

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4   COMMITTEE SUBSTITUTE  
5   FOR ENGROSSED  
6   SENATE BILL NO. 878

By: Leewright of the Senate

and

Hilbert, **Conley** and  
**McEntire** of the House

10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to the Oklahoma Used Tire Recycling  
12   Act; amending 27A O.S. 2011, Sections 2-11-401.1 and  
13   2-11-401.2, as amended by Sections 1 and 2, Chapter  
14   286, O.S.L. 2017 (27A O.S. Supp. 2018, Sections 2-11-  
15   401.1 and 2-11-401.2), which relate to definitions  
16   and used tire recycling fees; defining terms;  
17   deleting terms; modifying fee schedule for certain  
18   tires; amending 27A O.S. 2011, Section 2-11-401.4, as  
19   last amended by Section 1, Chapter 211, O.S.L. 2018  
20   (27A O.S. Supp. 2018, Section 2-11-401.4), which  
21   relates to the allocation of the Used Tire Recycling  
22   Indemnity Fund; modifying allocation; clarifying  
23   statutory language; modifying limit to certain  
24   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.

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

2 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,  
3 as amended by Section 1, Chapter 286, O.S.L. 2017 (27A O.S. Supp.  
4 2018, Section 2-11-401.1), is amended to read as follows:

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

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

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

10 ~~2.~~ 3. "Commission" means the Oklahoma Tax Commission;

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

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

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

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

19 ~~6.~~ 7. "Granulated rubber" means particulate rubber composed of  
20 mainly non-spherical particles that span a broad range of maximum  
21 particle dimensions, from below four hundred twenty-five thousandths  
22 (0.425) of a millimeter (40 mesh) to twelve (12) millimeters (0.47  
23 inches) pursuant to current ASTM standards;

24

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

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

8        ~~7.~~ 10. "Motor-driven cycle" means a motor vehicle of a type  
9 defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

10        ~~8.~~ 11. "Motor vehicle" means the same as defined in Section 1-  
11 134 of Title 47 of the Oklahoma Statutes;

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

14            a.     unpermitted dumps which did not exist when the owner  
15                    took possession of the property where the tires are  
16                    located, and were created without the consent of or  
17                    benefit to the owner of the property, and

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

20        ~~10.~~ 13. "Reusable tire" means a tire that has been previously  
21 used on a vehicle, not currently mounted on a vehicle, but can be  
22 legally placed into service for vehicle use in Oklahoma;

23        ~~11.~~ 14. "Semitrailer" means the same as defined in Section 1-  
24 162 of Title 47 of the Oklahoma Statutes;

1       ~~12.~~ 15. "Tire" means any solid or air-filled covering for  
2 vehicle wheels;

3       ~~13.~~ 16. "Tire chips" means pieces of scrap tires that have a  
4 basic geometrical shape and are generally between twelve (12)  
5 millimeters (0.47 inches) and fifty (50) millimeters (1.97 inches)  
6 in size and have most of the wire removed pursuant to current ASTM  
7 standards;

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

10       ~~14.~~ 18. "Tire-derived aggregate" means pieces of scrap tires  
11 that have a basic geometrical shape and are generally between twelve  
12 (12) millimeters (0.47 inches) and three hundred five (305)  
13 millimeters (12.01 inches) in size and are intended for use in civil  
14 engineering applications pursuant to ASTM standards;

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

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

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

- 22           a.   is derived from a process that uses whole tires as a  
23               feedstock, including chipping for the purpose of fuel  
24               recovery, granulating and grinding,

1           b.   adheres to established engineering or other  
2           appropriate specifications or to established product  
3           end-user specifications or customer conditions of  
4           acceptance,

5           c.   has a demonstrated benefit associated with the end  
6           use, and

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

9           22.   "Tire shreds" means pieces of scrap tires that have a basic  
10          geometrical shape and are generally between fifty (50) millimeters  
11          (1.97 inches) and three hundred five (305) millimeters (12.01  
12          inches) in size pursuant to current ASTM standards;

