

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3102

By: Jackson and McNiel

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8  
9   COMMITTEE SUBSTITUTE

10                   An Act relating to environment and natural resources;  
11                   amending 27A O.S. 2011, Section 2-11-401.4, which  
12                   relates to the Oklahoma Used Tire Recycling Act;  
13                   deleting limit for certain allocations; and providing  
14                   an effective date.

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

16                   SECTION 1.           AMENDATORY           27A O.S. 2011, Section 2-11-401.4,  
17 is amended to read as follows:

18                   Section 2-11-401.4 A. Compensation to used tire facilities and  
19 tire-derived fuel or TDF facilities pursuant to this section shall  
20 be limited to facilities located in Oklahoma. Compensation for used  
21 tire activities pursuant to this section shall be limited to used  
22 tires from Oklahoma. A used tire recycling facility or tire-derived  
23 fuel or TDF facility may transport and deliver used tires collected  
24 from Oklahoma to an out-of-state used tire recycling facility or TDF

1 facility but shall not be eligible for compensation from the Used  
2 Tire Recycling Indemnity Fund for those used tires. To be eligible,  
3 applicants for compensation shall be in compliance with the Oklahoma  
4 Used Tire Recycling Act.

5 B. The monies accruing annually to the Used Tire Recycling  
6 Indemnity Fund shall be allocated first to the Department of  
7 Environmental Quality Revolving Fund, to be used for implementing  
8 applicable requirements related to the control of mobile and area  
9 sources of air emissions, for monitoring and modeling the impacts on  
10 Oklahoma of air pollution from other states, and for implementing  
11 and enforcing other applicable air pollution control requirements.  
12 The amount of money allocated for this purpose shall be twenty-eight  
13 percent (28%) of the funds produced by the two-dollar-and-fifty-cent  
14 per tire fee assessed pursuant to division (1) of subparagraph a of  
15 paragraph 1 of subsection A of Section 2-11-401.2 of this title and  
16 subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2  
17 of this title. After this allocation is deducted, the balance of  
18 the monies shall be allocated as follows:

19 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax  
20 Commission and five and three-fourths percent (5.75%) to the  
21 Department of Environmental Quality for the purpose of administering  
22 the requirements of the Oklahoma Used Tire Recycling Act;

23 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)  
24 per audit to the State Auditor and Inspector for the purpose of

1 conducting audits of the Oklahoma Used Tire Recycling Program  
2 pursuant to Section 2-11-401.6 of this title; and

3 3. ~~Up to ten percent (10%) for~~ For capital investment  
4 reimbursement to used tire facilities and TDF facilities for the  
5 purchase of equipment necessary to utilize used tires. Only  
6 equipment purchased on or after January 1, 1995, shall be eligible.  
7 The facilities are eligible for compensation at a rate of Twenty  
8 Dollars (\$20.00) per ton of used tires used. Total reimbursement  
9 shall not exceed one hundred percent (100%) of the capital  
10 investment in eligible equipment. The facilities may apply for  
11 compensation monthly to the Department of Environmental Quality, and  
12 shall supply any information required by the Department.

13 C. After the allocations under subsection B of this section are  
14 made, the balance of monies in the Fund shall be available for  
15 compensation pursuant to the provisions of the Oklahoma Used Tire  
16 Recycling Act as follows:

17 1. Compensation to used tire facilities for used tire  
18 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of  
19 processed tire material. For compensation the following conditions  
20 shall apply:

21 a. facilities that process used tires by altering the  
22 form of the used tires but do not produce crumb rubber  
23 shall not receive compensation until the facility  
24

1 documents the sale and movement of the processed used  
2 tire material off-site to a third party,

3 b. facilities shall report and certify used tire  
4 processing activity in terms of weight. The facility  
5 shall by sworn affidavit provide to the Department  
6 sufficient information to verify that the facility has  
7 processed used tires and sold processed used tires for  
8 actual recycling or reuse in accordance with the  
9 purposes of the Oklahoma Used Tire Recycling Act, and

10 c. to be eligible for compensation, a facility shall not  
11 have accumulated more processed material than the  
12 amount for which the facility has provided financial  
13 assurance under its solid waste permit or the amount  
14 accumulated from three (3) years of operation,  
15 whichever is less;

16 2. a. Compensation to used tire recycling facilities or TDF  
17 facilities at the rate of Fifty-three Dollars (\$53.00)  
18 per ton of whole used tires for the collection and  
19 transportation of used tires from Oklahoma tire  
20 dealers, automotive dismantlers and parts recyclers,  
21 solid waste landfill sites, and dumps certified by the  
22 Department priority cleanup list, and delivering the  
23 tires to a used tire recycling facility or TDF  
24 facility. The collection and transportation of used

1           tires shall be provided by the used tire recycling  
2           facility or TDF facility at no additional cost to the  
3           tire dealer or automotive dismantler and parts  
4           recycler or to the Fund. The used tire recycling  
5           facility or TDF facility shall collect from any  
6           location at which there are at least three hundred  
7           used tires.

