

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 426

By: Leewright and Sparks of the
Senate

and

Pfeiffer of the House

COMMITTEE SUBSTITUTE

An Act relating to used tires; amending 27A O.S. Sections 2-11-401.1, 2-11-401.2, 2-11-401.4, as amended by Section 1, Chapter 287, O.S.L. 2014 and 2-11-401.7 (27A O.S. Supp. 2016, Section 2-11-401.4), which relate to the Oklahoma Used Tire Recycling Act; deleting definitions; adding definitions; modifying definitions; modifying fee schedule for certain tires; implementing fee for certain tires; implementing fee for certain vehicles; removing requirement for Department of Environmental Quality to maintain list of tires subject to fees; eliminating certain exemptions for certain vehicles; recalculating amount of fee to be remitted by motor license agent; expanding eligible Used Tire Recycling Indemnity Fund expenditures; removing requirement for used tire recycling facilities to collect and transport certain tires; eliminating availability of certain funds for erosion control projects; excluding certain monies from being disbursed from Used Tire Recycling Indemnity Fund; updating language; directing disbursement of certain monies to the Department of Environmental Quality for certain costs; specifying compensation rate for certain tires; instructing certain used tire recycling and TDF facilities to report and certify number of tires; limiting accrued funding for certain purposes; specifying compensable tasks; conforming language;

1 modifying list of prohibited acts; authorizing
2 citation for prohibited acts; disbursing monies from
3 citations; making certain violations separate
4 violations; repealing 27A O.S. 2011, Section 2-11-
5 401.5, as amended by Section 2, Chapter 287, O.S.L.
6 2014 (27A O.S. Supp. 2016, Section 2-11-401.5); and
7 providing an effective date.

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

9 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
10 is amended to read as follows:

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

13 1. "Automotive dismantler and parts recycler" means the same as
14 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

15 2. "Commission" means the Oklahoma Tax Commission;

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

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

19 5. ~~"Erosion control project" means a project involving the~~
20 ~~utilization of used tires for erosion control, bank stabilization or~~
21 ~~other conservation project;~~

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

23 7. 6. "Motorcycle" means a motor vehicle of a type defined in
24 Section 1-135 of Title 47 of the Oklahoma Statutes;

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

3 ~~9. "Motorized bicycle" means a motor vehicle of a type defined~~
4 ~~in Section 1-136.1 of Title 47 of the Oklahoma Statutes;~~

5 ~~10.~~ 8. "Motor vehicle" means the same as defined in Section 1-
6 134 of Title 47 of the Oklahoma Statutes;

7 ~~11.~~ 9. "Priority cleanup list" means a list, created and
8 maintained by the Department, of:

9 a. unpermitted dumps which did not exist when the owner
10 took possession of the property where the tires are
11 located, and were created without the consent of or
12 benefit to the owner of the property, and

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

15 ~~12.~~ 10. "Reusable tire" means a tire that has been previously
16 used on a vehicle, not currently mounted on a vehicle, but can be
17 legally placed into service for vehicle use in Oklahoma;

18 11. "Semitrailer" means the same as defined in Section 1-162 of
19 Title 47 of the Oklahoma Statutes;

20 12. "Tire" means any solid or air-filled covering for ~~motor~~
21 vehicle wheels;

22 13. "Tire dealer" means any person engaged in the business of
23 selling new and used tires to final consumers, not for resale;
24

1 14. "Tire-derived fuel facility" or "TDF facility" means a
2 facility that uses processed tires or whole used tires for energy or
3 fuel recovery;

4 15. "Trailer" means the same as defined in Section 1-180 of
5 Title 47 of the Oklahoma Statutes;

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

10 ~~16.~~ 17. "Used tire processing" means altering the form of whole
11 used tires by shredding, chipping, or other method approved by the
12 Department, except baling and pyrolysis; ~~and~~

13 ~~17.~~ 18. "Used tire" means an unprocessed whole tire or tire
14 part that can no longer be used for its ~~original~~ originally intended
15 purpose but can be beneficially reused as approved by the
16 Department. Any used tire collected in accordance with the
17 requirements of the Oklahoma Used Tire Recycling Act is not
18 considered to be discarded. A tire that can be used, reused or
19 legally modified to be reused for its original intended purpose
20 shall not be a used tire; and

21 19. "Vehicle" means the same as defined in Section 1-186 of
22 Title 47 of the Oklahoma Statutes.