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

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

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

22          ~~18.~~ 24.   "Used tire" means an unprocessed whole tire or tire  
23          part that can no longer be used for its originally intended purpose  
24          but can be beneficially reused as approved by the Department. Any

1 used tire collected in accordance with the requirements of the  
2 Oklahoma Used Tire Recycling Act is not considered to be discarded.  
3 A tire that can be used, reused or legally modified to be reused for  
4 its original intended purpose shall not be a used tire; and

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

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

12 ~~19.~~ 27. "Vehicle" means the same as defined in Section 1-186 of  
13 Title 47 of the Oklahoma Statutes.

14 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,  
15 as amended by Section 2, Chapter 286, O.S.L. 2017 (27A O.S. Supp.  
16 2018, Section 2-11-401.2), is amended to read as follows:

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

20 a. at the time any tire:

21 (1) with a rim diameter of less than or equal to  
22 nineteen and one-half (19 1/2) inches is sold by  
23 a tire dealer, there shall be assessed a used  
24 tire recycling fee of ~~Two Dollars and fifty cents~~

1                   ~~(\$2.50)~~ Two Dollars and ninety cents (\$2.90) per  
2                   tire,

3           (2)   with a rim diameter greater than nineteen and  
4                   one-half (19 1/2) inches and a tread width of  
5                   twelve (12) inches or less is sold by a tire  
6                   dealer, there shall be assessed a used tire  
7                   recycling fee of ~~Three Dollars and fifty cents~~  
8                   ~~(\$3.50)~~ Five Dollars and fifty cents (\$5.50) per  
9                   tire,

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

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

20          b.    at any time a motor vehicle with a tire rim diameter  
21                   of less than or equal to nineteen and one-half (19  
22                   1/2) inches is first registered in this state, there  
23                   shall be assessed a used tire recycling fee of ~~Two~~  
24                   ~~Dollars and fifty cents (\$2.50)~~ Two Dollars and ninety

1           cents (\$2.90) per tire, except as otherwise provided  
2           by subparagraphs e and f of this paragraph,

3           c.    at any time a vehicle with a tire rim diameter of  
4               greater than nineteen and one-half (19 1/2) inches is  
5               first registered in this state, there shall be  
6               assessed a used tire recycling fee of ~~Three Dollars~~  
7               ~~and fifty cents (\$3.50)~~ Five Dollars and fifty cents  
8               (\$5.50) per tire, except as otherwise provided by  
9               subparagraphs e, f and g of this paragraph,

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

16          e.   at any time a motorcycle or motor-driven cycle is  
17               first registered in this state, there shall be  
18               assessed a used tire recycling fee of One Dollar  
19               (\$1.00) per tire,

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

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

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

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

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

19          2.   For tires used on implements of husbandry and agricultural  
20   equipment with a rim diameter of greater than nineteen and one-half  
21   (19 1/2) inches and that are less than thirty (30) inches in total  
22   diameter, there shall be assessed a used tire recycling fee of ~~Three~~  
23   ~~Dollars and fifty cents (\$3.50)~~ Five Dollars and fifty cents (\$5.50)  
24   per tire.

1        3. For tires used on implements of husbandry and agricultural  
2 equipment that are greater than thirty (30) inches in total diameter  
3 and less than or equal to forty-four (44) inches in total diameter,  
4 there shall be assessed a used tire recycling fee of Eight Dollars  
5 (\$8.00) per tire. No fee shall be assessed by a tire dealer if the  
6 customer retains the used agricultural tire for use on a farm or  
7 ranch. The customer may return the used tire to the tire dealer at  
8 a later date and shall be assessed the proper fee.

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

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

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

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

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

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

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

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

22        F. All penalties or interest imposed by this section shall be  
23 recoverable by the Tax Commission as a part of the fee imposed and  
24

1 all penalties and interest shall be apportioned the same as the fee  
2 on which the penalties or interest are collected.

