

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 878 By: Leewright of the Senate
3 and
4 Hilbert of the House
5

6 [Oklahoma Used Tire Recycling Act - definitions and
7 used tire recycling fees - fee schedule - allocation
8 of the Used Tire Recycling Indemnity Fund - unlawful
9 storage, collection, disposal, transportation or
removal of used tires - exception - ~~effective date -~~
emergency]

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AUTHORS: Add the following House Coauthors: Conley, McEntire, Boles
and Fugate

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AMENDMENT NO. 1. Delete the stricken title, enacting clause and
entire bill and replace with:

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"An Act relating to the Oklahoma Used Tire Recycling
Act; amending 27A O.S. 2011, Sections 2-11-401.1 and
2-11-401.2, as amended by Sections 1 and 2, Chapter
286, O.S.L. 2017 (27A O.S. Supp. 2018, Sections 2-
11-401.1 and 2-11-401.2), which relate to
definitions and used tire recycling fees; modifying
definitions; modifying fee schedule for certain
tires; amending 27A O.S. 2011, Section 2-11-401.4,
as last amended by Section 1, Chapter 211, O.S.L.
2018 (27A O.S. Supp. 2018, Section 2-11-401.4),
which relates to the allocation of the Used Tire
Recycling Indemnity Fund; modifying allocation;
clarifying statutory language; modifying limit to
certain allocation; amending 27A O.S. 2011, Section
2-11-401.7, as amended by Section 4, Chapter 286,
O.S.L. 2017 (27A O.S. Supp. 2018, Section 2-11-
401.7), which relates to unlawful storage,

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1 collection, disposal, transportation or removal of
2 used tires; adding exception requirement;
3 prohibiting transport of tires in violation of
4 rules; providing for entry to property if certain
5 criminal proceedings have been completed; providing
6 an effective date; and declaring an emergency.

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

8 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
9 as amended by Section 1, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
10 2018, Section 2-11-401.1), is amended to read as follows:

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

13 1. "ASTM" means the American Society for Testing and Materials;

14 2. "Automobile" means every motor vehicle of the type
15 constructed and used for the transportation of ten persons or less,
16 including the driver, or used for the transportation of property.
17 Provided, however, that the automobile's gross vehicle weight rating
18 does not exceed sixteen thousand (16,000) pounds;

19 3. "Automotive dismantler and parts recycler" means the same as
20 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

21 ~~2.~~ 4. "Commission" means the Oklahoma Tax Commission;

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

24 ~~4.~~ 5. "Department" means the Department of Environmental
Quality;

1 ~~5.~~ 6. "End use" means a Department-approved ultimate economic
2 use for a used tire or tire-derived product, including granulated
3 rubber, ground rubber, tire chips, tire-derived aggregate, tire-
4 derived fuel and tire shreds;

5 7. "Fund" means the Used Tire Recycling Indemnity Fund;

6 ~~6.~~ 8. "Granulated rubber" means particulate rubber composed of
7 mainly nonspherical particles that span a broad range of maximum
8 particle dimensions, from below four hundred twenty-five thousandths
9 (0.425) of a millimeter (40 mesh) to twelve (12) millimeters (0.47
10 inches) pursuant to current ASTM standards;

11 9. "Ground rubber" means particulate rubber composed of mainly
12 nonspherical particles that span a broad range of maximum particle
13 dimensions, from below four hundred twenty-five thousandths (0.425)
14 of a millimeter (40 mesh) to two (2) millimeters (0.08 inches)
15 pursuant to current ASTM standards;

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

18 ~~7.~~ 11. "Motor-driven cycle" means a motor vehicle of a type
19 defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

20 ~~8.~~ 12. "Motor vehicle" means the same as defined in Section 1-
21 134 of Title 47 of the Oklahoma Statutes;

22 ~~9.~~ 13. "Priority cleanup list" means a list, created and
23 maintained by the Department, of:

1 a. unpermitted dumps which did not exist when the owner
2 took possession of the property where the tires are
3 located, and were created without the consent of or
4 benefit to the owner of the property, and

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

7 ~~10.~~ 14. "Reusable tire" means a tire that has been previously
8 used on a vehicle, not currently mounted on a vehicle, but can be
9 legally placed into service for vehicle use in Oklahoma;

10 ~~11.~~ 15. "Semitrailer" means the same as defined in Section 1-
11 162 of Title 47 of the Oklahoma Statutes;

12 ~~12.~~ 16. "Tire" means any solid or air-filled covering for
13 vehicle wheels;

14 ~~13.~~ 17. "Tire chips" means pieces of scrap tires that have a
15 basic geometrical shape and are generally between twelve (12)
16 millimeters (0.47 inches) and fifty (50) millimeters (1.97 inches)
17 in size and have most of the wire removed pursuant to current ASTM
18 standards;

19 18. "Tire dealer" means any person engaged in the business of
20 selling new and used tires to final consumers, not for resale;

