

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 441

By: Bingman and Ivester of
the Senate

and

McNiel of the House

(environment and natural resources - assessments
upon purchase of certain tires for agricultural
use - effective date -

emergency)

AUTHOR: Add the following House Coauthor: Jackson

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

"An Act relating to environment and natural
resources; amending 27A O.S. 2001, Sections 2-11-
403, as renumbered by Section 9, Chapter 230, O.S.L.
2005, and as last amended by Section 1, Chapter 146,
O.S.L. 2007 and 2-11-405, as renumbered by Section
11, Chapter 230, O.S.L. 2005, and as last amended by
Section 2, Chapter 146, O.S.L. 2007 (27A O.S. Supp.
2009, Sections 2-11-401.2 and 2-11-401.4), which
relate to the Oklahoma Waste Tire Recycling Act;
establishing a waste tire recycling fee for
agricultural tires; establishing different
implementation dates for tires of a certain size;
specifying a minimum fee; requiring the Department
of Environmental Quality to maintain a list of tire
weights; prohibiting assessment of a fee on certain
retained used tires; allowing a tire dealer to pay
the assessed fee on certain tires and include the
tires in certain program; requiring the collection
and transportation of certain agricultural tires by

1 certain date; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-403,
6 as renumbered by Section 9, Chapter 230, O.S.L. 2005, and as last
7 amended by Section 1, Chapter 146, O.S.L. 2007 (27A O.S. Supp. 2009,
8 Section 2-11-401.2), is amended to read as follows:

9 Section 2-11-401.2 A. 1. Except as otherwise provided by this
10 section, the following assessments shall be made for tires for use
11 on motor vehicles:

12 a. ~~At~~ at the time any tire:

- 13 (1) with a rim diameter of seventeen and one-half (17
14 1/2) inches rim diameter or less is sold by a
15 tire dealer, there shall be assessed a waste tire
16 recycling fee of One Dollar (\$1.00) per tire,
17 (2) with a rim diameter greater than seventeen and
18 one-half (17 1/2) inches but less than or equal
19 to nineteen and one-half (19 1/2) inches is sold
20 by a tire dealer, there shall be assessed a waste
21 tire recycling fee of Two Dollars and fifty cents
22 (\$2.50) per tire,
23 (3) with a rim diameter greater than nineteen and
24 one-half (19 1/2) inches is sold by a tire

1 dealer, there shall be assessed a waste tire
2 recycling fee of Three Dollars and fifty cents
3 (\$3.50) per tire, and

4 (4) is sold by a tire dealer for use on a motorcycle,
5 motor-driven cycle or motorized bicycle, there
6 shall be assessed a waste tire recycling fee of
7 One Dollar (\$1.00) per tire~~.,~~

8 b. ~~At~~ at any time a motor vehicle with a tire rim
9 diameter of seventeen and one-half (17 1/2) inches or
10 less is first registered in this state, there shall be
11 assessed a waste tire recycling fee of One Dollar
12 (\$1.00) per tire~~.,~~

13 c. ~~At~~ at any time a motor vehicle with a tire rim
14 diameter of greater than seventeen and one-half (17
15 1/2) inches but less than or equal to nineteen and
16 one-half (19 1/2) inches is first registered in this
17 state, there shall be assessed a waste tire recycling
18 fee of Two Dollars and fifty cents (\$2.50) per tire,
19 except as otherwise provided by subparagraph e of this
20 paragraph~~.,~~

21 d. ~~At~~ at any time a motor vehicle with a tire rim
22 diameter of greater than nineteen and one-half (19
23 1/2) inches is first registered in this state, there
24 shall be assessed a waste tire recycling fee of Three

1 Dollars and fifty cents (\$3.50) per tire, except as
2 otherwise provided by subparagraph e of this
3 paragraph-, and

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

8 2. Motor vehicles registered pursuant to Section 1120 of Title
9 47 of the Oklahoma Statutes shall be exempt from the provisions of
10 this subsection.

11 3. No fee shall be assessed by a tire dealer for used tires or
12 retreaded tires for which the tire dealer can document that the
13 recycling fee has been previously paid.