23 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
24 is amended to read as follows:

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

4 a. at the time any tire:

5 (1) with a rim diameter of less than or equal to
6 nineteen and one-half (19 1/2) inches is sold by
7 a tire dealer, there shall be assessed a used
8 tire recycling fee of Two Dollars and fifty cents
9 (\$2.50) per tire,

10 (2) with a rim diameter greater than nineteen and
11 one-half (19 1/2) inches and a tread width of
12 twelve (12) inches or less is sold by a tire
13 dealer, there shall be assessed a used tire
14 recycling fee of Three Dollars and fifty cents
15 (\$3.50) per tire,

16 (3) with a rim diameter greater than nineteen and
17 one-half (19 1/2) inches and a tread width of
18 greater than twelve (12) inches is sold by a tire
19 dealer, there shall be assessed a used tire
20 recycling fee of Seven Dollars (\$7.00) per tire,
21 and

22 ~~(3)~~ (4) is sold by a tire dealer for use on a motorcycle,
23 or motor-driven cycle or motorized bicycle, there
24

1 shall be assessed a used tire recycling fee of
2 One Dollar (\$1.00) per tire,

3 b. at any time a motor vehicle with a tire rim diameter
4 of less than or equal to nineteen and one-half (19
5 1/2) inches is first registered in this state, there
6 shall be assessed a used tire recycling fee of Two
7 Dollars and fifty cents (\$2.50) per tire, except as
8 otherwise provided by ~~subparagraph d~~ subparagraphs e
9 and f of this paragraph,

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

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

22 e. at any time a motorcycle, or motor-driven cycle ~~or~~
23 ~~motorized bicycle~~ is first registered in this state,

1 there shall be assessed a used tire recycling fee of
2 One Dollar (\$1.00) per tire,

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

8 g. at the time a trailer or semitrailer is first titled
9 in this state, to be registered under the provisions
10 of Section 1133 of Title 47 of the Oklahoma Statutes,
11 these shall be assessed a used tire recycling fee of
12 Five Dollars (\$5.00).

13 ~~2. Motor vehicles registered pursuant to Section 1120 of Title~~
14 ~~47 of the Oklahoma Statutes shall be exempt from the provisions of~~
15 ~~this subsection.~~

16 ~~3.~~ 2. No fee shall be assessed by a tire dealer for ~~used~~
17 reusable tires or retreaded tires for which the tire dealer can
18 document that the recycling fee has been previously paid.

19 ~~4.~~ 3. All-terrain vehicles and off-road motorcycles registered
20 pursuant to the provisions of Section 1132 of Title 47 of the
21 Oklahoma Statutes shall be exempt from the provisions of this
22 section.

23 B. 1. ~~Except as otherwise provided by this section, beginning~~
24 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~

1 ~~equipment that are not more than fourteen (14) inches wide and~~
2 ~~forty-four (44) inches in diameter shall be assessed a used tire~~
3 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
4 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
5 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~
6 ~~and agricultural equipment that are any size shall be assessed a~~
7 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
8 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
9 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
10 agricultural equipment with a rim diameter of less than or equal to
11 nineteen and one-half (19 1/2) inches and that are less than thirty
12 (30) inches in total diameter, there shall be assessed a used tire
13 recycling fee of Two Dollars and fifty cents (\$2.50) per tire.

14 2. ~~The Department shall maintain a list of agricultural tire~~
15 ~~weights for tires subject to the assessment and make that list~~
16 ~~available to tire dealers upon request~~ For tires used on implements
17 of husbandry and agricultural equipment with a rim diameter of
18 greater than nineteen and one-half (19 1/2) inches and that are less
19 than thirty (30) inches in total diameter, there shall be assessed a
20 used tire recycling fee of Three Dollars and fifty cents (\$3.50) per
21 tire.

22 3. ~~No fee shall be assessed by a tire dealer if the customer~~
23 ~~retains the used agricultural tire for use on a farm or ranch~~ For
24 tires used on implements of husbandry and agricultural equipment

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

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

17 ~~4.~~ 5. A tire dealer may pay the assessed fee for any used
18 agricultural tire in current inventory and include that tire in the
19 used tire recycling program.

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

23 2. Except as otherwise provided by this section, the tire
24 dealer shall remit to the Tax Commission ninety-seven and three-

1 quarters percent (97.75%) of the fee due pursuant to this section at
2 the time of filing any report as required by the Tax Commission.