21 ~~14.~~ 19. "Tire-derived aggregate" means pieces of scrap tires
22 that have a basic geometrical shape and are generally between twelve
23 (12) millimeters (0.47 inches) and three hundred five (305)
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1 millimeters (12.01 inches) in size and are intended for use in civil
2 engineering applications pursuant to ASTM standards;

3 20. "Tire-derived fuel" means whole tires or processed tires
4 that can be used for energy or fuel recovery pursuant to current
5 ASTM standards;

6 21. "Tire-derived fuel facility" or "TDF facility" means a
7 facility that uses processed tires or whole used tires for energy or
8 fuel recovery;

9 ~~15.~~ 22. "Tire-derived product" means matter that:

10 a. is derived from a process that uses whole tires as a
11 feedstock, including chipping for the purpose of fuel
12 recovery, granulating and grinding,

13 b. adheres to established engineering or other
14 appropriate specifications or to established product
15 end-user specifications or customer conditions of
16 acceptance,

17 c. has a demonstrated benefit associated with the end
18 use, and

19 d. can be used as a substitute for or in conjunction with
20 a commercial product or raw material;

21 23. "Tire shreds" means pieces of scrap tires that have a basic
22 geometrical shape and are generally between fifty (50) millimeters
23 (1.97 inches) and three hundred five (305) millimeters (12.01
24 inches) in size pursuant to current ASTM standards;

1 24. "Trailer" means the same as defined in Section 1-180 of
2 Title 47 of the Oklahoma Statutes;

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

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

10 ~~18.~~ 25. "Used tire" means an unprocessed whole tire or tire
11 part that can no longer be used for its originally intended purpose
12 but can be beneficially reused as approved by the Department. Any
13 used tire collected in accordance with the requirements of the
14 Oklahoma Used Tire Recycling Act is not considered to be discarded.
15 A tire that can be used, reused or legally modified to be reused for
16 its original intended purpose shall not be a used tire; ~~and~~

17 26. "Used tire processing" means altering the form of whole
18 used tires by shredding, chipping or other method approved by the
19 Department, except baling and pyrolysis;

20 27. "Used tire recycling facility" means any place which is
21 permitted as a solid waste disposal site, in accordance with the
22 Oklahoma Solid Waste Management Act, at which used tires are
23 processed; and

1 ~~19.~~ 28. "Vehicle" means the same as defined in Section 1-186 of
2 Title 47 of the Oklahoma Statutes.

3 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
4 as amended by Section 2, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
5 2018, Section 2-11-401.2), is amended to read as follows:

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

9 a. at the time any tire:

10 (1) for an automobile as defined in the Oklahoma Used
11 Tire Recycling Act or a tire with a rim diameter
12 of less than or equal to nineteen and one-half
13 (19 1/2) inches is sold by a tire dealer, there
14 shall be assessed a used tire recycling fee of
15 ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars
16 and ninety cents (\$2.90) per tire,

17 (2) for vehicles other than automobiles as defined by
18 the Oklahoma Used Tire Recycling Act with a rim
19 diameter greater than nineteen and one-half (19
20 1/2) inches and a tread width of twelve (12)
21 inches or less is sold by a tire dealer, there
22 shall be assessed a used tire recycling fee of
23 ~~Three Dollars and fifty cents (\$3.50)~~ Five
24 Dollars and fifty cents (\$5.50) per tire,

1 (3) with a rim diameter greater than nineteen and
2 one-half (19 1/2) inches and a tread width of
3 greater than twelve (12) inches is sold by a tire
4 dealer, there shall be assessed a used tire
5 recycling fee of ~~Seven Dollars (\$7.00)~~ Ten
6 Dollars (\$10.00) per tire, and

7 (4) is sold by a tire dealer for use on a motorcycle
8 or motor-driven cycle, there shall be assessed a
9 used tire recycling fee of One Dollar (\$1.00) per
10 tire,

11 b. at any time an automobile as defined by the Oklahoma
12 Used Tire Recycling Act or a motor vehicle with a tire
13 rim diameter of less than or equal to nineteen and
14 one-half (19 1/2) inches is first registered in this
15 state, there shall be assessed a used tire recycling
16 fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars
17 and ninety cents (\$2.90) per tire, except as otherwise
18 provided by subparagraphs e and f of this paragraph,

19 c. at any time a vehicle other than an automobile as
20 defined by the Oklahoma Used Tire Recycling Act with a
21 tire rim diameter of greater than nineteen and one-
22 half (19 1/2) inches is first registered in this
23 state, there shall be assessed a used tire recycling
24 fee of ~~Three Dollars and fifty cents (\$3.50)~~ Five

1 Dollars and fifty cents (\$5.50) per tire, except as
2 otherwise provided by subparagraphs e, f and g of this
3 paragraph,

4 d. at any time a trailer or semitrailer with a tire rim
5 diameter of less than or equal to nineteen and one-
6 half (19 1/2) inches is first titled in this state,
7 there shall be assessed a used tire recycling fee of
8 ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
9 ninety cents (\$2.90) per tire,

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

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

19 g. at the time a trailer or semitrailer is first titled
20 in this state, to be registered under the provisions
21 of Section 1133 of Title 47 of the Oklahoma Statutes,
22 there shall be assessed a used tire recycling fee of
23 Five Dollars (\$5.00).
24

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

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. For tires used on implements of husbandry and
9 agricultural equipment with a rim diameter of less than or equal to
10 nineteen and one-half (19 1/2) inches and that are less than thirty
11 (30) inches in total diameter, there shall be assessed a used tire
12 recycling fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
13 ninety cents (\$2.90) per tire.

