

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB878 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kyle Hilbert

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 878

By: Leewright of the Senate

and

Hilbert of the House

7
8
9
10 PROPOSED COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Used Tire Recycling
12 Act; amending 27A O.S. 2011, Sections 2-11-401.1 and
13 2-11-401.2, as amended by Sections 1 and 2, Chapter
14 286, O.S.L. 2017 (27A O.S. Supp. 2018, Sections 2-11-
15 401.1 and 2-11-401.2), which relate to definitions
16 and used tire recycling fees; defining terms;
17 deleting terms; modifying fee schedule for certain
18 tires; amending 27A O.S. 2011, Section 2-11-401.4, as
19 last amended by Section 1, Chapter 211, O.S.L. 2018
20 (27A O.S. Supp. 2018, Section 2-11-401.4), which
21 relates to the allocation of the Used Tire Recycling
22 Indemnity Fund; modifying allocation; clarifying
23 statutory language; modifying limit to certain
24 allocation; amending 27A O.S. 2011, Section 2-11-
401.7, as amended by Section 4, Chapter 286, O.S.L.
2017 (27A O.S. Supp. 2018, Section 2-11-401.7), which
relates to unlawful storage, collection, disposal,
transportation or removal of used tires; adding
exception requirement; prohibiting transport of tires
in violation of rules; providing for entry to
property if certain criminal proceedings have been
completed; providing an effective date; and declaring
an emergency.

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

2 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
3 as amended by Section 1, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
4 2018, Section 2-11-401.1), is amended to read as follows:

5 Section 2-11-401.1 As used in the Oklahoma Used Tire Recycling
6 Act:

7 1. "ASTM" means American Society for Testing and Materials;

8 2. "Automotive dismantler and parts recycler" means the same as
9 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

10 ~~2.~~ 3. "Commission" means the Oklahoma Tax Commission;

11 ~~3. "Crumb rubber" means fine particles of vulcanized rubber~~
12 ~~resulting from mechanical or cryogenic size reduction of used tires;~~

13 4. "Department" means the Department of Environmental Quality;

14 5. "End use" means a Department-approved ultimate economic use
15 for a used tire or tire-derived product, including granulated
16 rubber, ground rubber, tire chips, tire-derived aggregate, tire-
17 derived fuel and tire shreds;

18 6. "Fund" means the Used Tire Recycling Indemnity Fund;

19 ~~6.~~ 7. "Granulated rubber" means particulate rubber composed of
20 mainly non-spherical particles that span a broad range of maximum
21 particle dimensions, from below four hundred twenty-five thousandths
22 (0.425) of a millimeter (40 mesh) to twelve (12) millimeters (0.47
23 inches) pursuant to current ASTM standards;

24

1 8. "Ground Rubber" means particulate rubber composed of mainly
2 non-spherical particles that span a broad range of maximum particle
3 dimensions, from below four hundred twenty-five thousandths (0.425)
4 of a millimeter (40 mesh) to two (2) millimeters (0.08 inches)
5 pursuant to current ASTM standards;

6 9. "Motorcycle" means a motor vehicle of a type defined in
7 Section 1-135 of Title 47 of the Oklahoma Statutes;

8 ~~7.~~ 10. "Motor-driven cycle" means a motor vehicle of a type
9 defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

10 ~~8.~~ 11. "Motor vehicle" means the same as defined in Section 1-
11 134 of Title 47 of the Oklahoma Statutes;

12 ~~9.~~ 12. "Priority cleanup list" means a list, created and
13 maintained by the Department, of:

14 a. unpermitted dumps which did not exist when the owner
15 took possession of the property where the tires are
16 located, and were created without the consent of or
17 benefit to the owner of the property, and

18 b. such other tire dumps designated by the Department
19 pursuant to Section 2-11-401.6 of this title;

20 ~~10.~~ 13. "Reusable tire" means a tire that has been previously
21 used on a vehicle, not currently mounted on a vehicle, but can be
22 legally placed into service for vehicle use in Oklahoma;

23 ~~11.~~ 14. "Semitrailer" means the same as defined in Section 1-
24 162 of Title 47 of the Oklahoma Statutes;

1 ~~12.~~ 15. "Tire" means any solid or air-filled covering for
2 vehicle wheels;