3 3. Motor license agents shall remit ~~all but One Dollar (\$1.00)~~
4 ninety percent (90%) of the fee assessed on each vehicle registered.

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

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

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

20 F. All penalties or interest imposed by this section shall be
21 recoverable by the Tax Commission as a part of the fee imposed and
22 all penalties and interest shall be apportioned the same as the fee
23 on which the penalties or interest are collected.

1 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
2 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
3 2016, Section 2-11-401.4), is amended to read as follows:

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

15 B. The monies accruing annually to the Used Tire Recycling
16 Indemnity Fund shall be allocated first to the Department of
17 Environmental Quality Revolving Fund, to be used for implementing
18 applicable requirements related to the control of mobile and area
19 sources of air emissions, for monitoring and modeling the impacts on
20 Oklahoma of air pollution from other states, ~~and~~ for implementing
21 and enforcing other applicable air pollution control requirements or
22 for other environmental programs or projects. The amount of money
23 allocated for this purpose shall be twenty-eight percent (28%) of
24 the funds produced by the two-dollar-and-fifty-cent per tire fee

1 assessed pursuant to division (1) of subparagraph a of paragraph 1
2 of subsection A of Section 2-11-401.2 of this title and subparagraph
3 b of paragraph 1 of subsection A of Section 2-11-401.2 of this
4 title. After this allocation is deducted, the balance of the monies
5 shall be allocated as follows:

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

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

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

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

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

- documents the sale and movement of the processed used tire material off-site to a third party,
- b. facilities shall report and certify used tire processing activity in terms of weight. The facility shall by sworn affidavit provide to the Department sufficient information to verify that the facility has processed used tires and sold processed used tires for actual recycling or reuse in accordance with the purposes of the Oklahoma Used Tire Recycling Act, and
- c. to be eligible for compensation, a facility shall not 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 used tire recycling facilities or TDF facilities at the rate of Fifty-three Dollars (\$53.00) per ton of whole used tires for the collection and transportation of used 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 used tire recycling facility or TDF 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~~

~~services for erosion control projects. Compensation shall be at the rate of Two Dollars and eighty cents (\$2.80) per tire for used 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 used tires in an erosion control project in Oklahoma in accordance with a written plan approved by the United States Army Corps of Engineers or by a local Conservation District,~~
- ~~(2) the used 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 used 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 Used Tire
Recycling Act,~~

~~(5) the applicant annually demonstrates that at least
three to six percent (3-6%) 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. The Department is authorized to
determine periodically the applicable percentage
within the specified range as set forth in this
division based on the number of tires remaining
in illegal dumps and available funding,~~

~~(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 used
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~~

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.~~

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.~~ 4. 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. 1. After the allocations under subsections B, C and D of
18 this section are made, any remaining monies in the Fund shall be
19 available for capital investment reimbursement to used tire
20 facilities and TDF facilities for the purchase of equipment
21 necessary to utilize used tires. Only equipment purchased on or
22 after January 1, 1995, shall be eligible. The facilities are
23 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
24 ton of used tires used. Total reimbursement shall not exceed one

1 hundred percent (100%) of the capital investment in eligible
2 equipment. The facilities may apply for compensation monthly to the
3 Department of Environmental Quality and shall supply any information
4 required by the Department.

5 2. If the Fund contains insufficient funds in any month to
6 satisfy the eligible reimbursements under this subsection, the
7 Department shall determine the apportionment of payments to be made
8 among the qualified applicants.

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

14 1. Additional compensation to used tire recycling facilities or
15 TDF facilities for the remediation of dumps certified by the
16 Department and delivering the tires to a used tire recycling
17 facility or a TDF facility. The Department shall determine
18 additional compensation made to qualified applicants under this
19 subsection based on cleanup feasibility of the dump. ~~By July 1,~~
20 ~~2012, the~~ The Board shall promulgate rules establishing unit costs
21 for compensation based on the remediation feasibility of the tire
22 dumps. The Department may solicit bids for the remediation of tire
23 dumps if no used tire recycling facilities or TDF facilities agree
24 to remediate a priority tire dump authorized by the Department or if

1 the Department determines the qualified applicant has not remediated
2 the tires in the tire dump to meet reference conditions of
3 comparable property in the immediate area.

