SENATE FLOOR VERSION
February 28, 2018
AS AMENDED

SENATE BILL NO. 1412 By: Schulz

[Oklahoma Used Tire Recycling Act - allocation of revenue from Used Tire Recycling Indemnity Fund - ~~effective date~~ - ~~emergency~~]

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

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

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

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

1. Two and one-fourth percent (2.25%) to the Oklahoma Tax Commission and five and three-fourths percent (5.75%) to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Used Tire Recycling Act; provided, in no event shall either of the amounts allocated annually pursuant

to this paragraph exceed the 3-year average of the total fiscal year amounts allocated in fiscal years 2015, 2016 and 2017 and any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund ; and

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

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

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

a. facilities that process used tires by altering the form of the used tires but do not produce crumb rubber 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 tires shall be provided by the used tire recycling facility or TDF facility at no additional cost to the tire dealer or automotive dismantler and parts recycler or to the Fund. The used tire recycling facility or TDF facility shall collect from any

location at which there are at least three hundred used tires.

b. Compensation under this paragraph shall not be payable until the used 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 used tires shall be eligible for compensation under this paragraph only for those whole used tires consumed by that facility.

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

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

(1) demonstrate to the satisfaction of the Department that the facility is regularly engaged in the

collection, transportation and delivery of used tires to a used tire recycling facility or to a TDF facility, on a statewide basis, and from each county of the state,

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

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

e. In lieu of proof of remitted tire recycling fees, the used tire recycling 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 used tires per salvage vehicle purchased on or after January 1, 1996;

3. a. Compensation to a unit of local or county government that submits to the Department for approval a plan for the use of baled used 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 used tires shall not accumulate more than fifty used tire bales prior to beginning construction of an approved project.

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

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

4. If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under this subsection, the Department shall determine the apportionment of payments to be made among the qualified applicants under this subsection according to the percentage of used tires processed, collected and transported, or utilized.

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

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

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

4. The facilities shall by sworn affidavit provide to the Department sufficient information to verify that the facility has

used the tires in accordance with the purposes of the Oklahoma Used Tire Recycling Act.

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

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

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

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

1. Additional compensation to used tire recycling facilities or TDF facilities for the remediation of dumps certified by the Department and delivering the tires to a used tire recycling facility or a TDF facility. The Department shall determine additional compensation made to qualified applicants under this subsection based on cleanup feasibility of the dump. The Board shall promulgate rules establishing unit costs for compensation based on the remediation feasibility of the tire dumps. The Department may solicit bids for the remediation of tire dumps if no used tire recycling facilities or TDF facilities agree to remediate a priority tire dump authorized by the Department or if the Department determines the qualified applicant has not remediated the tires in the tire dump to meet reference conditions of comparable property in the immediate area; and

2. Reimbursement to the Department of Environmental Quality for necessary costs associated with remediation or other necessary actions at sites at which used tires or other wastes incidental to the used tires present a threat to human health or environment, or for projects to increase market demand for products made from

Oklahoma used tires. The Solid Waste Management Advisory Council shall recommend and the Environmental Quality Board shall adopt rules governing the types of market development projects that may qualify for reimbursement. To the extent possible, the rules shall favor and the Department shall prioritize projects with the greatest potential to benefit schools, communities and local governments. Upon its receipt of documentation from the Department showing expenditures relating to the remediation of such sites or market development projects, the Tax Commission shall reimburse the Department for its documented expenditures.

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

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

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

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

2. Used tire recycling facilities and TDF facilities that collect, transport and process tires used on implements of husbandry and agricultural equipment that are greater than forty-four (44) inches in total diameter and less than or equal to seventy-two (72) inches in total diameter and not more than thirty (30) inches wide, shall be eligible for compensation at the rate of Sixteen Dollars ($16.00) per tire.

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

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

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

~~**SECTION 2. This act shall become effective July 1, 2018.**~~

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
February 28, 2018 - DO PASS AS AMENDED