

**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**

Adopted: \_\_\_\_\_

Amendment submitted by: Skye McNeil

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 FLOOR SUBSTITUTE  
FOR ENGROSSED  
4 SENATE BILL NO. 441

By: Bingman and Ivester of the  
Senate

5 and

6 McNiel and Jackson of the  
7 House

8

9 FLOOR SUBSTITUTE

10 An Act relating to environment and natural resources;  
11 amending 27A O.S. 2001, Sections 2-11-403, as  
12 renumbered by Section 9, Chapter 230, O.S.L. 2005,  
13 and as last amended by Section 1, Chapter 146, O.S.L.  
14 2007 and 2-11-405, as renumbered by Section 11,  
15 Chapter 230, O.S.L. 2005, and as last amended by  
16 Section 2, Chapter 146, O.S.L. 2007 (27A O.S. Supp.  
17 2009, Sections 2-11-401.2 and 2-11-401.4), which  
18 relate to the Oklahoma Waste Tire Recycling Act;  
19 establishing a waste tire recycling fee for  
20 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.

21

22

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

24

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

(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

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

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

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

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

- b. Compensation under this paragraph shall not be payable until the waste tires have been actually processed according to the solid waste permit for the facility or actually used for energy or fuel recovery. A TDF 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

waste tire recycling fees, itemized by month, remitted by the dealer since the date the waste tires of the dealer were last collected, and

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

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

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

Beginning July 1, 2013, a waste tire facility or TDF facility shall be required to collect and transport

tires used on implements of husbandry and agricultural equipment that are any size;

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

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

(1) the applicant for reimbursement collects or provides for the collection and utilization of waste tires in an erosion control project in Oklahoma in accordance with a written plan

(2) the tires are collected and transported to the 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

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

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

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

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

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

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

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

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

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