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

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

17 B. The monies accruing annually to the Used Tire Recycling  
18 Indemnity Fund shall be allocated first to the Department of  
19 Environmental Quality Revolving Fund, to be used for implementing  
20 applicable requirements related to the control of mobile and area  
21 sources of air emissions, for monitoring and modeling the impacts on  
22 Oklahoma of air pollution from other states, for implementing and  
23 enforcing other applicable air pollution control requirements or for  
24 other environmental programs or projects. The amount of money

1 allocated for this purpose shall be ~~twenty-eight percent (28%)~~  
2 twenty-four and one tenth percent (24.1%) of the funds produced by  
3 the ~~two-dollar-and-fifty-cent~~ Two Dollars and ninety cents (\$2.90)  
4 per tire fee assessed pursuant to division (1) of subparagraph a of  
5 paragraph 1 of subsection A of Section 2-11-401.2 of this title and  
6 subparagraph b of paragraph 1 of subsection A of Section 2-11-401.2  
7 of this title; provided, in no event shall the amount allocated  
8 annually exceed the 3-year average of the total fiscal year amounts  
9 allocated in fiscal years 2015, 2016 and 2017 and any amount in  
10 excess of the 3-year average shall be placed to the credit of the  
11 General Revenue Fund. After this allocation is deducted, the  
12 balance of the monies shall be allocated as follows:

13 1. Two and one-fourth percent (2.25%), not to exceed Twenty  
14 Thousand Dollars (\$20,000.00) per month, to the Oklahoma Tax  
15 Commission and five and three-fourths percent (5.75%), not to exceed  
16 Fifty Thousand Dollars (\$50,000.00) per month, to the Department of  
17 Environmental Quality for the purpose of administering the  
18 requirements of the Oklahoma Used Tire Recycling Act; provided, in  
19 no event shall either of the amounts allocated annually pursuant to  
20 this paragraph exceed the 3-year average of the total fiscal year  
21 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount  
22 in excess of the 3-year average shall be placed to the credit of the  
23 ~~General Revenue~~ Used Tire Recycling Indemnity Fund; and  
24

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

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

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

13            a. facilities that process used tires by altering the  
14 form of the used tires but do not produce ~~crumb rubber~~  
15 tire-derived product shall not receive compensation  
16 until the facility documents the sale and movement of  
17 the processed used tire material off-site to a third  
18 party,

19            b. facilities shall report and certify used tire  
20 processing activity in terms of weight. The facility  
21 shall by sworn affidavit provide to the Department  
22 sufficient information to verify that the facility has  
23 processed used tires and sold processed used tires for  
24

1 actual recycling or reuse in accordance with the  
2 purposes of the Oklahoma Used Tire Recycling Act, and  
3 c. to be eligible for compensation, a facility shall not  
4 have accumulated more processed material than the  
5 amount for which the facility has provided financial  
6 assurance under its solid waste permit or the amount  
7 accumulated from three (3) years of operation,  
8 whichever is less;

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

1           b.    Compensation under this paragraph shall not be payable  
2                   until the used tires have been actually processed  
3                   according to the solid waste permit for the facility  
4                   or actually used for energy or fuel recovery.  A TDF  
5                   facility that collects and transports whole used tires  
6                   shall be eligible for compensation under this  
7                   paragraph only for those whole used tires consumed by  
8                   that facility.

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

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

21                  (1)  demonstrate to the satisfaction of the Department  
22                          that the facility is regularly engaged in the  
23                          collection, transportation and delivery of used  
24                          tires to a used tire recycling facility or to a

1 TDF facility, on a statewide basis, and from each  
2 county of the state,

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

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

19 e. In lieu of proof of remitted tire recycling fees, the  
20 used tire recycling facility or TDF facility shall  
21 accept proof of purchase of a salvage vehicle  
22 registered in Oklahoma by an automotive dismantler and  
23 parts recycler, licensed pursuant to the Automotive  
24 Dismantlers and Parts Recycler Act, for the collection

