

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1045

By: Leewright

6 AS INTRODUCED

7 An Act relating to used tires; amending 27A O.S.
2011, Section 2-11-401.4, as last amended by Section
8 3, Chapter 286, O.S.L. 2017 (27A O.S. Supp. 2017,
Section 2-11-401.4), which relates to compensation to
9 facilities; modifying compensation to used tire
facilities; deleting availability of certain funds
10 for reimbursement for certain purpose; providing an
effective date; and declaring an emergency.

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

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

17 Section 2-11-401.4. A. Compensation to used tire facilities
18 and tire-derived fuel or TDF facilities pursuant to this section
19 shall be limited to facilities located in Oklahoma. Compensation
20 for used tire activities pursuant to this section shall be limited
21 to used tires from Oklahoma. A used tire recycling facility or
22 tire-derived fuel or TDF facility may transport and deliver used
23 tires collected from Oklahoma to an out-of-state used tire recycling
24 facility or TDF facility but shall not be eligible for compensation

1 from the Used Tire Recycling Indemnity Fund for those used tires.
2 To be eligible, applicants for compensation shall be in compliance
3 with the Oklahoma Used Tire Recycling Act.

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

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

23 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
24 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)~~ Seventy-four Dollars (\$74.00) 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

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

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

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

1 facility that collects and transports whole used tires
2 shall be eligible for compensation under this
3 paragraph only for those whole used tires consumed by
4 that facility.

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

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

- 17 (1) demonstrate to the satisfaction of the Department
18 that the facility is regularly engaged in the
19 collection, transportation and delivery of used
20 tires to a used tire recycling facility or to a
21 TDF facility, on a statewide basis, and from each
22 county of the state,
23 (2) provide documentation to the Department, signed
24 by a dealer at the time of collection, which

1 certifies remittance of appropriate fees to the
2 Oklahoma Tax Commission as a participating tire
3 dealer pursuant to the provisions of the Oklahoma
4 Used Tire Recycling Act, and

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

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

23 3. a. Compensation to a unit of local or county government
24 that submits to the Department for approval a plan for

1 the use of baled used tires in an engineering project.
2 Compensation shall be at the rate of fifty cents
3 (\$0.50) per tire.

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

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

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

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

22 4. If the Fund contains insufficient funds in any month to
23 satisfy the eligible reimbursements under this subsection, the
24 Department shall determine the apportionment of payments to be made

1 among the qualified applicants under this subsection according to
2 the percentage of used tires processed, collected and transported,
3 or utilized.

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

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

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

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

20 5. If the Fund contains insufficient funds in any month to
21 satisfy the eligible reimbursements under this subsection, the
22 Department shall determine the apportionment of payments to be made
23 among the qualified applicants according to the percentage of used
24

1 tires intended for energy or fuel recovery or the production of
2 crumb rubber.

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

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

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

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

15 2. Reimbursement to the Department of Environmental Quality for
16 necessary costs associated with remediation or other necessary
17 actions at sites at which used tires or other wastes incidental to
18 the used tires present a threat to human health or environment, or
19 for projects to increase market demand for products made from
20 Oklahoma used tires. The Solid Waste Management Advisory Council
21 shall recommend and the Environmental Quality Board shall adopt
22 rules governing the types of market development projects that may
23 qualify for reimbursement. To the extent possible, the rules shall
24 favor and the Department shall prioritize projects with the greatest

1 potential to benefit schools, communities and local governments.
2 Upon its receipt of documentation from the Department showing
3 expenditures relating to the remediation of such sites or market
4 development projects, the Tax Commission shall reimburse the
5 Department for its documented expenditures.

6 ~~G.~~ F. Accrued funding for the purposes specified in subsection
7 ~~F~~ E of this section shall not exceed Five Hundred Thousand Dollars
8 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
9 reached, any additional funds shall be distributed as additional
10 compensation under paragraph 1 of subsection C of this section.

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

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

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

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

24 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.

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