14 2. For tires used on implements of husbandry and agricultural
15 equipment with a rim diameter of greater than nineteen and one-half
16 (19 1/2) inches and that are less than thirty (30) inches in total
17 diameter, there shall be assessed a used tire recycling fee of ~~Three~~
18 ~~Dollars and fifty cents (\$3.50)~~ Five Dollars and fifty cents (\$5.50)
19 per tire.

20 3. For tires used on implements of husbandry and agricultural
21 equipment that are greater than thirty (30) inches in total diameter
22 and less than or equal to forty-four (44) inches in total diameter,
23 there shall be assessed a used tire recycling fee of Eight Dollars
24 (\$8.00) per tire. No fee shall be assessed by a tire dealer if the

1 customer retains the used agricultural tire for use on a farm or
2 ranch. The customer may return the used tire to the tire dealer at
3 a later date and shall be assessed the proper fee.

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

13 5. A tire dealer may pay the assessed fee for any used
14 agricultural tire in current inventory and include that tire in the
15 used tire recycling program.

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

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

23 3. Motor license agents shall remit ninety percent (90%) of the
24 fee assessed on each vehicle registered.

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

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

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

16 F. All penalties or interest imposed by this section shall be
17 recoverable by the Tax Commission as a part of the fee imposed and
18 all penalties and interest shall be apportioned the same as the fee
19 on which the penalties or interest are collected.

20 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
21 as last amended by Section 1, Chapter 211, O.S.L. 2018 (27A O.S.
22 Supp. 2018, Section 2-11-401.4), is amended to read as follows:

23 Section 2-11-401.4 A. Compensation to used tire facilities and
24 tire-derived fuel or TDF facilities pursuant to this section shall

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

10 B. The monies accruing annually to the Used Tire Recycling
11 Indemnity Fund shall be allocated first to the Department of
12 Environmental Quality Revolving Fund, to be used for implementing
13 applicable requirements related to the control of mobile and area
14 sources of air emissions, for monitoring and modeling the impacts on
15 Oklahoma of air pollution from other states, for implementing and
16 enforcing other applicable air pollution control requirements or for
17 other environmental programs or projects. The amount of money
18 allocated for this purpose shall be ~~twenty-eight percent (28%)~~
19 twenty-four and one-tenth percent (24.1%) of the funds produced by
20 the ~~two-dollar-and-fifty-cent~~ two-dollar-and-ninety-cent per tire
21 fee assessed pursuant to division (1) of subparagraph a of paragraph
22 1 of subsection A of Section 2-11-401.2 of this title and
23 subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2
24 of this title; provided, in no event shall the amount allocated

1 annually exceed the 3-year average of the total fiscal year amounts
2 allocated in fiscal years 2015, 2016 and 2017 and any amount in
3 excess of the 3-year average shall be placed to the credit of the
4 General Revenue Fund. After this allocation is deducted, the
5 balance of the monies shall be allocated as follows:

6 1. Two and one-fourth percent (2.25%), not to exceed Twenty
7 Thousand Dollars (\$20,000.00) per month, to the Oklahoma Tax
8 Commission and five and three-fourths percent (5.75%), not to exceed
9 Fifty Thousand Dollars (\$50,000.00) per month, to the Department of
10 Environmental Quality for the purpose of administering the
11 requirements of the Oklahoma Used Tire Recycling Act; provided, in
12 no event shall either of the amounts allocated annually pursuant to
13 this paragraph exceed the 3-year average of the total fiscal year
14 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount
15 in excess of the 3-year average shall be placed to the credit of the
16 ~~General Revenue~~ Used Tire Recycling Indemnity Fund; and

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

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

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

5 a. facilities that process used tires by altering the
6 form of the used tires but do not produce ~~crumb rubber~~
7 tire-derived product shall not receive compensation
8 until the facility documents the sale and movement of
9 the processed used tire material off-site to a third
10 party,

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

18 c. to be eligible for compensation, a facility shall not
19 have accumulated more processed material than the
20 amount for which the facility has provided financial
21 assurance under its solid waste permit or the amount
22 accumulated from three (3) years of operation,
23 whichever is less;

