

1 ENGROSSED SENATE
2 BILL NO. 426

By: Leewright and Sparks of the
Senate

3 and

4 Pfeiffer of the House

5
6 [used tires - Used Tire Recycling Indemnity Fund
7 expenditures - used tire recycling and TDF facilities
8 - Department of Environmental Quality - effective
9 date]

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

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

13 Section 2-11-401.1. As used in the Oklahoma Used Tire Recycling
14 Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 13. "Semitrailer" means the same as defined in Section 1-162 of
21 Title 47 of the Oklahoma Statutes;

22 14. "Tire" means any solid or air-filled covering for ~~motor~~
23 vehicle wheels;
24

1 ~~13.~~ 15. "Tire dealer" means any person engaged in the business
2 of selling new and used tires to final consumers, not for resale;

3 ~~14.~~ 16. "Tire-derived fuel facility" or "TDF facility" means a
4 facility that uses processed tires or whole used tires for energy or
5 fuel recovery;

6 ~~15.~~ 17. "Trailer" means the same as defined in Section 1-180 of
7 Title 47 of the Oklahoma Statutes;

8 18. "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;

12 ~~16.~~ 19. "Used tire processing" means altering the form of whole
13 used tires by shredding, chipping, or other method approved by the
14 Department, except baling and pyrolysis; ~~and~~

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

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

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

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

6 a. at the time any tire:

7 (1) with a rim diameter of less than or equal to
8 nineteen and one-half (19 1/2) inches is sold by
9 a tire dealer, there shall be assessed a used
10 tire recycling fee of Two Dollars and fifty cents
11 (\$2.50) per tire,

12 (2) with a rim diameter greater than nineteen and
13 one-half (19 1/2) inches is sold by a tire
14 dealer, there shall be assessed a used tire
15 recycling fee of Three Dollars and fifty cents
16 (\$3.50) per tire, and

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

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

1 Dollars and fifty cents (\$2.50) per tire, except as
2 otherwise provided by ~~subparagraph~~ subparagraphs d and
3 e of this paragraph,

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

11 d. at any time a motorcycle, motor-driven cycle or
12 motorized bicycle is first registered in this state,
13 there shall be assessed a used tire recycling fee of
14 One Dollar (\$1.00) per tire, and

15 e. at the time a motor vehicle is first titled in this
16 state, to be registered under the provisions of
17 Section 1120 of Title 47 of the Oklahoma Statutes,
18 there shall be assessed a used tire recycling fee of
19 Five Dollars (\$5.00).

20 ~~2. Motor vehicles registered pursuant to Section 1120 of Title~~
21 ~~47 of the Oklahoma Statutes shall be exempt from the provisions of~~
22 ~~this subsection.~~

1 ~~3.~~ 2. No fee shall be assessed by a tire dealer for used tires
2 or retreaded tires for which the tire dealer can document that the
3 recycling fee has been previously paid.

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

8 B. 1. ~~Except as otherwise provided by this section, beginning~~
9 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~
10 ~~equipment that are not more than fourteen (14) inches wide and~~
11 ~~forty four (44) inches in diameter shall be assessed a used tire~~
12 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
13 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
14 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~
15 ~~and agricultural equipment that are any size shall be assessed a~~
16 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
17 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
18 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
19 agricultural equipment with a rim diameter of less than or equal to
20 nineteen and one-half (19 1/2) inches and that are less than thirty
21 (30) inches in total diameter, there shall be assessed a used tire
22 recycling fee of Two Dollars and Fifty cents (\$2.50) per tire.

23 2. ~~The Department shall maintain a list of agricultural tire~~
24 ~~weights for tires subject to the assessment and make that list~~

1 ~~available to tire dealers upon request~~ For tires used on implements
2 of husbandry and agricultural equipment with a rim diameter of
3 greater than nineteen and one-half (19 1/2) inches and that are less
4 than thirty (30) inches in total diameter, there shall be assessed a
5 used tire recycling fee of Three Dollars and Fifty cents (\$3.50) per
6 tire.

7 3. ~~No fee shall be assessed by a tire dealer if the customer~~
8 ~~retains the used agricultural tire for use on a farm or ranch~~ For
9 tires used on implements of husbandry and agricultural equipment
10 that are greater than thirty (30) inches in total diameter and less
11 than or equal to forty-four (44) inches in total diameter, there
12 shall be assessed a used tire recycling fee of Eight Dollars (\$8.00)
13 per 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. For tires used on implements of husbandry and agricultural
18 equipment that are greater than forty-four (44) inches in total
19 diameter and less than or equal to seventy-two (72) inches in total
20 diameter and not more than thirty (30) inches wide, there shall be
21 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
22 tire. 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. The
24

1 customer may return the used tire to the tire dealer at a later date
2 and shall be assessed the proper fee.

3 ~~4.~~ 5. A tire dealer may pay the assessed fee for any used
4 agricultural tire in current inventory and include that tire in the
5 used tire recycling program.

