

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1412

 By: Schulz of the Senate

 and

 McCall of the House

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9 An Act relating to the Oklahoma Used Tire Recycling
10 Act; amending 27A O.S. 2011, Section 2-11-401.4, as
11 last amended by Section 3, Chapter 286, O.S.L. 2017
12 (27A O.S. Supp. 2017, Section 2-11-401.4), which
13 relates to allocation of revenue from Used Tire
14 Recycling Indemnity Fund; limiting amount allocated
15 to specified funds; providing for allocation of
16 amounts in excess of limitation; providing
17 methodology for certain calculation; providing an
18 effective date; and declaring an emergency.

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

20 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
21 as last amended by Section 3, Chapter 286, O.S.L. 2017 (27A O.S.
22 Supp. 2017, Section 2-11-401.4), is amended to read as follows:

23 Section 2-11-401.4. A. Compensation to used tire facilities
24 and tire-derived fuel or TDF facilities pursuant to this section
25 shall be limited to facilities located in Oklahoma. Compensation
26 for used tire activities pursuant to this section shall be limited
27 to used tires from Oklahoma. A used tire recycling facility or

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

7 B. The monies accruing annually to the Used Tire Recycling
8 Indemnity Fund shall be allocated first to the Department of
9 Environmental Quality Revolving Fund, to be used for implementing
10 applicable requirements related to the control of mobile and area
11 sources of air emissions, for monitoring and modeling the impacts on
12 Oklahoma of air pollution from other states, for implementing and
13 enforcing other applicable air pollution control requirements or for
14 other environmental programs or projects. The amount of money
15 allocated for this purpose shall be twenty-eight percent (28%) of
16 the funds produced by the two-dollar-and-fifty-cent per tire fee
17 assessed pursuant to division (1) of subparagraph a of paragraph 1
18 of subsection A of Section 2-11-401.2 of this title and subparagraph
19 b of paragraph 1 of subsection A of Section 2-11-401.2 of this
20 title; provided, in no event shall the amount allocated annually
21 exceed the 3-year average of the total fiscal year amounts allocated
22 in fiscal years 2015, 2016 and 2017 and any amount in excess of the
23 3-year average shall be placed to the credit of the General Revenue
24

1 Fund. After this allocation is deducted, the balance of the monies
2 shall be allocated as follows:

3 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
4 Commission and five and three-fourths percent (5.75%) to the
5 Department of Environmental Quality for the purpose of administering
6 the requirements of the Oklahoma Used Tire Recycling Act; provided,
7 in no event shall either of the amounts allocated annually pursuant
8 to this paragraph exceed the 3-year average of the total fiscal year
9 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount
10 in excess of the 3-year average shall be placed to the credit of the
11 General Revenue Fund ; and

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

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

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

- 1 a. facilities that process used tires by altering the
2 form of the used tires but do not produce crumb rubber
3 shall not receive compensation until the facility
4 documents the sale and movement of the processed used
5 tire material off-site to a third party,
- 6 b. facilities shall report and certify used tire
7 processing activity in terms of weight. The facility
8 shall by sworn affidavit provide to the Department
9 sufficient information to verify that the facility has
10 processed used tires and sold processed used tires for
11 actual recycling or reuse in accordance with the
12 purposes of the Oklahoma Used Tire Recycling Act, and
13 c. to be eligible for compensation, a facility shall not
14 have accumulated more processed material than the
15 amount for which the facility has provided financial
16 assurance under its solid waste permit or the amount
17 accumulated from three (3) years of operation,
18 whichever is less;

- 19 2. a. Compensation to used tire recycling facilities or TDF
20 facilities at the rate of Fifty-three Dollars (\$53.00)
21 per ton of whole used tires for the collection and
22 transportation of used tires from Oklahoma tire
23 dealers, automotive dismantlers and parts recyclers,
24 solid waste landfill sites, and dumps certified by the

1 Department priority cleanup list, and delivering the
2 tires to a used tire recycling facility or TDF
3 facility. The collection and transportation of used
4 tires shall be provided by the used tire recycling
5 facility or TDF facility at no additional cost to the
6 tire dealer or automotive dismantler and parts
7 recycler or to the Fund. The used tire recycling
8 facility or TDF facility shall collect from any
9 location at which there are at least three hundred
10 used tires.

11 b. Compensation under this paragraph shall not be payable
12 until the used tires have been actually processed
13 according to the solid waste permit for the facility
14 or actually used for energy or fuel recovery. A TDF
15 facility that collects and transports whole used tires
16 shall be eligible for compensation under this
17 paragraph only for those whole used tires consumed by
18 that facility.

19 c. No tire dealer shall charge any customer any
20 additional fee for the management, recycling, or
21 disposal of any used tire upon which the used tire
22 recycling fee has been remitted to the Tax Commission.
23 For customers who choose not to leave a used tire upon
24 which the used tire recycling fee has been remitted to

1 the Tax Commission, the tire dealer shall issue a
2 receipt which entitles the customer to deliver the
3 used tire to the dealer at a later date.

4 d. To be eligible for compensation pursuant to this
5 paragraph, the used tire recycling facility or TDF
6 facility shall:

7 (1) demonstrate to the satisfaction of the Department
8 that the facility is regularly engaged in the
9 collection, transportation and delivery of used
10 tires to a used tire recycling facility or to a
11 TDF facility, on a statewide basis, and from each
12 county of the state,

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

19 (3) annually demonstrate that at least three to six
20 percent (3-6%) of the tires were collected from
21 tire dumps or landfills on the Department
22 priority cleanup list or community-wide cleanup
23 events approved by the Department. The
24 Department is authorized to determine

1 periodically the applicable percentage within the
2 specified range set forth in this division based
3 on the number of tires remaining in illegal dumps
4 and available funding.

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

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

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

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

1 d. Used 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 used tires
7 in an engineering project shall report and certify
8 whole used 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 Used Tire Recycling Act; and

13 4. 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 used 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 used tire recycling facilities that
22 produce crumb rubber for compensation at the rate of Twenty-nine
23 Dollars (\$29.00) per ton of processed or used tires utilized for
24 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. 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 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. The Board
20 shall promulgate rules establishing unit costs for compensation
21 based on the remediation feasibility of the tire dumps. The
22 Department may solicit bids for the remediation of tire dumps if no
23 used tire recycling facilities or TDF facilities agree to remediate
24 a priority tire dump authorized by the Department or if the

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

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.

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
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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 2. This act shall become effective July 1, 2018.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
22 03/26/2018 - DO PASS.
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