- 1 2. a. Compensation to used tire recycling facilities or TDF
2 facilities at the rate of Fifty-three Dollars (\$53.00)
3 per ton of whole used tires for the collection and
4 transportation of used tires from Oklahoma tire
5 dealers, automotive dismantlers and parts recyclers,
6 solid waste landfill sites, and dumps certified by the
7 Department priority cleanup list, and delivering the
8 tires to a used tire recycling facility or TDF
9 facility. The collection and transportation of used
10 tires shall be provided by the used tire recycling
11 facility or TDF facility at no additional cost to the
12 tire dealer or automotive dismantler and parts
13 recycler or to the Fund. The used tire recycling
14 facility or TDF facility shall collect from any
15 location at which there are at least three hundred
16 used tires.
- 17 b. Compensation under this paragraph shall not be payable
18 until the used tires have been actually processed
19 according to the solid waste permit for the facility
20 or actually used for energy or fuel recovery. A TDF
21 facility that collects and transports whole used tires
22 shall be eligible for compensation under this
23 paragraph only for those whole used tires consumed by
24 that facility.

- 1 c. No tire dealer shall charge any customer any
2 additional fee for the management, recycling, or
3 disposal of any used tire upon which the used tire
4 recycling fee has been remitted to the Tax Commission.
5 For customers who choose not to leave a used tire upon
6 which the used tire recycling fee has been remitted to
7 the Tax Commission, the tire dealer shall issue a
8 receipt which entitles the customer to deliver the
9 used tire to the dealer at a later date.
- 10 d. To be eligible for compensation pursuant to this
11 paragraph, the used tire recycling facility or TDF
12 facility shall:
- 13 (1) demonstrate to the satisfaction of the Department
14 that the facility is regularly engaged in the
15 collection, transportation and delivery of used
16 tires to a used tire recycling facility or to a
17 TDF facility, on a statewide basis, and from each
18 county of the state,
- 19 (2) provide documentation to the Department, signed
20 by a dealer at the time of collection, which
21 certifies remittance of appropriate fees to the
22 Oklahoma Tax Commission as a participating tire
23 dealer pursuant to the provisions of the Oklahoma
24 Used Tire Recycling Act, and

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

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

19 3. a. Compensation to a unit of local or county government
20 that submits to the Department for approval a plan for
21 the use of baled used tires in an engineering project.
22 Compensation shall be at the rate of fifty cents
23 (\$0.50) per tire.
24

- 1 b. The plan shall be approved by the Department before
2 construction of the project begins.
- 3 c. Any unit of local or county government baling used
4 tires shall not accumulate more than fifty used tire
5 bales prior to beginning construction of an approved
6 project.
- 7 d. Used tires baled pursuant to this paragraph cannot be
8 obtained from tire manufacturers, retailers,
9 wholesalers, retreaders, or automotive dismantlers and
10 parts recyclers.
- 11 e. Any unit of local or county government authorized to
12 receive reimbursement for the use of baled used tires
13 in an engineering project shall report and certify
14 whole used tires by number. The governmental unit
15 shall by sworn affidavit provide sufficient
16 information to the Department to verify that the unit
17 has utilized the tires in accordance with the purposes
18 of the Oklahoma Used Tire Recycling Act; and

19 4. 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 under this subsection according to
23 the percentage of used tires processed, collected and transported,
24 or utilized.

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

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

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

22 1. Additional compensation to used tire recycling facilities or
23 TDF facilities for the remediation of dumps certified by the
24 Department and delivering the tires to a used tire recycling

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

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

1 development projects, the Tax Commission shall reimburse the
2 Department for its documented expenditures.

3 G. Accrued funding for the purposes specified in subsection F
4 of this section shall not exceed Five Hundred Thousand Dollars
5 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
6 reached, any additional funds shall be distributed as additional
7 compensation under paragraph 1 of subsection C of this section.

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

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

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

22 2. Used tire recycling facilities and TDF facilities that
23 collect, transport and process tires used on implements of husbandry
24 and agricultural equipment that are greater than forty-four (44)

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

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

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

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

21 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
22 as amended by Section 4, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
23 2018, Section 2-11-401.7), is amended to read as follows:
24

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 used tires
9 at their place of business or an ancillary off-premises storage site
10 approved by the Department, and who are currently in compliance with
11 applicable Oklahoma Tax Commission requirements;

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

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

18 4. Remove more than ten used tires or reusable tires from the
19 possession of the dealer unless the dealer provides a manifest form,
20 approved by the Department, which documents the removal and approved
21 disposition or sale of the tires and which accompanies the tires in
22 transport, or to transport used or reusable tires in violation of
23 rules promulgated by the Department. Dealers, haulers, and used
24

1 tire recycling facilities shall keep copies of manifests available
2 for inspection for five (5) years; or

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

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

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

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

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

1 proceedings for paragraph 1 or 2 of subsection A of this section
2 have resulted in a conviction, guilty plea or nolo contendere plea,
3 the Department or a representative of the Department, upon notice to
4 the landowner and an opportunity for the landowner to be heard on
5 the issue, may enter the property to clean up the tire dump.