8           b. Compensation under this paragraph shall not be payable  
9           until the used tires have been actually processed  
10          according to the solid waste permit for the facility  
11          or actually used for energy or fuel recovery. A TDF  
12          facility that collects and transports whole used tires  
13          shall be eligible for compensation under this  
14          paragraph only for those whole used tires consumed by  
15          that facility.

16          c. No tire dealer shall charge any customer any  
17          additional fee for the management, recycling, or  
18          disposal of any used tire upon which the used tire  
19          recycling fee has been remitted to the Tax Commission.  
20          For customers who choose not to leave a used tire upon  
21          which the used tire recycling fee has been remitted to  
22          the Tax Commission, the tire dealer shall issue a  
23          receipt which entitles the customer to deliver the  
24          used tire to the dealer at a later date.

1 d. To be eligible for compensation pursuant to this  
2 paragraph, the used tire recycling facility or TDF  
3 facility shall:

4 (1) demonstrate to the satisfaction of the Department  
5 that the facility is regularly engaged in the  
6 collection, transportation and delivery of used  
7 tires to a used tire recycling facility or to a  
8 TDF facility, on a statewide basis, and from each  
9 county of the state,

10 (2) provide documentation to the Department, signed  
11 by a dealer at the time of collection, which  
12 certifies remittance of appropriate fees to the  
13 Oklahoma Tax Commission as a participating tire  
14 dealer pursuant to the provisions of the Oklahoma  
15 Used Tire Recycling Act, and

16 (3) annually demonstrate that at least three to six  
17 percent (3-6%) of the tires were collected from  
18 tire dumps or landfills on the Department  
19 priority cleanup list or community-wide cleanup  
20 events approved by the Department. The  
21 Department is authorized to determine  
22 periodically the applicable percentage within the  
23 specified range set forth in this division based  
24

1 on the number of tires remaining in illegal dumps  
2 and available funding.

3 e. In lieu of proof of remitted tire recycling fees, the  
4 used tire recycling facility or TDF facility shall  
5 accept proof of purchase of a salvage vehicle  
6 registered in Oklahoma by an automotive dismantler and  
7 parts recycler, licensed pursuant to the Automotive  
8 Dismantlers and Parts Recycler Act, for the collection  
9 and transportation of up to five used tires per  
10 salvage vehicle purchased on or after January 1, 1996.

11 f. Beginning July 1, 2010, a used tire recycling facility  
12 or TDF facility shall be required to collect and  
13 transport tires used on implements of husbandry and  
14 agricultural equipment that are not more than fourteen  
15 (14) inches wide and forty-four (44) inches in  
16 diameter. Beginning July 1, 2013, a used tire  
17 recycling facility or TDF facility shall be required  
18 to collect and transport tires used on implements of  
19 husbandry and agricultural equipment that are any  
20 size;

21 3. a. Compensation to a person, corporation or other legal  
22 entity who has obtained a permit or other  
23 authorization from the United States Army Corps of  
24 Engineers or a local Conservation District to provide

1 services for erosion control projects. Compensation  
2 shall be at the rate of Two Dollars and eighty cents  
3 (\$2.80) per tire for used tires having a tire rim  
4 diameter of greater than seventeen and one-half (17  
5 1/2) inches, and eighty cents (\$0.80) per tire for  
6 tires having a rim diameter less than or equal to  
7 seventeen and one-half (17 1/2) inches.

