

An Act

ENROLLED SENATE
BILL NO. 878

By: Leewright of the Senate

and

Hilbert, Conley, McEntire,
Boles and Fugate of the
House

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

SUBJECT: Oklahoma Used Tire Recycling Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. unpermitted dumps which did not exist when the owner took possession of the property where the tires are located, and were created without the consent of or benefit to the owner of the property, and
- b. such other tire dumps designated by the Department pursuant to Section 2-11-401.6 of this title;

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

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

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

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

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

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

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

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

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

- a. is derived from a process that uses whole tires as a feedstock, including chipping for the purpose of fuel recovery, granulating and grinding,
- b. adheres to established engineering or other appropriate specifications or to established product end-user specifications or customer conditions of acceptance,
- c. has a demonstrated benefit associated with the end use, and
- d. can be used as a substitute for or in conjunction with a commercial product or raw material;

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

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

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

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

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

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

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

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

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

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

a. at the time any tire:

- (1) for an automobile as defined in the Oklahoma Used Tire Recycling Act or a tire with a rim diameter of less than or equal to nineteen and one-half

(19 1/2) inches is sold by a tire dealer, there shall be assessed a used tire recycling fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and ninety cents (\$2.90) per tire,

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

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

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

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

c. at any time a vehicle other than an automobile as defined by the Oklahoma Used Tire Recycling Act with a tire rim diameter of greater than nineteen and one-half (19 1/2) inches is first registered in this state, there shall be assessed a used tire recycling fee of ~~Three Dollars and fifty cents (\$3.50)~~ Five Dollars and fifty cents (\$5.50) per tire, except as

otherwise provided by subparagraphs e, f and g of this paragraph,

- d. at any time a trailer or semitrailer with a tire rim diameter of less than or equal to nineteen and one-half (19 1/2) inches is first titled in this state, there shall be assessed a used tire recycling fee of ~~Two Dollars and fifty cents (\$2.50)~~ Two Dollars and ninety cents (\$2.90) per tire,
- e. at any time a motorcycle or motor-driven cycle is first registered in this state, there shall be assessed a used tire recycling fee of One Dollar (\$1.00) per tire,
- f. at the time a motor vehicle is first titled in this state, to be registered under the provisions of Section 1120 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Seven Dollars (\$7.00), and
- g. at the time a trailer or semitrailer is first titled in this state, to be registered under the provisions of Section 1133 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Five Dollars (\$5.00).

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

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

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

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

3. For 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, there shall be assessed a used tire recycling fee of Eight Dollars (\$8.00) per tire. No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch. The customer may return the used tire to the tire dealer at a later date and shall be assessed the proper fee.

4. For 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, there shall be assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per tire. No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch. The customer may return the used tire to the tire dealer at a later date and shall be assessed the proper fee.

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

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

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

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

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

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

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

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

SECTION 3. AMENDATORY 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), 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%)~~ twenty-four and one-tenth percent (24.1%) of the funds produced by the ~~two-dollar-and-fifty-cent~~ two-dollar-and-ninety-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%), not to exceed Twenty Thousand Dollars (\$20,000.00) per month, to the Oklahoma Tax Commission and five and three-fourths percent (5.75%), not to exceed Fifty Thousand Dollars (\$50,000.00) per month, 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~~ Used Tire Recycling Indemnity 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~~ tire-derived product 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~~ tire-derived product 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~~ tire-derived product.

2. The production of ~~crumb rubber~~ tire-derived product 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~~ tire-derived product.

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 4. AMENDATORY 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), is amended to read as follows:

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

1. Own or operate a site used for the storage, collection or disposal of more than fifty used tires except at a site or facility permitted or approved by the Department of Environmental Quality to accept used tires. The provisions of this paragraph shall not apply to tire manufacturers, retailers, wholesalers and retreaders who store a total of no more than two thousand five hundred used tires at their place of business or an ancillary off-premises storage site approved by the Department, and who are currently in compliance with applicable Oklahoma Tax Commission requirements;

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

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

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

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

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

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

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

E. 1. Except as otherwise ordered by the court, if the administrative enforcement process for a violation of an order issued by the Department for remediation, corrective action or cleanup of an illegal tire dump has been exhausted, or criminal proceedings for paragraph 1 or 2 of subsection A of this section have resulted in a conviction, guilty plea or nolo contendere plea, the Department or a representative of the Department, upon notice to

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

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

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

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

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

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 Senate the 2nd day of May, 2019.

Presiding Officer of the Senate

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

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____