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

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

11 F. Notwithstanding the provisions of Section 2-3-504 of this
12 title or any other remedy authorized by law, any peace officer of
13 this state or of any political subdivision of this state may issue a
14 citation to any person committing a violation of paragraph 1, 2, 3
15 or 4 of subsection A of this section. Such citation shall be in an
16 amount not to exceed One Hundred Dollars (\$100.00) for the first
17 offense, not to exceed Two Hundred Dollars (\$200.00) for the second
18 offense and not to exceed Five Hundred Dollars (\$500.00) for the
19 third or subsequent offense. The penalties collected from the
20 payment of such citations shall not include court costs and shall be
21 divided as follows:

22 1. One-half (1/2) shall be paid into the reward fund created
23 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and
24

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

SECTION 5. This act shall become effective July 1, 2019.

SECTION 6. 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."

Passed the House of Representatives the 22nd day of April, 2019.

Presiding Officer of the House of
Representatives

Passed the Senate the _____ day of _____, 2019.

Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 878

By: Leewright of the Senate

3 and

4 Hilbert of the House

5
6 [Oklahoma Used Tire Recycling Act - definitions and
7 used tire recycling fees - fee schedule - allocation
8 of the Used Tire Recycling Indemnity Fund - unlawful
storage, collection, disposal, transportation or
removal of used tires - exception - ~~effective date -~~
emergency]

9
10
11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 7. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
14 as amended by Section 1, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
15 2018, Section 2-11-401.1), is amended to read as follows:

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

18 1. "ASTM" means American Society for Testing and Materials;

19 2. "Automotive dismantler and parts recycler" means the same as
20 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

21 ~~2. 3. "Commission" means the Oklahoma Tax Commission;~~

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

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

1 5. "End use" means a Department approved ultimate economic use
2 for a used tire or tire-derived product, including granulated
3 rubber, ground rubber, tire chips, tire-derived aggregate, tire-
4 derived fuel and tire shreds;

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

6 ~~6.~~ 7. "Granulated rubber" means particulate rubber composed of
7 mainly non-spherical particles that span a broad range of maximum
8 particle dimensions, from below four hundred twenty-five thousandths
9 (0.425) of a millimeter (40 mesh) to twelve (12) millimeters (0.47
10 inches) pursuant to ASTM standards;

11 8. "Ground Rubber" means particulate rubber composed of mainly
12 non-spherical particles that span a broad range of maximum particle
13 dimensions, from below four hundred twenty-five thousandths (0.425)
14 of a millimeter (40 mesh) to two (2) millimeters (0.08 inches)
15 pursuant to current ASTM standards;

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

18 ~~7.~~ 10. "Motor-driven cycle" means a motor vehicle of a type
19 defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

20 ~~8.~~ 11. "Motor vehicle" means the same as defined in Section 1-
21 134 of Title 47 of the Oklahoma Statutes;

22 ~~9.~~ 12. "Priority cleanup list" means a list, created and
23 maintained by the Department, of:

1 a. unpermitted dumps which did not exist when the owner
2 took possession of the property where the tires are
3 located, and were created without the consent of or
4 benefit to the owner of the property, and

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

7 ~~10.~~ 13. "Reusable tire" means a tire that has been previously
8 used on a vehicle, not currently mounted on a vehicle, but can be
9 legally placed into service for vehicle use in Oklahoma;

10 ~~11.~~ 14. "Semitrailer" means the same as defined in Section 1-
11 162 of Title 47 of the Oklahoma Statutes;

12 ~~12.~~ 15. "Tire" means any solid or air-filled covering for
13 vehicle wheels;

14 ~~13.~~ 16. "Tire chips" means pieces of scrap tires that have a
15 basic geometrical shape and are generally between twelve (12)
16 millimeters (0.47 inches) and fifty (50) millimeters (1.97 inches)
17 in size and have most of the wire removed pursuant to current ASTM
18 standards;

19 17. "Tire dealer" means any person engaged in the business of
20 selling new and used tires to final consumers, not for resale;

21 ~~14.~~ 18. "Tire-derived aggregate" means pieces of scrap tires
22 that have a basic geometrical shape and are generally between twelve
23 (12) millimeters (0.47 inches) and three hundred five (305)
24

1 millimeters (12 inches) in size and are intended for use in civil
2 engineering applications;

3 19. "Tire-derived fuel" means whole tires or processed tires
4 that can be used as energy or fuel recovery pursuant to current ASTM
5 standards;

6 20. "Tire-derived fuel facility" or "TDF facility" means a
7 facility that uses processed tires or whole used tires for energy or
8 fuel recovery;

9 ~~15.~~ 21. "Tire-derived product" means matter that:

10 a. is derived from a process that uses whole tires as a
11 feedstock, including chipping for the purpose of fuel
12 recovery, granulating, and grinding,