3 ~~13.~~ 16. "Tire chips" means pieces of scrap tires that have a
4 basic geometrical shape and are generally between twelve (12)
5 millimeters (0.47 inches) and fifty (50) millimeters (1.97 inches)
6 in size and have most of the wire removed pursuant to current ASTM
7 standards;

8 17. "Tire dealer" means any person engaged in the business of
9 selling new and used tires to final consumers, not for resale;

10 ~~14.~~ 18. "Tire-derived aggregate" means pieces of scrap tires
11 that have a basic geometrical shape and are generally between twelve
12 (12) millimeters (0.47 inches) and three hundred five (305)
13 millimeters (12.01 inches) in size and are intended for use in civil
14 engineering applications pursuant to ASTM standards;

15 19. "Tire-derived fuel" means whole tires or processed tires
16 that can be used for energy or fuel recovery pursuant to current
17 ASTM standards;

18 20. "Tire-derived fuel facility" or "TDF facility" means a
19 facility that uses processed tires or whole used tires for energy or
20 fuel recovery;

21 ~~15.~~ 21. "Tire-derived product" means matter that:

22 a. is derived from a process that uses whole tires as a
23 feedstock, including chipping for the purpose of fuel
24 recovery, granulating and grinding,

1 b. adheres to established engineering or other
2 appropriate specifications or to established product
3 end-user specifications or customer conditions of
4 acceptance,

5 c. has a demonstrated benefit associated with the end
6 use, and

7 d. can be used as a substitute for or in conjunction with
8 a commercial product or raw material;

9 22. "Tire shreds" means pieces of scrap tires that have a basic
10 geometrical shape and are generally between fifty (50) millimeters
11 (1.97 inches) and three hundred five (305) millimeters (12.01
12 inches) in size pursuant to current ASTM standards;

13 23. "Trailer" means the same as defined in Section 1-180 of
14 Title 47 of the Oklahoma Statutes;

15 ~~16. "Used tire recycling facility" means any place which is~~
16 ~~permitted as a solid waste disposal site, in accordance with the~~
17 ~~Oklahoma Solid Waste Management Act, at which used tires are~~
18 ~~processed;~~

19 ~~17. "Used tire processing" means altering the form of whole~~
20 ~~used tires by shredding, chipping, or other method approved by the~~
21 ~~Department, except baling and pyrolysis;~~

22 ~~18.~~ 24. "Used tire" means an unprocessed whole tire or tire
23 part that can no longer be used for its originally intended purpose
24 but can be beneficially reused as approved by the Department. Any

1 used tire collected in accordance with the requirements of the
2 Oklahoma Used Tire Recycling Act is not considered to be discarded.
3 A tire that can be used, reused or legally modified to be reused for
4 its original intended purpose shall not be a used tire; and

5 25. "Used tire processing" means altering the form of whole
6 used tires by shredding, chipping or other method approved by the
7 Department, except baling and pyrolysis;

8 26. "Used tire recycling facility" means any place which is
9 permitted as a solid waste disposal site, in accordance with the
10 Oklahoma Solid Waste Management Act, at which used tires are
11 processed; and

12 ~~19.~~ 27. "Vehicle" means the same as defined in Section 1-186 of
13 Title 47 of the Oklahoma Statutes.

14 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
15 as amended by Section 2, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
16 2018, Section 2-11-401.2), is amended to read as follows:

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

- 20 a. at the time any tire:
 - 21 (1) with a rim diameter of less than or equal to
 - 22 nineteen and one-half (19 1/2) inches is sold by
 - 23 a tire dealer, there shall be assessed a used
 - 24 tire recycling fee of ~~Two Dollars and fifty cents~~

1 ~~(\$2.50)~~ Two Dollars and ninety cents (\$2.90) per
2 tire,

3 (2) with a rim diameter greater than nineteen and
4 one-half (19 1/2) inches and a tread width of
5 twelve (12) inches or less is sold by a tire
6 dealer, there shall be assessed a used tire
7 recycling fee of ~~Three Dollars and fifty cents~~
8 ~~(\$3.50)~~ Five Dollars and fifty cents (\$5.50) per
9 tire,