14 4. All-terrain vehicles and off-road motorcycles registered
15 pursuant to the provisions of Section 1132 of Title 47 of the
16 Oklahoma Statutes shall be exempt from the provisions of this
17 section.

18 B. 1. Except as otherwise provided by this section, beginning
19 July 1, 2010, tires used on implements of husbandry and agricultural
20 equipment that are not more than fourteen (14) inches wide and
21 forty-four (44) inches in diameter shall be assessed a waste tire
22 recycling fee of five cents (\$0.05) per pound of the weight of the
23 tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per
24 tire. Beginning July 1, 2013, tires used on implements of husbandry

1 and agricultural equipment that are any size shall be assessed a
2 waste tire recycling fee of five cents (\$0.05) per pound of the
3 weight of the tire, with a minimum fee of Two Dollars and fifty
4 cents (\$2.50) per tire.

5 2. The Department shall maintain a list of agricultural tire
6 weights for tires subject to the assessment and make that list
7 available to tire dealers upon request.

8 3. No fee shall be assessed by a tire dealer if the customer
9 retains the used agricultural tire for use on a farm or ranch.

10 4. A tire dealer may pay the assessed fee for any waste
11 agricultural tire in current inventory and include that tire in the
12 waste tire recycling program.

13 C. 1. The tire dealer and motor license agent shall remit such
14 fee to the Oklahoma Tax Commission in the same manner as provided by
15 Section 1365 of Title 68 of the Oklahoma Statutes.

16 2. Except as otherwise provided by this section, the tire
17 dealer shall remit to the Tax Commission ninety-seven and three-
18 quarters percent (97.75%) of the fee due pursuant to this section at
19 the time of filing any report as required by the Tax Commission.

20 3. Motor license agents shall remit all but One Dollar (\$1.00)
21 of the fee assessed on each vehicle registered.

22 4. Failure to remit the fee at the time of filing the returns
23 shall cause the fee to become delinquent. If the fee becomes
24 delinquent the tire dealer or motor license agent forfeits any claim

1 to the discount authorized by this section and shall remit to the
2 Tax Commission one hundred percent (100%) of the amount of the fee
3 due plus any penalty due.

4 ~~C.~~ D. If the fee imposed or levied by subsection A of this
5 section, or any part of such amount, is not paid before the fee
6 becomes delinquent, there shall be collected on the total delinquent
7 fee interest at the rate of one and one-quarter percent (1 1/4%) per
8 month from the date of the delinquency until paid.

9 ~~D.~~ E. If any fee due under subsection A of this section, or any
10 part thereof, is not paid within fifteen (15) days after the fee
11 becomes delinquent, a penalty of ten percent (10%) on the total
12 amount of fee due and delinquent shall be added and paid.

13 ~~E.~~ F. All penalties or interest imposed by this section shall
14 be recoverable by the Tax Commission as a part of the fee imposed
15 and all penalties and interest shall be apportioned the same as the
16 fee on which the penalties or interest are collected.

17 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-405,
18 as renumbered by Section 11, Chapter 230, O.S.L. 2005, and as last
19 amended by Section 2, Chapter 146, O.S.L. 2007 (27A O.S. Supp. 2009,
20 Section 2-11-401.4), is amended to read as follows:

21 Section 2-11-401.4 A. Compensation to waste tire facilities
22 and tire-derived fuel or TDF facilities pursuant to this section
23 shall be limited to facilities located in Oklahoma. Compensation
24 for waste tire activities pursuant to this section shall be limited

1 to waste tires from Oklahoma. A waste tire facility or tire-derived
2 fuel or TDF facility may transport and deliver waste tires collected
3 from Oklahoma to an out-of-state waste tire facility or TDF facility
4 but shall not be eligible for compensation from the Waste Tire
5 Recycling Indemnity Fund for those waste tires. To be eligible,
6 applicants for compensation shall be in compliance with the Oklahoma
7 Waste Tire Recycling Act.