8 b. Reimbursement under this paragraph shall be subject to  
9 the following:

- 10 (1) the applicant for reimbursement collects or  
11 provides for the collection and utilization of  
12 used tires in an erosion control project in  
13 Oklahoma in accordance with a written plan  
14 approved by the United States Army Corps of  
15 Engineers or by a local Conservation District,
- 16 (2) the used tires are collected and transported to  
17 the site of the erosion control project,
- 18 (3) the site landowner agrees to plant trees or other  
19 suitable vegetation in accordance with a planting  
20 plan developed in conjunction with the Division  
21 of Forestry of the Oklahoma Department of  
22 Agriculture, Food, and Forestry,
- 23 (4) the applicant reports and certifies the number of  
24 used tires utilized. The applicant shall by

1 sworn affidavit provide to the Department  
2 sufficient information to verify that the  
3 applicant has utilized the tires in accordance  
4 with the purposes of the Oklahoma Used Tire  
5 Recycling Act,

6 (5) the applicant annually demonstrates that at least  
7 three to six percent (3-6%) of the tires utilized  
8 by the applicant for which compensation is  
9 requested were collected from tire dumps or  
10 landfills on the Department priority cleanup list  
11 or community-wide cleanup events approved by the  
12 Department. The Department is authorized to  
13 determine periodically the applicable percentage  
14 within the specified range as set forth in this  
15 division based on the number of tires remaining  
16 in illegal dumps and available funding,

17 (6) the applicant demonstrates to the satisfaction of  
18 the Department that the applicant is regularly  
19 engaged in the collection, transportation and  
20 delivery to erosion control projects of used  
21 tires, on a statewide basis, and from each county  
22 of the state, at no additional cost to the tire  
23 dealer or automotive dismantler and parts  
24 recycler or to the Fund, and

1 (7) the applicant provides documentation to the  
2 Department, signed by a dealer at the time of  
3 collection, which certifies remittance of  
4 appropriate fees to the Oklahoma Tax Commission  
5 as a participating tire dealer pursuant to the  
6 provisions of the Oklahoma Used Tire Recycling  
7 Act.

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

16 d. Compensation pursuant to this paragraph shall be  
17 payable only for the tires collected and utilized in  
18 accordance with the purposes of the Oklahoma Used Tire  
19 Recycling Act and as authorized by the Department.  
20 During the course of the erosion control project, the  
21 Department may determine the amount of and authorize  
22 partial compensation, as tires are utilized in  
23 accordance with the written plan.  
24

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

12 4. a. Compensation to a unit of local or county government  
13 that submits to the Department for approval a plan for  
14 the use of baled used tires in an engineering project.  
15 Compensation shall be at the rate of fifty cents  
16 (\$0.50) per tire.

17 b. The plan shall be approved by the Department before  
18 construction of the project begins.

19 c. Any unit of local or county government baling used  
20 tires shall not accumulate more than fifty used tire  
21 bales prior to beginning construction of an approved  
22 project.

23 d. Used tires baled pursuant to this paragraph cannot be  
24 obtained from tire manufacturers, retailers,

1 wholesalers, retreaders, or automotive dismantlers and  
2 parts recyclers.

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

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

17 D. 1. After the allocations under subsections B and C of this  
18 section are made, any remaining monies in the Fund shall be  
19 available for TDF facilities and used tire recycling facilities that  
20 produce crumb rubber for compensation at the rate of Twenty-nine  
21 Dollars (\$29.00) per ton of processed or used tires utilized for  
22 energy or fuel recovery or the production of crumb rubber.

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

4           3. TDF facilities and used tire recycling facilities authorized  
5 to receive reimbursement under this subsection shall report and  
6 certify tire material used by weight.

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

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

17          E. After the allocations under subsections B, C and D of this  
18 section are made, any remaining monies in the Fund shall be  
19 disbursed as additional compensation to used tire recycling  
20 facilities or TDF facilities for the remediation of dumps certified  
21 by the Department and delivering the tires to a used tire recycling  
22 facility or a TDF facility. The Department shall determine  
23 additional compensation made to qualified applicants under this  
24 subsection based on cleanup feasibility of the dump. By July 1,

1 2012, the Board shall promulgate rules establishing unit costs for  
2 compensation based on the remediation feasibility of the tire dumps.  
3 The Department may solicit bids for the remediation of tire dumps if  
4 no used tire recycling facilities or TDF facilities agree to  
5 remediate a priority tire dump authorized by the Department or if  
6 the Department determines the qualified applicant has not remediated  
7 the tires in the tire dump to meet reference conditions of  
8 comparable property in the immediate area.

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

17 SECTION 2. This act shall become effective November 1, 2014.

18  
19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/19/2014 - DO  
20 PASS, As Amended and Coauthored.

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