10 (3) with a rim diameter greater than nineteen and
11 one-half (19 1/2) inches and a tread width of
12 greater than twelve (12) inches is sold by a tire
13 dealer, there shall be assessed a used tire
14 recycling fee of ~~Seven Dollars (\$7.00)~~ Ten
15 Dollars (\$10.00) per tire, and

16 (4) is sold by a tire dealer for use on a motorcycle
17 or motor-driven cycle, there shall be assessed a
18 used tire recycling fee of One Dollar (\$1.00) per
19 tire,

20 b. at any time a motor vehicle with a tire rim diameter
21 of less than or equal to nineteen and one-half (19
22 1/2) inches is first registered in this state, there
23 shall be assessed a used tire recycling fee of ~~Two~~
24 ~~Dollars and fifty cents (\$2.50)~~ Two Dollars and ninety

1 cents (\$2.90) per tire, except as otherwise provided
2 by subparagraphs e and f of this paragraph,

3 c. at any time a vehicle with a tire rim diameter of
4 greater than nineteen and one-half (19 1/2) inches is
5 first registered in this state, there shall be
6 assessed a used tire recycling fee of ~~Three Dollars~~
7 ~~and fifty cents (\$3.50)~~ Five Dollars and fifty cents
8 (\$5.50) per tire, except as otherwise provided by
9 subparagraphs e, f and g of this paragraph,

10 d. at any time a trailer or semitrailer with a tire rim
11 diameter of less than or equal to nineteen and one-
12 half (19 1/2) inches is first titled in this state,
13 there shall be assessed a used tire recycling fee of
14 ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
15 ninety cents (\$2.90) per tire,

16 e. at any time a motorcycle or motor-driven cycle is
17 first registered in this state, there shall be
18 assessed a used tire recycling fee of One Dollar
19 (\$1.00) per tire,

20 f. at the time a motor vehicle is first titled in this
21 state, to be registered under the provisions of
22 Section 1120 of Title 47 of the Oklahoma Statutes,
23 there shall be assessed a used tire recycling fee of
24 Seven Dollars (\$7.00), and

1 g. at the time a trailer or semitrailer is first titled
2 in this state, to be registered under the provisions
3 of Section 1133 of Title 47 of the Oklahoma Statutes,
4 there shall be assessed a used tire recycling fee of
5 Five Dollars (\$5.00).

6 2. No fee shall be assessed by a tire dealer for reusable tires
7 or retreaded tires for which the tire dealer can document that the
8 recycling fee has been previously paid.

9 3. All-terrain vehicles and off-road motorcycles registered
10 pursuant to the provisions of Section 1132 of Title 47 of the
11 Oklahoma Statutes shall be exempt from the provisions of this
12 section.

13 B. 1. For tires used on implements of husbandry and
14 agricultural equipment with a rim diameter of less than or equal to
15 nineteen and one-half (19 1/2) inches and that are less than thirty
16 (30) inches in total diameter, there shall be assessed a used tire
17 recycling fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
18 ninety cents (\$2.90) per tire.

19 2. For tires used on implements of husbandry and agricultural
20 equipment with a rim diameter of greater than nineteen and one-half
21 (19 1/2) inches and that are less than thirty (30) inches in total
22 diameter, there shall be assessed a used tire recycling fee of ~~Three~~
23 ~~Dollars and fifty cents (\$3.50)~~ Five Dollars and fifty cents (\$5.50)
24 per tire.

1 3. For tires used on implements of husbandry and agricultural
2 equipment that are greater than thirty (30) inches in total diameter
3 and less than or equal to forty-four (44) inches in total diameter,
4 there shall be assessed a used tire recycling fee of Eight Dollars
5 (\$8.00) per tire. No fee shall be assessed by a tire dealer if the
6 customer retains the used agricultural tire for use on a farm or
7 ranch. The customer may return the used tire to the tire dealer at
8 a later date and shall be assessed the proper fee.

9 4. For tires used on implements of husbandry and agricultural
10 equipment that are greater than forty-four (44) inches in total
11 diameter and less than or equal to seventy-two (72) inches in total
12 diameter and not more than thirty (30) inches wide, there shall be
13 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
14 tire. No fee shall be assessed by a tire dealer if the customer
15 retains the used agricultural tire for use on a farm or ranch. The
16 customer may return the used tire to the tire dealer at a later date
17 and shall be assessed the proper fee.