4 2. Reimbursement to the Department of Environmental Quality for
5 necessary costs associated with remediation or other necessary
6 actions at sites at which used tires or other wastes incidental to
7 the used tires present a threat to human health or environment, or
8 for projects to increase market demand for products made from
9 Oklahoma used tires. The Solid Waste Management Advisory Council
10 shall recommend and the Environmental Quality Board shall adopt
11 rules governing the types of market development projects that may
12 qualify for reimbursement. To the extent possible, the rules shall
13 favor and the Department shall prioritize projects with the greatest
14 potential to benefit schools, communities and local governments.
15 Upon its receipt of documentation from the Department showing
16 expenditures relating to the remediation of such sites or market
17 development projects, the Tax Commission shall reimburse the
18 Department for its documented expenditures.

19 G. Accrued funding for the purposes specified in subsection F
20 of this section shall not exceed Five Hundred Thousand Dollars
21 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
22 reached, any additional funds shall be distributed as additional
23 compensation under paragraph 1 of subsection C of this section.
24

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

7 a. Collection, transportation and processing of tires
8 under this paragraph shall be considered a compensable
9 event separate from and in addition to any
10 compensation under subsection C of this section.

11 b. Used tire recycling facilities and TDF facilities
12 authorized to receive reimbursement under this
13 paragraph shall report and certify the number of tires
14 collected and transported.

15 2. Used tire recycling facilities and TDF facilities that
16 collect, transport and process tires used on implements of husbandry
17 and agricultural equipment that are greater than forty-four (44)
18 inches in total diameter and less than or equal to seventy-two (72)
19 inches in total diameter and not more than thirty (30) inches wide,
20 shall be eligible for compensation at the rate of Sixteen Dollars
21 (\$16.00) 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 I. Used tire recycling facilities, TDF facilities, or persons,
8 corporations or other legal entities authorized by the provisions of
9 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
10 demonstrate that the facilities or legal entities have successfully
11 complied with the requirements of the Oklahoma Used Tire Recycling
12 Act through the filing of appropriate applications, reports, and
13 other documentation that may be required by the Tax Commission and
14 the Department.

15 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
16 is amended to read as follows:

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

19 1. Own or operate a site used for the storage, collection or
20 disposal of more than fifty used tires except at a site or facility
21 permitted or approved by the Department of Environmental Quality to
22 accept used tires. The provisions of this paragraph shall not apply
23 to tire manufacturers, retailers, wholesalers and retreaders who
24 store a total of no more than two thousand five hundred ~~or fewer~~

1 used tires at their place of business or ~~designated~~ an ancillary
2 off-premises storage site approved by the Department;

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

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

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

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

19 B. The provisions of subsection A of this section shall not
20 apply to the use of used tires for agricultural purposes as
21 recognized by the Oklahoma Department of Agriculture, Food, and
22 Forestry.

23 C. The provisions of paragraphs 2 and 3 of subsection A of this
24 section shall not be construed to prevent an individual from

1 disposing of used tires previously used by the individual as vehicle
2 or equipment tires if the disposal is upon property owned by the
3 individual and the disposal does not create a nuisance or pose a
4 hazard to the public health or environment.

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

10 E. 1. Except as otherwise ordered by the court, if the
11 administrative enforcement process for a violation of an order
12 issued by the Department for remediation, corrective action or
13 cleanup of an illegal tire dump has been exhausted, the Department
14 or a representative of the Department, upon notice to the landowner
15 and an opportunity for the landowner to be heard on the issue, may
16 enter the property to clean up the tire dump.

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

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

22 F. Notwithstanding the provisions of Section 2-3-504 of this
23 title or any other remedy authorized by law, any peace officer of
24 this state or of any political subdivision of this state may issue a

1 citation to any person committing a violation of paragraph 1, 2, 3
2 or 4 of subsection A of this section. Such citation shall be in an
3 amount not to exceed One Hundred Dollars (\$100.00) for the first
4 offense, not to exceed Two Hundred Dollars (\$200.00) for the second
5 offense and not to exceed Five Hundred Dollars (\$500.00) for the
6 third or subsequent offense. The penalties collected from the
7 payment of such citations shall not include court costs and shall be
8 divided as follows:

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

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

14 SECTION 5. REPEALER 27A O.S. 2011, Section 2-11-401.5,
15 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
16 2016, Section 2-11-401.5), is hereby repealed.

17 SECTION 6. This act shall become effective November 1, 2017.

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