8 B. The monies accruing annually to the Waste Tire Recycling
9 Indemnity Fund shall be allocated first to the following:

10 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
11 Commission and five and three-fourths percent (5.75%) to the
12 Department of Environmental Quality for the purpose of administering
13 the requirements of the Oklahoma Waste Tire Recycling Act;

14 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
15 per audit to the State Auditor and Inspector for the purpose of
16 conducting audits of the Oklahoma Waste Tire Recycling Program
17 pursuant to Section 2-11-401.6 of this title; and

18 3. Up to ten percent (10%) for capital investment reimbursement
19 to waste tire facilities and TDF facilities for the purchase of
20 equipment necessary to utilize waste tires. Only equipment
21 purchased on or after January 1, 1995, shall be eligible. The
22 facilities are eligible for compensation at a rate of Twenty Dollars
23 (\$20.00) per ton of waste tires used. Total reimbursement shall not
24 exceed one hundred percent (100%) of the capital investment in

1 eligible equipment. The facilities may apply for compensation
2 monthly to the Department of Environmental Quality, and shall supply
3 any information required by the Department.

4 C. After the allocations under subsection B of this section are
5 made, the balance of monies in the Fund shall be available for
6 compensation pursuant to the provisions of the Oklahoma Waste Tire
7 Recycling Act as follows:

8 1. Compensation to waste tire facilities for waste tire
9 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of
10 processed tire material. For compensation the following conditions
11 shall apply:

12 a. facilities that process waste tires by altering the
13 form of the waste tires but do not produce crumb
14 rubber shall not receive compensation until the
15 facility documents the sale and movement of the
16 processed tire material off-site to a third party,

17 b. facilities shall report and certify tire processing
18 activity in terms of weight. The facility shall by
19 sworn affidavit provide to the Department sufficient
20 information to verify that the facility has processed
21 tires and sold processed tires for actual recycling or
22 reuse in accordance with the purposes of the Oklahoma
23 Waste Tire Recycling Act, and

24

1 c. to be eligible for compensation, a facility shall not
2 have accumulated more processed material than the
3 amount for which the facility has provided financial
4 assurance under its solid waste permit or the amount
5 accumulated from three (3) years of operation,
6 whichever is less;

7 2. a. Compensation to waste tire facilities or TDF
8 facilities at the rate of Fifty-three Dollars (\$53.00)
9 per ton of whole waste tires for the collection and
10 transportation of waste tires from Oklahoma tire
11 dealers, automotive dismantlers and parts recyclers,
12 solid waste landfill sites, and dumps certified by the
13 Department priority cleanup list, and delivering the
14 tires to a waste tire facility or TDF facility. The
15 collection and transportation of waste tires shall be
16 provided by the waste tire facility or TDF facility at
17 no additional cost to the tire dealer or automotive
18 dismantler and parts recycler or to the Fund. The
19 waste tire facility or TDF facility shall collect from
20 any location at which there are at least three hundred
21 waste tires.

22 b. Compensation under this paragraph shall not be payable
23 until the waste tires have been actually processed
24 according to the solid waste permit for the facility

1 or actually used for energy or fuel recovery. A TDF
2 facility that collects and transports whole waste
3 tires shall be eligible for compensation under this
4 paragraph only for those whole waste tires consumed by
5 that facility.

6 c. No tire dealer shall charge any customer any
7 additional fee for the management, recycling, or
8 disposal of any waste tire upon which the waste tire
9 recycling fee has been remitted to the Tax Commission.
10 For customers who choose not to leave a waste tire
11 upon which the waste tire recycling fee has been
12 remitted to the Tax Commission, the tire dealer shall
13 issue a receipt which entitles the customer to deliver
14 the waste tire to the dealer at a later date.

15 d. To be eligible for compensation pursuant to this
16 paragraph, the waste tire facility or TDF facility
17 shall:

18 (1) demonstrate to the satisfaction of the Department
19 that the facility is regularly engaged in the
20 collection, transportation and delivery of waste
21 tires to a waste tire facility or to a TDF
22 facility, on a statewide basis, and from each
23 county of the state,
24

1 (2) provide documentation to the Department, signed
2 by a dealer at the time of collection, which
3 certifies by sworn affidavit the total amount of
4 waste tire recycling fees, itemized by month,
5 remitted by the dealer since the date the waste
6 tires of the dealer were last collected, and

7 (3) annually demonstrate that at least two percent
8 (2%) of the tires were collected from tire dumps
9 or landfills on the Department priority cleanup
10 list or community-wide cleanup events approved by
11 the Department.