18 5. A tire dealer may pay the assessed fee for any used
19 agricultural tire in current inventory and include that tire in the
20 used tire recycling program.

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

24

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

5 3. Motor license agents shall remit ninety percent (90%) of the
6 fee assessed on each vehicle registered.

7 4. Failure to remit the fee at the time of filing the returns
8 shall cause the fee to become delinquent. If the fee becomes
9 delinquent the tire dealer or motor license agent forfeits any claim
10 to the discount authorized by this section and shall remit to the
11 Tax Commission one hundred percent (100%) of the amount of the fee
12 due plus any penalty due.

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

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

22 F. All penalties or interest imposed by this section shall be
23 recoverable by the Tax Commission as a part of the fee imposed and
24

1 all penalties and interest shall be apportioned the same as the fee
2 on which the penalties or interest are collected.

3 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
4 as last amended by Section 1, Chapter 211, O.S.L. 2018 (27A O.S.
5 Supp. 2018, Section 2-11-401.4), is amended to read as follows:

6 Section 2-11-401.4 A. Compensation to used tire facilities and
7 tire-derived fuel or TDF facilities pursuant to this section shall
8 be limited to facilities located in Oklahoma. Compensation for used
9 tire activities pursuant to this section shall be limited to used
10 tires from Oklahoma. A used tire recycling facility or tire-derived
11 fuel or TDF facility may transport and deliver used tires collected
12 from Oklahoma to an out-of-state used tire recycling facility or TDF
13 facility but shall not be eligible for compensation from the Used
14 Tire Recycling Indemnity Fund for those used tires. To be eligible,
15 applicants for compensation shall be in compliance with the Oklahoma
16 Used Tire Recycling Act.

17 B. The monies accruing annually to the Used Tire Recycling
18 Indemnity Fund shall be allocated first to the Department of
19 Environmental Quality Revolving Fund, to be used for implementing
20 applicable requirements related to the control of mobile and area
21 sources of air emissions, for monitoring and modeling the impacts on
22 Oklahoma of air pollution from other states, for implementing and
23 enforcing other applicable air pollution control requirements or for
24 other environmental programs or projects. The amount of money

1 allocated for this purpose shall be ~~twenty-eight percent (28%)~~
2 twenty-four and one tenth percent (24.1%) of the funds produced by
3 the ~~two-dollar-and-fifty-cent~~ Two Dollars and ninety cents (\$2.90)
4 per tire fee assessed pursuant to division (1) of subparagraph a of
5 paragraph 1 of subsection A of Section 2-11-401.2 of this title and
6 subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2
7 of this title; provided, in no event shall the amount allocated
8 annually exceed the 3-year average of the total fiscal year amounts
9 allocated in fiscal years 2015, 2016 and 2017 and any amount in
10 excess of the 3-year average shall be placed to the credit of the
11 General Revenue Fund. After this allocation is deducted, the
12 balance of the monies shall be allocated as follows:

13 1. Two and one-fourth percent (2.25%), not to exceed Twenty
14 Thousand Dollars (\$20,000.00) per month, to the Oklahoma Tax
15 Commission and five and three-fourths percent (5.75%), not to exceed
16 Fifty Thousand Dollars (\$50,000.00) per month, to the Department of
17 Environmental Quality for the purpose of administering the
18 requirements of the Oklahoma Used Tire Recycling Act; provided, in
19 no event shall either of the amounts allocated annually pursuant to
20 this paragraph exceed the 3-year average of the total fiscal year
21 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount
22 in excess of the 3-year average shall be placed to the credit of the
23 ~~General Revenue~~ Used Tire Recycling Indemnity Fund; and
24

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

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

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

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

19 b. facilities shall report and certify used tire
20 processing activity in terms of weight. The facility
21 shall by sworn affidavit provide to the Department
22 sufficient information to verify that the facility has
23 processed used tires and sold processed used tires for
24

1 actual recycling or reuse in accordance with the
2 purposes of the Oklahoma Used Tire Recycling Act, and
3 c. to be eligible for compensation, a facility shall not
4 have accumulated more processed material than the
5 amount for which the facility has provided financial
6 assurance under its solid waste permit or the amount
7 accumulated from three (3) years of operation,
8 whichever is less;

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

1 b. Compensation under this paragraph shall not be payable
2 until the used tires have been actually processed
3 according to the solid waste permit for the facility
4 or actually used for energy or fuel recovery. A TDF
5 facility that collects and transports whole used tires
6 shall be eligible for compensation under this
7 paragraph only for those whole used tires consumed by
8 that facility.

