paid and there is no reasonable cause for the
20 nonpayment, the Department may assess a penalty of double the amount
21 that should have been remitted, to be added to the delinquent fee.
22 If the Department determines any tire dealer has demonstrated a
23 flagrant or repeated disregard of the provisions of Section 2-11-

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1 401.2 of this title, it shall refer such determination to the Tax
2 Commission.

3 C. 1. By August 1, 1994, and every even year thereafter, the
4 State Auditor and Inspector shall conduct or shall contract with an
5 auditor or auditing company to conduct an independent audit of the
6 books, records, files and other such documents of the Tax Commission
7 and the Department pertaining to the administration of the Fund.
8 The audit shall include, but shall not be limited to, a review of
9 agency and claimant compliance with state statutes regarding the
10 Fund, internal control procedures, adequacy of claim process
11 expenditures from and debits of the Fund regarding reimbursements,
12 administration, personnel, operating and other expenses charged by
13 the Tax Commission and Department, and the duties performed in
14 detail by agency personnel and Fund personnel for which payment is
15 made from the Fund. In addition the audit shall include
16 recommendations for improving claim processing, equipment needed for
17 claim processing, internal control or structure for administering
18 the Fund, and such other areas deemed necessary by the State Auditor
19 and Inspector.

20 2. The cost of the audit shall be borne by the Fund, pursuant
21 to the limits and provisions of Section 2-11-401.4 of this title.

22 3. Copies of the audit shall be submitted to the Governor, the
23 Speaker of the House of Representatives, the President Pro Tempore
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1 of the Senate and the Chairs of the Appropriations Committee of both
2 the Oklahoma House of Representatives and the Oklahoma State Senate.

3 SECTION 3. This act shall become effective November 1, 2007.

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