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

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

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

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

21 D. If the fee imposed or levied by subsection A of this
22 section, or any part of such amount, is not paid before the fee
23 becomes delinquent, there shall be collected on the total delinquent
24

1 fee interest at the rate of one and one-quarter percent (1 1/4%) per
2 month from the date of the delinquency until paid.

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

7 F. All penalties or interest imposed by this section shall be
8 recoverable by the Tax Commission as a part of the fee imposed and
9 all penalties and interest shall be apportioned the same as the fee
10 on which the penalties or interest are collected.

11 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
12 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
13 2016, Section 2-11-401.4), is amended to read as follows:

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

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

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

20 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
21 per audit to the State Auditor and Inspector for the purpose of
22 conducting audits of the Oklahoma Used Tire Recycling Program
23 pursuant to Section 2-11-401.6 of this title.
24

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

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

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

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

21 c. to be eligible for compensation, a facility shall not
22 have accumulated more processed material than the
23 amount for which the facility has provided financial
24 assurance under its solid waste permit or the amount

1 accumulated from three (3) years of operation,
2 whichever is less;

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

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

1 paragraph only for those whole used tires consumed by
2 that facility.

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

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

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

21 (2) provide documentation to the Department, signed
22 by a dealer at the time of collection, which
23 certifies remittance of appropriate fees to the
24 Oklahoma Tax Commission as a participating tire

1 dealer pursuant to the provisions of the Oklahoma
2 Used Tire Recycling Act, and

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

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

21 ~~f. Beginning July 1, 2010, a used tire recycling facility~~
22 ~~or TDF facility shall be required to collect and~~
23 ~~transport tires used on implements of husbandry and~~
24 ~~agricultural equipment that are not more than fourteen~~

~~(14) inches wide and forty four (44) inches in diameter. Beginning July 1, 2013, a used tire recycling 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 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

1 approved by the United States Army Corps of
2 Engineers or by a local Conservation District,

3 (2) the used tires are collected and transported to
4 the site of the erosion control project,

5 (3) the site landowner agrees to plant trees or other
6 suitable vegetation in accordance with a planting
7 plan developed in conjunction with the Division
8 of Forestry of the Oklahoma Department of
9 Agriculture, Food, and Forestry,

10 (4) the applicant reports and certifies the number of
11 used tires utilized. The applicant shall by
12 sworn affidavit provide to the Department
13 sufficient information to verify that the
14 applicant has utilized the tires in accordance
15 with the purposes of the Oklahoma Used Tire
16 Recycling Act,

17 (5) the applicant annually demonstrates that at least
18 three to six percent (3-6%) of the tires utilized
19 by the applicant for which compensation is
20 requested were collected from tire dumps or
21 landfills on the Department priority cleanup list
22 or community-wide cleanup events approved by the
23 Department. The Department is authorized to
24 determine periodically the applicable percentage

1 within the specified range as set forth in this
2 division based on the number of tires remaining
3 in illegal dumps and available funding,

4 (6) the applicant demonstrates to the satisfaction of
5 the Department that the applicant is regularly
6 engaged in the collection, transportation and
7 delivery to erosion control projects of used
8 tires, on a statewide basis, and from each county
9 of the state, at no additional cost to the tire
10 dealer or automotive dismantler and parts
11 recycler or to the Fund, and

12 (7) the applicant provides documentation to the
13 Department, signed by a dealer at the time of
14 collection, which certifies remittance of
15 appropriate fees to the Oklahoma Tax Commission
16 as a participating tire dealer pursuant to the
17 provisions of the Oklahoma Used Tire Recycling
18 Act.

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

1 tires per salvage vehicle purchased on or after
2 January 1, 1996.

3 d. Compensation pursuant to this paragraph shall be
4 payable only for the tires collected and utilized in
5 accordance with the purposes of the Oklahoma Used Tire
6 Recycling Act and as authorized by the Department.
7 During the course of the erosion control project, the
8 Department may determine the amount of and authorize
9 partial compensation, as tires are utilized in
10 accordance with the written plan.

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

22 4. a. Compensation to a unit of local or county government
23 that submits to the Department for approval a plan for
24 the use of baled used tires in an engineering project.

1 Compensation shall be at the rate of fifty cents
2 (\$0.50) per tire.

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

5 c. Any unit of local or county government baling used
6 tires shall not accumulate more than fifty used tire
7 bales prior to beginning construction of an approved
8 project.

9 d. Used tires baled pursuant to this paragraph cannot be
10 obtained from tire manufacturers, retailers,
11 wholesalers, retreaders, or automotive dismantlers and
12 parts recyclers.

13 e. Any unit of local or county government authorized to
14 receive reimbursement for the use of baled used tires
15 in an engineering project shall report and certify
16 whole used tires by number. The governmental unit
17 shall by sworn affidavit provide sufficient
18 information to the Department to verify that the unit
19 has utilized the tires in accordance with the purposes
20 of the Oklahoma Used Tire Recycling Act; and

21 5. 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 under this subsection according to

1 the percentage of used tires processed, collected and transported,
2 or utilized.