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

18 d. To be eligible for compensation pursuant to this
19 paragraph, the used tire recycling facility or TDF
20 facility shall:

21 (1) demonstrate to the satisfaction of the Department
22 that the facility is regularly engaged in the
23 collection, transportation and delivery of used
24 tires to a used tire recycling facility or to a

1 TDF facility, on a statewide basis, and from each
2 county of the state,

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

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

19 e. In lieu of proof of remitted tire recycling fees, the
20 used tire recycling facility or TDF facility shall
21 accept proof of purchase of a salvage vehicle
22 registered in Oklahoma by an automotive dismantler and
23 parts recycler, licensed pursuant to the Automotive
24 Dismantlers and Parts Recycler Act, for the collection

1 and transportation of up to five used tires per
2 salvage vehicle purchased on or after January 1, 1996;

- 3 3. a. Compensation to a unit of local or county government
4 that submits to the Department for approval a plan for
5 the use of baled used tires in an engineering project.
6 Compensation shall be at the rate of fifty cents
7 (\$0.50) per tire.
- 8 b. The plan shall be approved by the Department before
9 construction of the project begins.
- 10 c. Any unit of local or county government baling used
11 tires shall not accumulate more than fifty used tire
12 bales prior to beginning construction of an approved
13 project.
- 14 d. Used tires baled pursuant to this paragraph cannot be
15 obtained from tire manufacturers, retailers,
16 wholesalers, retreaders, or automotive dismantlers and
17 parts recyclers.
- 18 e. Any unit of local or county government authorized to
19 receive reimbursement for the use of baled used tires
20 in an engineering project shall report and certify
21 whole used tires by number. The governmental unit
22 shall by sworn affidavit provide sufficient
23 information to the Department to verify that the unit
24

1 has utilized the tires in accordance with the purposes
2 of the Oklahoma Used Tire Recycling Act; and

3 4. If the Fund contains insufficient funds in any month to
4 satisfy the eligible reimbursements under this subsection, the
5 Department shall determine the apportionment of payments to be made
6 among the qualified applicants under this subsection according to
7 the percentage of used tires processed, collected and transported,
8 or utilized.

9 D. 1. After the allocations under subsections B and C of this
10 section are made, any remaining monies in the Fund shall be
11 available for TDF facilities and used tire recycling facilities that
12 produce ~~crumb rubber~~ tire-derived product for compensation at the
13 rate of Twenty-nine Dollars (\$29.00) per ton of processed or used
14 tires utilized for energy or fuel recovery or the production of
15 ~~crumb rubber~~ tire-derived product.

16 2. The production of ~~crumb rubber~~ tire-derived product shall be
17 considered a compensable event separate from and in addition to any
18 compensation for used tire processing under subsection C of this
19 section.

20 3. TDF facilities and used tire recycling facilities authorized
21 to receive reimbursement under this subsection shall report and
22 certify tire material used by weight.

23 4. The facilities shall by sworn affidavit provide to the
24 Department sufficient information to verify that the facility has

1 used the tires in accordance with the purposes of the Oklahoma Used
2 Tire Recycling Act.

3 5. If the Fund contains insufficient funds in any month to
4 satisfy the eligible reimbursements under this subsection, the
5 Department shall determine the apportionment of payments to be made
6 among the qualified applicants according to the percentage of used
7 tires intended for energy or fuel recovery or the production of
8 ~~crumb rubber~~ tire-derived product.

9 E. 1. After the allocations under subsections B, C and D of
10 this section are made, any remaining monies in the Fund shall be
11 available for capital investment reimbursement to used tire
12 facilities and TDF facilities for the purchase of equipment
13 necessary to utilize used tires. Only equipment purchased on or
14 after January 1, 1995, shall be eligible. The facilities are
15 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
16 ton of used tires used. Total reimbursement shall not exceed one
17 hundred percent (100%) of the capital investment in eligible
18 equipment. The facilities may apply for compensation monthly to the
19 Department of Environmental Quality and shall supply any information
20 required by the Department.

