

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB441 _____
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

Amendment submitted by: Skye McNiel

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

FLOOR SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 441

By: Bingman and Ivester of the
Senate

and

McNiel and Jackson of the
House

FLOOR SUBSTITUTE

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

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

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

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

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

9 (1) with a rim diameter of seventeen and one-half (17
10 1/2) inches rim diameter or less is sold by a
11 tire dealer, there shall be assessed a waste tire
12 recycling fee of One Dollar (\$1.00) per tire,

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

19 (3) with a rim diameter greater than nineteen and
20 one-half (19 1/2) inches is sold by a tire
21 dealer, there shall be assessed a waste tire
22 recycling fee of Three Dollars and fifty cents
23 (\$3.50) per tire, and
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(4) is sold by a tire dealer for use on a motorcycle, motor-driven cycle or motorized bicycle, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire~~-,~~

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

d. ~~At~~ at any time a motor vehicle with a tire rim diameter of greater than nineteen and one-half (19 1/2) inches is first registered in this state, there shall be assessed a waste tire recycling fee of Three Dollars and fifty cents (\$3.50) per tire, except as otherwise provided by subparagraph e of this paragraph~~-,~~ and

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

5 2. Motor vehicles registered pursuant to Section 1120 of Title
6 47 of the Oklahoma Statutes shall be exempt from the provisions of
7 this subsection.

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

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

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

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

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

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

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

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

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

20 4. Failure to remit the fee at the time of filing the returns
21 shall cause the fee to become delinquent. If the fee becomes
22 delinquent the tire dealer or motor license agent forfeits any claim
23 to the discount authorized by this section and shall remit to the
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1 Tax Commission one hundred percent (100%) of the amount of the fee
2 due plus any penalty due.

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

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

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

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

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

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

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

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

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

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

1 monthly to the Department of Environmental Quality, and shall supply
2 any information required by the Department.

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

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

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

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

23 c. to be eligible for compensation, a facility shall not
24 have accumulated more processed material than the

1 amount for which the facility has provided financial
2 assurance under its solid waste permit or the amount
3 accumulated from three (3) years of operation,
4 whichever is less;

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

20 b. Compensation under this paragraph shall not be payable
21 until the waste tires have been actually processed
22 according to the solid waste permit for the facility
23 or actually used for energy or fuel recovery. A TDF
24 facility that collects and transports whole waste

1 tires shall be eligible for compensation under this
2 paragraph only for those whole waste tires consumed by
3 that facility.

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

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

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

22 (2) provide documentation to the Department, signed
23 by a dealer at the time of collection, which
24 certifies by sworn affidavit the total amount of

1 waste tire recycling fees, itemized by month,
2 remitted by the dealer since the date the waste
3 tires of the dealer were last collected, and
4 (3) annually demonstrate that at least two percent
5 (2%) of the tires were collected from tire dumps
6 or landfills on the Department priority cleanup
7 list or community-wide cleanup events approved by
8 the Department.

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

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

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

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

14 b. Reimbursement under this paragraph shall be subject to
15 the following:

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

- (3) the site landowner agrees to plant trees or other suitable vegetation in accordance with a planting plan developed in conjunction with the Division of Forestry of the Oklahoma Department of Agriculture, Food, and Forestry,
- (4) the applicant reports and certifies the number of tires utilized. The applicant shall by sworn affidavit provide to the Department sufficient information to verify that the applicant has utilized the tires in accordance with the purposes of the Oklahoma Waste Tire Recycling Act,
- (5) the applicant annually demonstrates that at least two percent (2%) of the tires utilized by the applicant for which compensation is requested were collected from tire dumps or landfills on the Department priority cleanup list or community-wide cleanup events approved by the Department,
- (6) the applicant demonstrates to the satisfaction of the Department that the applicant is regularly engaged in the collection, transportation and delivery to erosion control projects of waste tires, on a statewide basis, and from each county

1 of the state, at no additional cost to the tire
2 dealer or automotive dismantler and parts
3 recycler or to the Fund, and

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

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

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

1 and authorize partial compensation, as tires are
2 utilized in accordance with the written plan.

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

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

19 b. The plan shall be approved by the Department before
20 construction of the project begins.

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

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

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

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 under this subsection according to
17 the percentage of waste tires processed, collected and transported,
18 or utilized.

19 D. 1. After the allocations under subsections B and C of this
20 section are made, any remaining monies in the Fund shall be
21 available for TDF facilities and waste tire facilities that produce
22 crumb rubber for compensation at the rate of Twenty-nine Dollars
23 (\$29.00) per ton of processed or whole waste tires used for energy
24 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 waste tire processing under subsection C of this section.

4 3. TDF facilities and waste tire facilities authorized to
5 receive reimbursement under this subsection shall report and certify
6 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 Waste
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 waste
15 tires used for energy or fuel recovery or the production of crumb
16 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 waste tire facilities or TDF
20 facilities for the collection and transportation of waste tires from
21 Oklahoma tire dealers, automotive dismantlers and parts recyclers,
22 solid waste landfill sites, and dumps certified by the Department
23 priority cleanup list, and delivering the tires to a waste tire
24 facility or a TDF facility. The Department shall determine the

1 apportionment of payments to be made under this subsection among the
2 qualified applicants according to the percentage of waste tires
3 collected and transported.

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

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

13 SECTION 4. It being immediately necessary for the preservation
14 of the public peace, health and 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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18 52-2-10665 KB 04/12/10

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