12 e. In lieu of proof of remitted tire recycling fees, the
13 waste tire facility or TDF facility shall accept proof
14 of purchase of a salvage vehicle registered in
15 Oklahoma by an automotive dismantler and parts
16 recycler, licensed pursuant to the Automotive
17 Dismantlers and Parts Recycler Act, for the collection
18 and transportation of up to five waste tires per
19 salvage vehicle purchased on or after January 1, 1996.

20 f. Beginning July 1, 2010, a waste tire facility or TDF
21 facility shall be required to collect and transport
22 tires used on implements of husbandry and agricultural
23 equipment that are not more than fourteen (14) inches
24 wide and forty-four (44) inches in diameter.

1 Beginning July 1, 2013, a waste tire facility or TDF
2 facility shall be required to collect and transport
3 tires used on implements of husbandry and agricultural
4 equipment that are any size;

5 3. a. Compensation to a person, corporation or other legal
6 entity who has obtained a permit or other
7 authorization from the United States Army Corps of
8 Engineers or a local Conservation District to provide
9 services for erosion control projects. Compensation
10 shall be at the rate of Two Dollars and eighty cents
11 (\$2.80) per tire for waste tires having a tire rim
12 diameter of greater than seventeen and one-half (17
13 1/2) inches, and eighty cents (\$0.80) per tire for
14 tires having a rim diameter less than or equal to
15 seventeen and one-half (17 1/2) inches.

16 b. Reimbursement under this paragraph shall be subject to
17 the following:

18 (1) the applicant for reimbursement collects or
19 provides for the collection and utilization of
20 waste tires in an erosion control project in
21 Oklahoma in accordance with a written plan
22 approved by the United States Army Corps of
23 Engineers or by a local Conservation District,
24

- 1 (2) the tires are collected and transported to the
2 site of the erosion control project,
- 3 (3) the site landowner agrees to plant trees or other
4 suitable vegetation in accordance with a planting
5 plan developed in conjunction with the Division
6 of Forestry of the Oklahoma Department of
7 Agriculture, Food, and Forestry,
- 8 (4) the applicant reports and certifies the number of
9 tires utilized. The applicant shall by sworn
10 affidavit provide to the Department sufficient
11 information to verify that the applicant has
12 utilized the tires in accordance with the
13 purposes of the Oklahoma Waste Tire Recycling
14 Act,
- 15 (5) the applicant annually demonstrates that at least
16 two percent (2%) of the tires utilized by the
17 applicant for which compensation is requested
18 were collected from tire dumps or landfills on
19 the Department priority cleanup list or
20 community-wide cleanup events approved by the
21 Department,
- 22 (6) the applicant demonstrates to the satisfaction of
23 the Department that the applicant is regularly
24 engaged in the collection, transportation and

1 delivery to erosion control projects of waste
2 tires, on a statewide basis, and from each county
3 of the state, at no additional cost to the tire
4 dealer or automotive dismantler and parts
5 recycler or to the Fund, and

6 (7) the applicant provides documentation to the
7 Department, signed by a dealer at the time of
8 collection, which certifies by sworn affidavit
9 the total amount of waste tire recycling fees,
10 itemized by month, remitted by the dealer since
11 the date the waste tires of the dealer were last
12 collected.

13 c. In lieu of proof of remitted tire recycling fees, the
14 applicant shall accept proof of purchase of a salvage
15 vehicle registered in Oklahoma by an automotive
16 dismantler and parts recycler, licensed pursuant to
17 the Automotive Dismantlers and Parts Recycler Act, for
18 the collection and transportation of up to five waste
19 tires per salvage vehicle purchased on or after
20 January 1, 1996.

21 d. Compensation pursuant to this paragraph shall be
22 payable only for the tires collected and utilized in
23 accordance with the purposes of the Oklahoma Waste
24 Tire Recycling Act and as authorized by the

1 Department. During the course of the erosion control
2 project, the Department may determine the amount of
3 and authorize partial compensation, as tires are
4 utilized in accordance with the written plan.