21 2. If the Fund contains insufficient funds in any month to
22 satisfy the eligible reimbursements under this subsection, the
23 Department shall determine the apportionment of payments to be made
24 among the qualified applicants.

1 F. Subject to subsection G of this section, after the
2 allocations under subsections B, C, D and E of this section are
3 made, any remaining monies in the Fund, excluding monies collected
4 pursuant to paragraphs 3 and 4 of subsection B of Section 2-11-401.2
5 of this title, shall be disbursed as follows:

6 1. Additional compensation to used tire recycling facilities or
7 TDF facilities for the remediation of dumps certified by the
8 Department and delivering the tires to a used tire recycling
9 facility or a TDF facility. The Department shall determine
10 additional compensation made to qualified applicants under this
11 subsection based on cleanup feasibility of the dump. The Board
12 shall promulgate rules establishing unit costs for compensation
13 based on the remediation feasibility of the tire dumps. The
14 Department may solicit bids for the remediation of tire dumps if no
15 used tire recycling facilities or TDF facilities agree to remediate
16 a priority tire dump authorized by the Department or if the
17 Department determines the qualified applicant has not remediated the
18 tires in the tire dump to meet reference conditions of comparable
19 property in the immediate area; and

20 2. Reimbursement to the Department of Environmental Quality for
21 necessary costs associated with remediation or other necessary
22 actions at sites at which used tires or other wastes incidental to
23 the used tires present a threat to human health or environment, or
24 for projects to increase market demand for products made from

1 Oklahoma used tires. The Solid Waste Management Advisory Council
2 shall recommend and the Environmental Quality Board shall adopt
3 rules governing the types of market development projects that may
4 qualify for reimbursement. To the extent possible, the rules shall
5 favor and the Department shall prioritize projects with the greatest
6 potential to benefit schools, communities and local governments.
7 Upon its receipt of documentation from the Department showing
8 expenditures relating to the remediation of such sites or market
9 development projects, the Tax Commission shall reimburse the
10 Department for its documented expenditures.

11 G. Accrued funding for the purposes specified in subsection F
12 of this section shall not exceed Five Hundred Thousand Dollars
13 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
14 reached, any additional funds shall be distributed as additional
15 compensation under paragraph 1 of subsection C of this section.

16 H. 1. Used tire recycling facilities and TDF facilities that
17 collect, transport and process tires used on implements of husbandry
18 and agricultural equipment that are greater than thirty (30) inches
19 in total diameter and less than or equal to forty-four (44) inches
20 in total diameter shall be eligible for compensation at a rate of
21 Eight Dollars (\$8.00) per tire.

22 a. Collection, transportation and processing of tires
23 under this paragraph shall be considered a compensable
24

1 event separate from and in addition to any
2 compensation under subsection C of this section.

3 b. Used tire recycling facilities and TDF facilities
4 authorized to receive reimbursement under this
5 paragraph shall report and certify the number of tires
6 collected and transported.

7 2. Used tire recycling facilities and TDF facilities that
8 collect, transport and process tires used on implements of husbandry
9 and agricultural equipment that are greater than forty-four (44)
10 inches in total diameter and less than or equal to seventy-two (72)
11 inches in total diameter and not more than thirty (30) inches wide,
12 shall be eligible for compensation at the rate of Sixteen Dollars
13 (\$16.00) per tire.

14 a. Collection, transportation and processing of tires
15 under this paragraph shall be considered a compensable
16 event separate from and in addition to any
17 compensation under subsection C of this section.

18 b. Used tire recycling facilities and TDF facilities
19 authorized to receive reimbursement under this
20 paragraph shall report and certify the number of tires
21 collected and transported.

22 I. Used tire recycling facilities, TDF facilities, or persons,
23 corporations or other legal entities authorized by the provisions of
24 the Oklahoma Used Tire Recycling Act to receive reimbursement shall

1 demonstrate that the facilities or legal entities have successfully
2 complied with the requirements of the Oklahoma Used Tire Recycling
3 Act through the filing of appropriate applications, reports, and
4 other documentation that may be required by the Tax Commission and
5 the Department.