1 and transportation of up to five used tires per  
2 salvage vehicle purchased on or after January 1, 1996;

- 3 3. a. Compensation to a unit of local or county government  
4 that submits to the Department for approval a plan for  
5 the use of baled used tires in an engineering project.  
6 Compensation shall be at the rate of fifty cents  
7 (\$0.50) per tire.
- 8 b. The plan shall be approved by the Department before  
9 construction of the project begins.
- 10 c. Any unit of local or county government baling used  
11 tires shall not accumulate more than fifty used tire  
12 bales prior to beginning construction of an approved  
13 project.
- 14 d. Used tires baled pursuant to this paragraph cannot be  
15 obtained from tire manufacturers, retailers,  
16 wholesalers, retreaders, or automotive dismantlers and  
17 parts recyclers.
- 18 e. Any unit of local or county government authorized to  
19 receive reimbursement for the use of baled used tires  
20 in an engineering project shall report and certify  
21 whole used tires by number. The governmental unit  
22 shall by sworn affidavit provide sufficient  
23 information to the Department to verify that the unit  
24

1           has utilized the tires in accordance with the purposes  
2           of the Oklahoma Used Tire Recycling Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

11 G. Accrued funding for the purposes specified in subsection F  
12 of this section shall not exceed Five Hundred Thousand Dollars  
13 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is  
14 reached, any additional funds shall be distributed as additional  
15 compensation under paragraph 1 of subsection C of this section.

16 H. 1. Used tire recycling facilities and TDF facilities that  
17 collect, transport and process tires used on implements of husbandry  
18 and agricultural equipment that are greater than thirty (30) inches  
19 in total diameter and less than or equal to forty-four (44) inches  
20 in total diameter shall be eligible for compensation at a rate of  
21 Eight Dollars (\$8.00) 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 2. Used tire recycling facilities and TDF facilities that  
8 collect, transport and process tires used on implements of husbandry  
9 and agricultural equipment that are greater than forty-four (44)  
10 inches in total diameter and less than or equal to seventy-two (72)  
11 inches in total diameter and not more than thirty (30) inches wide,  
12 shall be eligible for compensation at the rate of Sixteen Dollars  
13 (\$16.00) 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 I. Used tire recycling facilities, TDF facilities, or persons,  
23 corporations or other legal entities authorized by the provisions of  
24 the Oklahoma Used Tire Recycling Act to receive reimbursement shall

1 demonstrate that the facilities or legal entities have successfully  
2 complied with the requirements of the Oklahoma Used Tire Recycling  
3 Act through the filing of appropriate applications, reports, and  
4 other documentation that may be required by the Tax Commission and  
5 the Department.

6 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,  
7 as amended by Section 4, Chapter 286, O.S.L. 2017 (27A O.S. Supp.  
8 2018, Section 2-11-401.7), is amended to read as follows:

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

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

20 2. Dispose of used tires at any site or facility other than a  
21 site or facility for which a permit has been issued, or which has  
22 been otherwise authorized by the Department;  
23  
24

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

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

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

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

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

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

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

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

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

20 F. Notwithstanding the provisions of Section 2-3-504 of this  
21 title or any other remedy authorized by law, any peace officer of  
22 this state or of any political subdivision of this state may issue a  
23 citation to any person committing a violation of paragraph 1, 2, 3  
24 or 4 of subsection A of this section. Such citation shall be in an

1 amount not to exceed One Hundred Dollars (\$100.00) for the first  
2 offense, not to exceed Two Hundred Dollars (\$200.00) for the second  
3 offense and not to exceed Five Hundred Dollars (\$500.00) for the  
4 third or subsequent offense. The penalties collected from the  
5 payment of such citations shall not include court costs and shall be  
6 divided as follows:

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

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

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

13 SECTION 6. It being immediately necessary for the preservation  
14 of the public peace, health or safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

17  
18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
19 04/01/2019 - DO PASS, As Amended and Coauthored.  
20  
21  
22  
23  
24