13 b. adheres to established engineering or other
14 appropriate specifications or to established product
15 end-user specifications or customer conditions of
16 acceptance,

17 c. has a demonstrated benefit associated with the end
18 use, and

19 d. can be used as a substitute for or in conjunction with
20 a commercial product or raw material;

21 22. "Tire shreds" means pieces of scrap tires that have a basic
22 geometrical shape and are generally between fifty (50) millimeters
23 (1.97 inches) and three hundred five (305) millimeters (12.01
24 inches) in size pursuant to current ASTM standards;

1 23. "Trailer" means the same as defined in Section 1-180 of
2 Title 47 of the Oklahoma Statutes;

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

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

10 ~~18.~~ 24. "Used tire" means an unprocessed whole tire or tire
11 part that can no longer be used for its originally intended purpose
12 but can be beneficially reused as approved by the Department. Any
13 used tire collected in accordance with the requirements of the
14 Oklahoma Used Tire Recycling Act is not considered to be discarded.
15 A tire that can be used, reused or legally modified to be reused for
16 its original intended purpose shall not be a used tire; ~~and~~

17 25. "Used tire processing" means altering the form of whole
18 used tires by shredding, chipping, or other method approved by the
19 Department, except baling and pyrolysis;

20 26. "Used tire recycling facility" means any place which is
21 permitted as a solid waste disposal site, in accordance with the
22 Oklahoma Solid Waste Management Act, at which used tires are
23 processed; and
24

1 ~~19.~~ 27. "Vehicle" means the same as defined in Section 1-186 of
2 Title 47 of the Oklahoma Statutes.

3 SECTION 8. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
4 as amended by Section 2, Chapter 286, O.S.L. 2017 (27A O.S. Supp.
5 2018, Section 2-11-401.2), is amended to read as follows:

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

9 a. at the time any tire:

10 (1) with a rim diameter of less than or equal to
11 nineteen and one-half (19 1/2) inches is sold by
12 a tire dealer, there shall be assessed a used
13 tire recycling fee of ~~Two Dollars and fifty cents~~
14 ~~(\$2.50)~~ Two Dollars and ninety cents (\$2.90) per
15 tire,

16 (2) with a rim diameter greater than nineteen and
17 one-half (19 1/2) inches and a tread width of
18 twelve (12) inches or less is sold by a tire
19 dealer, there shall be assessed a used tire
20 recycling fee of ~~Three Dollars and fifty cents~~
21 ~~(\$3.50)~~ Six Dollars (\$6.00) per tire,

22 (3) with a rim diameter greater than nineteen and
23 one-half (19 1/2) inches and a tread width of
24 greater than twelve (12) inches is sold by a tire

1 dealer, there shall be assessed a used tire
2 recycling fee of ~~Seven Dollars (\$7.00)~~ Ten
3 Dollars (\$10.00) per tire, and

4 (4) is sold by a tire dealer for use on a motorcycle
5 or motor-driven cycle, there shall be assessed a
6 used tire recycling fee of One Dollar (\$1.00) per
7 tire,

8 b. at any time a motor vehicle with a tire rim diameter
9 of less than or equal to nineteen and one-half (19
10 1/2) inches is first registered in this state, there
11 shall be assessed a used tire recycling fee of ~~Two~~
12 ~~Dollars and fifty cents (\$2.50)~~ Two Dollars and ninety
13 cents (\$2.90) per tire, except as otherwise provided
14 by subparagraphs e and f of this paragraph,

15 c. at any time a vehicle with a tire rim diameter of
16 greater than nineteen and one-half (19 1/2) inches is
17 first registered in this state, there shall be
18 assessed a used tire recycling fee of ~~Three Dollars~~
19 ~~and fifty cents (\$3.50)~~ Six Dollars (\$6.00) per tire,
20 except as otherwise provided by subparagraphs e, f and
21 g of this paragraph,

22 d. at any time a trailer or semitrailer with a tire rim
23 diameter of less than or equal to nineteen and one-
24 half (19 1/2) inches is first titled in this state,

1 there shall be assessed a used tire recycling fee of
2 ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
3 ninety cents (\$2.90) per tire,

4 e. at any time a motorcycle or motor-driven cycle is
5 first registered in this state, there shall be
6 assessed a used tire recycling fee of One Dollar
7 (\$1.00) per tire,

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

13 g. at the time a trailer or semitrailer is first titled
14 in this state, to be registered under the provisions
15 of Section 1133 of Title 47 of the Oklahoma Statutes,
16 there shall be assessed a used tire recycling fee of
17 Five Dollars (\$5.00).

18 2. No fee shall be assessed by a tire dealer for reusable tires
19 or retreaded tires for which the tire dealer can document that the
20 recycling fee has been previously paid.

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

1 B. 1. For tires used on implements of husbandry and
2 agricultural equipment with a rim diameter of less than or equal to
3 nineteen and one-half (19 1/2) inches and that are less than thirty
4 (30) inches in total diameter, there shall be assessed a used tire
5 recycling fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and
6 ninety cents (\$2.90) per tire.