5 e. Any entity deemed eligible for reimbursement under the
6 provisions of this paragraph shall be liable for the
7 erosion control project for a period of five (5)
8 years. During the five-year period, if additional
9 cleanup or remediation of an erosion control project
10 is required due to failure or negligence on the part
11 of the original contractor, the original contractor
12 shall be responsible for cleanup costs and shall not
13 be eligible for any additional compensation from the
14 Fund for costs related to that erosion control
15 project;

16 4. a. Compensation to a unit of local or county government
17 that submits to the Department for approval a plan for
18 the use of baled waste tires in an engineering
19 project. Compensation shall be at the rate of fifty
20 cents (\$0.50) per tire.

21 b. The plan shall be approved by the Department before
22 construction of the project begins.

23 c. Any unit of local or county government baling waste
24 tires shall not accumulate more than fifty waste tire

1 bales prior to beginning construction of an approved
2 project.

3 d. Waste tires baled pursuant to this paragraph cannot be
4 obtained from tire manufacturers, retailers,
5 wholesalers, retreaders, or automotive dismantlers and
6 parts recyclers.

7 e. Any unit of local or county government authorized to
8 receive reimbursement for the use of baled waste tires
9 in an engineering project shall report and certify
10 whole waste tires by number. The governmental unit
11 shall by sworn affidavit provide sufficient
12 information to the Department to verify that the unit
13 has utilized the tires in accordance with the purposes
14 of the Oklahoma Waste Tire Recycling Act; and

15 5. If the Fund contains insufficient funds in any month to
16 satisfy the eligible reimbursements under this subsection, the
17 Department shall determine the apportionment of payments to be made
18 among the qualified applicants under this subsection according to
19 the percentage of waste tires processed, collected and transported,
20 or utilized.

21 D. 1. After the allocations under subsections B and C of this
22 section are made, any remaining monies in the Fund shall be
23 available for TDF facilities and waste tire facilities that produce
24 crumb rubber for compensation at the rate of Twenty-nine Dollars

1 (\$29.00) per ton of processed or whole waste tires used for energy
2 or fuel recovery or the production of crumb rubber.

3 2. The production of crumb rubber shall be considered a
4 compensable event separate from and in addition to any compensation
5 for waste tire processing under subsection C of this section.

6 3. TDF facilities and waste tire facilities authorized to
7 receive reimbursement under this subsection shall report and certify
8 tire material used by weight.

9 4. The facilities shall by sworn affidavit provide to the
10 Department sufficient information to verify that the facility has
11 used the tires in accordance with the purposes of the Oklahoma Waste
12 Tire Recycling Act.

13 5. If the Fund contains insufficient funds in any month to
14 satisfy the eligible reimbursements under this subsection, the
15 Department shall determine the apportionment of payments to be made
16 among the qualified applicants according to the percentage of waste
17 tires used for energy or fuel recovery or the production of crumb
18 rubber.

19 E. After the allocations under subsections B, C and D of this
20 section are made, any remaining monies in the Fund shall be
21 disbursed as additional compensation to waste tire facilities or TDF
22 facilities for the collection and transportation of waste tires from
23 Oklahoma tire dealers, automotive dismantlers and parts recyclers,
24 solid waste landfill sites, and dumps certified by the Department

1 priority cleanup list, and delivering the tires to a waste tire
2 facility or a TDF facility. The Department shall determine the
3 apportionment of payments to be made under this subsection among the
4 qualified applicants according to the percentage of waste tires
5 collected and transported.

6 F. Waste tire facilities, TDF facilities, or persons,
7 corporations or other legal entities authorized by the provisions of
8 the Oklahoma Waste Tire Recycling Act to receive reimbursement shall
9 demonstrate that the facilities or legal entities have successfully
10 complied with the requirements of the Oklahoma Waste Tire Recycling
11 Act through the filing of appropriate applications, reports, and
12 other documentation that may be required by the Tax Commission and
13 the Department.

14 SECTION 3. This act shall become effective July 1, 2010.

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval."
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1 Passed the House of Representatives the 19th day of April, 2010.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2010.

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9 Presiding Officer of the Senate