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

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

12 3. TDF facilities and used tire recycling facilities authorized
13 to receive reimbursement under this subsection shall report and
14 certify tire material used by weight.

15 4. The facilities shall by sworn affidavit provide to the
16 Department sufficient information to verify that the facility has
17 used the tires in accordance with the purposes of the Oklahoma Used
18 Tire Recycling Act.

19 5. If the Fund contains insufficient funds in any month to
20 satisfy the eligible reimbursements under this subsection, the
21 Department shall determine the apportionment of payments to be made
22 among the qualified applicants according to the percentage of used
23 tires intended for energy or fuel recovery or the production of
24 crumb rubber.

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

13 2. 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.

17 F. After the allocations under subsections B, C, D and E of
18 this section are made, any remaining monies in the Fund, excluding
19 monies collected pursuant to paragraphs 3 and 4 of subsection B of
20 Section 2-11-401.2 of this title, shall be disbursed as additional
21 compensation to used tire recycling facilities or TDF facilities for
22 the remediation of dumps certified by the Department and delivering
23 the tires to a used tire recycling facility or a TDF facility. The
24 Department shall determine additional compensation made to qualified

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

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

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

20 b. Used tire recycling facilities and TDF facilities
21 authorized to receive reimbursement under this
22 paragraph shall report and certify the number of tires
23 collected and transported.
24

1 2. 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 forty-four (44)
4 inches in total diameter and less than or equal to seventy-two (72)
5 inches in total diameter and not more than thirty (30) inches wide,
6 shall be eligible for compensation at the rate of Sixteen Dollars
7 (\$16.00) per tire.

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

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

16 H. Used tire recycling facilities, TDF facilities, or persons,
17 corporations or other legal entities authorized by the provisions of
18 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
19 demonstrate that the facilities or legal entities have successfully
20 complied with the requirements of the Oklahoma Used Tire Recycling
21 Act through the filing of appropriate applications, reports, and
22 other documentation that may be required by the Tax Commission and
23 the Department.
24

1 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.5,
2 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
3 2016, Section 2-11-401.5), is amended to read as follows:

4 Section 2-11-401.5. To the extent that monies accruing to the
5 Used Tire Recycling Indemnity Fund exceed the monies needed for the
6 purposes previously specified in the Oklahoma Used Tire Recycling
7 Act, the Department of Environmental Quality may be reimbursed from
8 the remaining funds for necessary costs associated with remediation
9 ~~of~~ or other necessary actions at sites at which used tires or other
10 wastes ~~incidental to the used tires~~ present a threat to human health
11 or the environment, or for projects to increase market demand for
12 products made from Oklahoma used tires. The Solid Waste Management
13 Advisory Council shall recommend and the Environmental Quality Board
14 shall adopt rules governing the types of market development projects
15 that may qualify for reimbursement. To the extent possible, the
16 rules shall favor and the Department shall prioritize projects with
17 the greatest potential to benefit schools, communities and local
18 governments. Upon its receipt of documentation from the Department
19 showing expenditures relating to the remediation of such sites or
20 market development projects, the Tax Commission shall reimburse the
21 Department for its documented expenditures.

22 SECTION 5. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
23 is amended to read as follows:

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

3 1. Own or operate a site used for the storage, collection or
4 disposal of more than fifty used tires except at a site or facility
5 permitted or approved by the Department of Environmental Quality to
6 accept used tires. The provisions of this paragraph shall not apply
7 to tire manufacturers, retailers, wholesalers and retreaders who
8 store a total of no more than two thousand five hundred ~~or fewer~~
9 (2,500) used tires at their place of business or ~~designated an~~
10 ancillary off-premises storage site approved by the Department;

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

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

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

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

4 B. The provisions of subsection A of this section shall not
5 apply to the use of used tires for agricultural purposes as
6 recognized by the Oklahoma Department of Agriculture, Food, and
7 Forestry.

8 C. The provisions of paragraphs 2 and 3 of subsection A of this
9 section shall not be construed to prevent an individual from
10 disposing of used tires previously used by the individual as vehicle
11 or equipment tires if the disposal is upon property owned by the
12 individual and the disposal does not create a nuisance or pose a
13 hazard to the public health or environment.

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

19 E. 1. Except as otherwise ordered by the court, if the
20 administrative enforcement process for a violation of an order
21 issued by the Department for remediation, corrective action or
22 cleanup of an illegal tire dump has been exhausted, the Department
23 or a representative of the Department, upon notice to the landowner
24

1 and an opportunity for the landowner to be heard on the issue, may
2 enter the property to clean up the tire dump.

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

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

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

9 Passed the Senate the 8th day of March, 2017.

10

11

Presiding Officer of the Senate

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13 Passed the House of Representatives the ____ day of _____,
14 2017.

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Presiding Officer of the House
of Representatives

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