7 2. For tires used on implements of husbandry and agricultural
8 equipment with a rim diameter of greater than nineteen and one-half
9 (19 1/2) inches and that are less than thirty (30) inches in total
10 diameter, there shall be assessed a used tire recycling fee of ~~Three~~
11 ~~Dollars and fifty cents (\$3.50)~~ Six Dollars (\$6.00) per tire.

12 3. For tires used on implements of husbandry and agricultural
13 equipment that are greater than thirty (30) inches in total diameter
14 and less than or equal to forty-four (44) inches in total diameter,
15 there shall be assessed a used tire recycling fee of Eight Dollars
16 (\$8.00) per tire. No fee shall be assessed by a tire dealer if the
17 customer retains the used agricultural tire for use on a farm or
18 ranch. The customer may return the used tire to the tire dealer at
19 a later date and shall be assessed the proper fee.

20 4. For tires used on implements of husbandry and agricultural
21 equipment that are greater than forty-four (44) inches in total
22 diameter and less than or equal to seventy-two (72) inches in total
23 diameter and not more than thirty (30) inches wide, there shall be
24 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per

1 tire. No fee shall be assessed by a tire dealer if the customer
2 retains the used agricultural tire for use on a farm or ranch. The
3 customer may return the used tire to the tire dealer at a later date
4 and shall be assessed the proper fee.

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

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

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

15 3. Motor license agents shall remit ninety percent (90%) of the
16 fee assessed on each vehicle registered.

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

23 D. If the fee imposed or levied by subsection A of this
24 section, or any part of such amount, is not paid before the fee

1 becomes delinquent, there shall be collected on the total delinquent
2 fee interest at the rate of one and one-quarter percent (1 1/4%) per
3 month from the date of the delinquency until paid.

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

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

12 SECTION 9. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
13 as last amended by Section 1, Chapter 211, O.S.L. 2018 (27A O.S.
14 Supp. 2018, Section 2-11-401.4), is amended to read as follows:

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

1 To be eligible, applicants for compensation shall be in compliance
2 with the Oklahoma Used Tire Recycling Act.

3 B. The monies accruing annually to the Used Tire Recycling
4 Indemnity Fund shall be allocated first to the Department of
5 Environmental Quality Revolving Fund, to be used for implementing
6 applicable requirements related to the control of mobile and area
7 sources of air emissions, for monitoring and modeling the impacts on
8 Oklahoma of air pollution from other states, for implementing and
9 enforcing other applicable air pollution control requirements or for
10 other environmental programs or projects. The amount of money
11 allocated for this purpose shall be ~~twenty-eight percent (28%)~~
12 twenty-four and one tenth percent (24.1%) of the funds produced by
13 the ~~two-dollar-and-fifty-cent~~ Two Dollars and ninety cents (\$2.90)
14 per tire fee assessed pursuant to division (1) of subparagraph a of
15 paragraph 1 of subsection A of Section 2-11-401.2 of this title and
16 subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2
17 of this title; provided, in no event shall the amount allocated
18 annually exceed the 3-year average of the total fiscal year amounts
19 allocated in fiscal years 2015, 2016 and 2017 and any amount in
20 excess of the 3-year average shall be placed to the credit of the
21 General Revenue Fund. After this allocation is deducted, the
22 balance of the monies shall be allocated as follows:

23 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
24 Commission and five and three-fourths percent (5.75%) to the

1 Department of Environmental Quality for the purpose of administering
2 the requirements of the Oklahoma Used Tire Recycling Act; provided,
3 in no event shall either of the amounts allocated annually pursuant
4 to this paragraph exceed the 3-year average of the total fiscal year
5 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount
6 in excess of the 3-year average shall be placed to the credit of the
7 General Revenue Fund; and

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

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

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

20 a. facilities that process used tires by altering the
21 form of the used tires but do not produce ~~crumb rubber~~
22 tire-derived product shall not receive compensation
23 until the facility documents the sale and movement of
24

1 the processed used tire material off-site to a third
2 party,

3 b. facilities shall report and certify used tire
4 processing activity in terms of weight. The facility
5 shall by sworn affidavit provide to the Department
6 sufficient information to verify that the facility has
7 processed used tires and sold processed used tires for
8 actual recycling or reuse in accordance with the
9 purposes of the Oklahoma Used Tire Recycling Act, and

10 c. to be eligible for compensation, a facility shall not
11 have accumulated more processed material than the
12 amount for which the facility has provided financial
13 assurance under its solid waste permit or the amount
14 accumulated from three (3) years of operation,
15 whichever is less;

16 2. a. Compensation to used tire recycling facilities or TDF
17 facilities at the rate of Fifty-three Dollars (\$53.00)
18 per ton of whole used tires for the collection and
19 transportation of used tires from Oklahoma tire
20 dealers, automotive dismantlers and parts recyclers,
21 solid waste landfill sites, and dumps certified by the
22 Department priority cleanup list, and delivering the
23 tires to a used tire recycling facility or TDF
24 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 3. a. Compensation to a unit of local or county government
12 that submits to the Department for approval a plan for
13 the use of baled used tires in an engineering project.
14 Compensation shall be at the rate of fifty cents
15 (\$0.50) per tire.