6 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
7 as amended by Section 4, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
8 2018, Section 2-11-401.7), is amended to read as follows:

9 Section 2-11-401.7 A. Except as otherwise provided by this
10 section, it shall be unlawful for any person to:

11 1. Own or operate a site used for the storage, collection or
12 disposal of more than fifty used tires except at a site or facility
13 permitted or approved by the Department of Environmental Quality to
14 accept used tires. The provisions of this paragraph shall not apply
15 to tire manufacturers, retailers, wholesalers and retreaders who
16 store a total of no more than two thousand five hundred used tires
17 at their place of business or an ancillary off-premises storage site
18 approved by the Department, and who are currently in compliance with
19 applicable Oklahoma Tax Commission requirements;

20 2. Dispose of used tires at any site or facility other than a
21 site or facility for which a permit has been issued, or which has
22 been otherwise authorized by the Department;

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1 3. Knowingly transport or knowingly allow used tires under the
2 control or in the possession of the person to be transported to an
3 unpermitted or unapproved site or facility;

4 4. Remove more than ten used tires or reusable tires from the
5 possession of the dealer unless the dealer provides a manifest form,
6 approved by the Department, which documents the removal and approved
7 disposition or sale of the tires and which accompanies the tires in
8 transport, or to transport used or reusable tires in violation of
9 rules promulgated by the Department. Dealers, haulers, and used
10 tire recycling facilities shall keep copies of manifests available
11 for inspection for five (5) years; or

12 5. Sell any tire without collecting and remitting appropriate
13 fees to the Tax Commission in accordance with Section 2-11-401.2 of
14 this title.

15 B. The provisions of subsection A of this section shall not
16 apply to the use of used tires for agricultural purposes as
17 recognized by the Oklahoma Department of Agriculture, Food, and
18 Forestry.

19 C. The provisions of paragraphs 2 and 3 of subsection A of this
20 section shall not be construed to prevent an individual from
21 disposing of used tires previously used by the individual as vehicle
22 or equipment tires if the disposal is upon property owned by the
23 individual and the disposal does not create a nuisance or pose a
24 hazard to the public health or environment.

1 D. The provisions of paragraphs 2 and 3 of subsection A of this
2 section shall not be construed to prevent a used tire recycling
3 facility or tire-derived fuel or TDF facility from transporting and
4 delivering used tires to an out-of-state used tire recycling
5 facility or TDF facility.

6 E. 1. Except as otherwise ordered by the court, if the
7 administrative enforcement process for a violation of an order
8 issued by the Department for remediation, corrective action or
9 cleanup of an illegal tire dump has been exhausted, or criminal
10 proceedings for paragraph 1 or 2 of subsection A of this section
11 have resulted in a conviction, guilty plea or nolo contendere plea,
12 the Department or a representative of the Department, upon notice to
13 the landowner and an opportunity for the landowner to be heard on
14 the issue, may enter the property to clean up the tire dump.

15 2. The Department may initiate a court action to recover the
16 actual cost of cleanup, attorney fees, court costs, and all other
17 monies expended in connection with the cleanup.

18 3. The Department shall deposit any excess funds recovered
19 through such action into the Used Tire Recycling Indemnity Fund.

20 F. Notwithstanding the provisions of Section 2-3-504 of this
21 title or any other remedy authorized by law, any peace officer of
22 this state or of any political subdivision of this state may issue a
23 citation to any person committing a violation of paragraph 1, 2, 3
24 or 4 of subsection A of this section. Such citation shall be in an

1 amount not to exceed One Hundred Dollars (\$100.00) for the first
2 offense, not to exceed Two Hundred Dollars (\$200.00) for the second
3 offense and not to exceed Five Hundred Dollars (\$500.00) for the
4 third or subsequent offense. The penalties collected from the
5 payment of such citations shall not include court costs and shall be
6 divided as follows:

7 1. One-half (1/2) shall be paid into the reward fund created
8 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

9 2. One-half (1/2) shall be paid into the Sheriff's Service Fee
10 Account for that county to be used for environmental enforcement and
11 cleanup programs.

12 SECTION 5. This act shall become effective July 1, 2019.

13 SECTION 6. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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