

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 506

By: McCortney

AS INTRODUCED

An Act relating to the environment and natural resources; 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 Used Tire Recycling Indemnity Fund; providing exception for prohibition against certain compensation for used tires; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.4, as last amended by Section 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, except compensation shall be provided to an out-of-state, tire-derived fuel or TDF facility that also maintains a TDF facility 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

1 transport and deliver used tires collected from Oklahoma to an out-  
2 of-state used tire recycling facility or TDF facility but shall not  
3 be eligible for compensation from the Used Tire Recycling Indemnity  
4 Fund for those used tires, except as provided in this subsection.  
5 To be eligible, applicants for compensation shall be in compliance  
6 with the Oklahoma Used Tire Recycling Act.

7       B. The monies accruing annually to the Used Tire Recycling  
8 Indemnity Fund shall be allocated first to the Department of  
9 Environmental Quality Revolving Fund, to be used for implementing  
10 applicable requirements related to the control of mobile and area  
11 sources of air emissions, for monitoring and modeling the impacts on  
12 Oklahoma of air pollution from other states, for implementing and  
13 enforcing other applicable air pollution control requirements or for  
14 other environmental programs or projects. The amount of money  
15 allocated for this purpose shall be twenty-eight percent (28%) of  
16 the funds produced by the two-dollar-and-fifty-cent per tire fee  
17 assessed pursuant to division (1) of subparagraph a of paragraph 1  
18 of subsection A of Section 2-11-401.2 of this title and subparagraph  
19 b of paragraph 1 of subsection A of Section 2-11-401.2 of this  
20 title; provided, in no event shall the amount allocated annually  
21 exceed the 3-year average of the total fiscal year amounts allocated  
22 in fiscal years 2015, 2016 and 2017 and any amount in excess of the  
23 3-year average shall be placed to the credit of the General Revenue  
24

1 Fund. After this allocation is deducted, the balance of the monies  
2 shall be allocated as follows:

3 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax  
4 Commission and five and three-fourths percent (5.75%) to the  
5 Department of Environmental Quality for the purpose of administering  
6 the requirements of the Oklahoma Used Tire Recycling Act; provided,  
7 in no event shall either of the amounts allocated annually pursuant  
8 to this paragraph exceed the 3-year average of the total fiscal year  
9 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount  
10 in excess of the 3-year average shall be placed to the credit of the  
11 General Revenue Fund; and

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

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

20 1. Compensation to used tire facilities for used tire  
21 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of  
22 processed tire material. For compensation the following conditions  
23 shall apply:  
24

- a. facilities that process used tires by altering the form of the used tires but do not produce crumb rubber shall not receive compensation until the facility documents the sale and movement of the processed used tire material off-site to a third party,
- b. facilities shall report and certify used tire processing activity in terms of weight. The facility shall by sworn affidavit provide to the Department sufficient information to verify that the facility has processed used tires and sold processed used tires for actual recycling or reuse in accordance with the purposes of the Oklahoma Used Tire Recycling Act, and
- c. to be eligible for compensation, a facility shall not have accumulated more processed material than the amount for which the facility has provided financial assurance under its solid waste permit or the amount accumulated from three (3) years of operation, whichever is less;

2. a. Compensation to used tire recycling facilities or TDF facilities at the rate of Fifty-three Dollars (\$53.00) per ton of whole used tires for the collection and transportation of used tires from Oklahoma tire dealers, automotive dismantlers and parts recyclers, solid waste landfill sites, and dumps certified by the

1 Department priority cleanup list, and delivering the  
2 tires to a used tire recycling facility or TDF  
3 facility. The collection and transportation of used  
4 tires shall be provided by the used tire recycling  
5 facility or TDF facility at no additional cost to the  
6 tire dealer or automotive dismantler and parts  
7 recycler or to the Fund. The used tire recycling  
8 facility or TDF facility shall collect from any  
9 location at which there are at least three hundred  
10 used tires.

11 b. Compensation under this paragraph shall not be payable  
12 until the used tires have been actually processed  
13 according to the solid waste permit for the facility  
14 or actually used for energy or fuel recovery. A TDF  
15 facility that collects and transports whole used tires  
16 shall be eligible for compensation under this  
17 paragraph only for those whole used tires consumed by  
18 that facility.

19 c. No tire dealer shall charge any customer any  
20 additional fee for the management, recycling, or  
21 disposal of any used tire upon which the used tire  
22 recycling fee has been remitted to the Tax Commission.  
23 For customers who choose not to leave a used tire upon  
24 which the used tire recycling fee has been remitted to

1 the Tax Commission, the tire dealer shall issue a  
2 receipt which entitles the customer to deliver the  
3 used tire to the dealer at a later date.

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

7 (1) demonstrate to the satisfaction of the Department  
8 that the facility is regularly engaged in the  
9 collection, transportation and delivery of used  
10 tires to a used tire recycling facility or to a  
11 TDF facility, on a statewide basis, and from each  
12 county of the state,

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

19 (3) annually demonstrate that at least three to six  
20 percent (3-6%) of the tires were collected from  
21 tire dumps or landfills on the Department  
22 priority cleanup list or community-wide cleanup  
23 events approved by the Department. The  
24 Department is authorized to determine

1                   periodically the applicable percentage within the  
2                   specified range set forth in this division based  
3                   on the number of tires remaining in illegal dumps  
4                   and available funding.

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

13       3.    a.    Compensation to a unit of local or county government  
14                that submits to the Department for approval a plan for  
15                the use of baled used tires in an engineering project.  
16                Compensation shall be at the rate of fifty cents  
17                (\$0.50) per tire.

18           b.    The plan shall be approved by the Department before  
19                construction of the project begins.

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

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

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

13           4.   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 under this subsection according to  
17                  the percentage of used tires processed, collected and transported,  
18                  or utilized.

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



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

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

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

11       5. 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 according to the percentage of used  
15 tires intended for energy or fuel recovery or the production of  
16 crumb rubber.

17       E. 1. After the allocations under subsections B, C and D of  
18 this section are made, any remaining monies in the Fund shall be  
19 available for capital investment reimbursement to used tire  
20 facilities and TDF facilities for the purchase of equipment  
21 necessary to utilize used tires. Only equipment purchased on or  
22 after January 1, 1995, shall be eligible. The facilities are  
23 eligible for compensation at a rate of Twenty Dollars (\$20.00) per  
24 ton of used tires used. Total reimbursement shall not exceed one

1 hundred percent (100%) of the capital investment in eligible  
2 equipment. The facilities may apply for compensation monthly to the  
3 Department of Environmental Quality and shall supply any information  
4 required by the Department.

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

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

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

1 Department determines the qualified applicant has not remediated the  
2 tires in the tire dump to meet reference conditions of comparable  
3 property in the immediate area; and

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

19 G. Accrued funding for the purposes specified in subsection F  
20 of this section shall not exceed Five Hundred Thousand Dollars  
21 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is  
22 reached, any additional funds shall be distributed as additional  
23 compensation under paragraph 1 of subsection C of this section.  
24

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 2. This act shall become effective November 1, 2019.

16  
17 57-1-1175 CB 1/16/2019 6:16:36 PM  
18  
19  
20  
21  
22  
23  
24  
25