16 b. The plan shall be approved by the Department before
17 construction of the project begins.

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

22 d. Used tires baled pursuant to this paragraph cannot be
23 obtained from tire manufacturers, retailers,
24

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 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~~ tire-derived product for compensation at the
21 rate of Twenty-nine Dollars (\$29.00) per ton of processed or used
22 tires utilized for energy or fuel recovery or the production of
23 ~~crumb rubber~~ tire-derived product.

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

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

8 4. The facilities shall by sworn affidavit provide to the
9 Department sufficient information to verify that the facility has
10 used the tires in accordance with the purposes of the Oklahoma Used
11 Tire Recycling Act.

12 5. If the Fund contains insufficient funds in any month to
13 satisfy the eligible reimbursements under this subsection, the
14 Department shall determine the apportionment of payments to be made
15 among the qualified applicants according to the percentage of used
16 tires intended for energy or fuel recovery or the production of
17 ~~crumb rubber~~ tire-derived product.

18 E. 1. After the allocations under subsections B, C and D of
19 this section are made, any remaining monies in the Fund shall be
20 available for capital investment reimbursement to used tire
21 facilities and TDF facilities for the purchase of equipment
22 necessary to utilize used tires. Only equipment purchased on or
23 after January 1, 1995, shall be eligible. The facilities are
24 eligible for compensation at a rate of Twenty Dollars (\$20.00) per

1 ton of used tires used. Total reimbursement shall not exceed one
2 hundred percent (100%) of the capital investment in eligible
3 equipment. The facilities may apply for compensation monthly to the
4 Department of Environmental Quality and shall supply any information
5 required by the Department.

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

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

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

1 a priority tire dump authorized by the Department or if the
2 Department determines the qualified applicant has not remediated the
3 tires in the tire dump to meet reference conditions of comparable
4 property in the immediate area; and

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

20 G. Accrued funding for the purposes specified in subsection F
21 of this section shall not exceed Five Hundred Thousand Dollars
22 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
23 reached, any additional funds shall be distributed as additional
24 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
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 10. AMENDATORY 27A O.S. 2011, Section 2-11-
16 401.7, as amended by Section 4, Chapter 286, O.S.L. 2017 (27A O.S.
17 Supp. 2018, Section 2-11-401.7), is amended to read as follows:

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

20 1. Own or operate a site used for the storage, collection or
21 disposal of more than fifty used tires except at a site or facility
22 permitted or approved by the Department of Environmental Quality to
23 accept used tires. The provisions of this paragraph shall not apply
24 to tire manufacturers, retailers, wholesalers and retreaders who

1 store a total of no more than two thousand five hundred used tires
2 at their place of business or an ancillary off-premises storage site
3 approved by the Department, and who are currently in compliance with
4 applicable Oklahoma Tax Commission requirements;

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

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

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

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

22 B. The provisions of subsection A of this section shall not
23 apply to the use of used tires for agricultural purposes as
24

1 recognized by the Oklahoma Department of Agriculture, Food, and
2 Forestry.

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

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

14 E. 1. Except as otherwise ordered by the court, if the
15 administrative enforcement process for a violation of an order
16 issued by the Department for remediation, corrective action or
17 cleanup of an illegal tire dump has been exhausted, or criminal
18 proceedings for paragraph 1 or 2 of subsection A of this section
19 have resulted in a conviction, guilty plea, or nolo contendere plea,
20 the Department or a representative of the Department, upon notice to
21 the landowner and an opportunity for the landowner to be heard on
22 the issue, may enter the property to clean up the tire dump.

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

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

6 F. Notwithstanding the provisions of Section 2-3-504 of this
7 title or any other remedy authorized by law, any peace officer of
8 this state or of any political subdivision of this state may issue a
9 citation to any person committing a violation of paragraph 1, 2, 3
10 or 4 of subsection A of this section. Such citation shall be in an
11 amount not to exceed One Hundred Dollars (\$100.00) for the first
12 offense, not to exceed Two Hundred Dollars (\$200.00) for the second
13 offense and not to exceed Five Hundred Dollars (\$500.00) for the
14 third or subsequent offense. The penalties collected from the
15 payment of such citations shall not include court costs and shall be
16 divided as follows:

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

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

22 ~~SECTION 11. This act shall become effective July 1, 2019.~~

23 ~~SECTION 12. It being immediately necessary for the preservation~~
24 ~~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.~~

Passed the Senate the 7th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2019.

Presiding Officer of the House
of Representatives