

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senate Public, Health, Welfare & Labor Committee**

A Bill

ACT 1315 OF 1995
SENATE BILL 451

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE
9 ANNOTATED § 8-9-401, ET SEQ., PERTAINING TO WASTE TIRE
10 RECYCLING; TO EXPAND AND CLARIFY USES OF WASTE TIRE GRANT
11 FUNDS; TO PROVIDE CONSUMER PROTECTION; AND FOR OTHER
12 PURPOSES."

Subtitle

15 "AN ACT TO AMEND VARIOUS SECTIONS OF
16 ARKANSAS CODE PERTAINING TO WASTE TIRE
17 RECYCLING."

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code Annotated § 8-9-402 is amended to read as
22 follows:

23 "8-9-402. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) Automobile tire means any tire with a rim size less than nineteen
26 point five (19.5) inches;

27 (2) Compacted and baled tires means tires that have been mechanically
28 compressed and tied with interlocking wrappings which have been approved by
29 the Department of Pollution Control and Ecology;

30 (3) Motor vehicle means an automobile, motorcycle, truck, trailer,
31 semitrailer, truck tractor and semitrailer combination, or any other vehicle
32 operated on the roads of this state, used to transport persons or property and
33 propelled by power other than muscular power, but the term does not include
34 traction engines, road rollers, such vehicles as run only upon a track,
35 bicycles, mopeds, or farm tractors and trailers;

36 (4) Tire means a continuous solid or pneumatic rubber covering which

1 is used for encircling the wheel of a motor vehicle;

2 (5) Tire manufacturer means a manufacturing operation engaged in the
3 final assembly of the basic components of a tire;

4 (6) Truck or specialty tire means any tire with a rim size of
5 nineteen point five (19.5) inches or larger;

6 (7) Used tire means a tire that is repairable or retreadable for its
7 original intended purpose, but shall not include a tire being held for ninety
8 (90) days or less for the purpose of retreading or repairing the tire;

9 (8) Waste tire means a tire that is no longer repairable or
10 retreadable or no longer suitable for its original intended purpose because of
11 wear, damage, or defect;

12 (9) Waste tire collection center means a site where used or waste
13 tires are collected from the public prior to being offered for recycling and
14 where fewer than three thousand (3,000) loosely stored tires are kept on the
15 site on any given day or up to a maximum of ten thousand (10,000) tires which
16 have been compacted or baled;

17 (10) Waste tires originating from a tire manufacturer means those new
18 tires which originate from a tire assembly process and are determined by the
19 tire manufacturer to be either defective or unfit for use on a motor vehicle;

20 (11) Waste tire processing facility means a site where equipment is
21 used to cut, chip, grind, or otherwise alter used or waste tires; and

22 (12) Waste tire site means a site at which one thousand (1,000) or
23 more used or waste tires are accumulated, whether loosely stored or compacted
24 and baled or a combination thereof."
25

26 SECTION 2. Arkansas Code Annotated § 8-9-403 is amended to read as
27 follows:

28 "8-9-403. Operation of waste tire sites - Requirements and prohibited
29 activities.

30 (a) (1) The owner or operator of any waste tire site shall, within six
31 (6) months after July 15, 1991, provide the department with information
32 concerning the site's location, size, and the approximate number of waste
33 tires that are accumulated at the site and shall provide a written plan
34 specifying a method and time schedule, subject to approval by the department,
35 for the removal, disposal, or recycling of the tires.

1 (2) The owner or operator shall implement the approved plan
2 according to its schedule.

3 (b) No person shall cause or permit the open burning of tires in the
4 State of Arkansas.

5 (c)(1) A person shall not maintain a waste tire site unless the site is
6 an integral part of that person's or another person's permitted waste tire
7 processing facility.

8 (2) It is illegal for any person to dispose of used or waste
9 tires or portions of used or waste tires in the state, unless such tires are
10 disposed of for processing, or collected for processing, at a permitted waste
11 tire processing facility, at a waste tire site which is an integral part of a
12 permitted waste tire processing facility, at a waste tire collection center,
13 or at a permitted solid waste disposal facility.

14 (3)(A) Whole tires shall not be deposited in a landfill as a
15 method of ultimate disposal unless shredded or split into sufficiently small
16 parts to assure their proper disposal.

17 (B) Whole tires shall not be disposed of in a landfill
18 containing any other type of waste unless the tires are disposed of in a
19 separate area of the landfill and the area has been prepared in such a manner
20 that the tires can be recovered at a later date.

21 (4) A person who leases or owns real property may use waste tires
22 for soil erosion abatement and drainage purposes in accordance with procedures
23 approved by the commission, or to secure covers over silage, hay, straw, or
24 agricultural products.

25 (d)(1) The commission shall adopt regulations to carry out the
26 provisions of this section.

27 (2) The regulations shall:

28 (A) Provide for the administration of waste tire processing
29 facility permits, and for a fee for each permit which shall not exceed two
30 hundred fifty dollars (\$250) annually;

31 (B) Provide for the administration of waste tire hauler_s
32 licenses, waste tire collection center permits, and for a fee for each permit
33 which shall not exceed two hundred fifty dollars (\$250) annually;

34 (C) Set standards for waste tire processing facilities and
35 associated waste tire sites, waste tire collection centers, and waste tire

1 collectors;

2 (D) Establish procedures for administering the waste tire
3 grant program and issuing grants; and

4 (E) Authorize the final disposal of waste tires at a
5 permitted solid waste disposal facility, provided the tires have been cut into
6 sufficiently small parts to assure their proper disposal.

7 (e) A waste tire processing facility and/or collection center permit is
8 not required for:

9 (1) A tire retreading business where fewer than five hundred
10 (500) waste tires are kept on the business premises;

11 (2) A business that, in the ordinary course of business, removes
12 tires from motor vehicles if fewer than five hundred (500) of those tires are
13 kept on the business premises;

14 (3) A retail tire-selling business which is serving as a waste
15 tire collection center if fewer than five hundred (500) waste tires are kept
16 on the business premises.

17 (f) The commission shall encourage the voluntary establishment of waste
18 tire collection centers at retail tire-selling businesses, waste tire
19 processing facilities, and solid waste disposal facilities, to be open to the
20 public, at no cost, for the deposit of used and waste tires generated in the
21 State of Arkansas, except those generated by a tire manufacturer.

22 (g) (1) Waste tires originating from a tire manufacturer shall be
23 disposed of at either a permitted waste tire collection center or a permitted
24 waste tire processing facility for a fee to be established by either of those
25 facilities if disposed of in the State of Arkansas.

26 (2) Records of the disposition of the waste tires originating
27 from a tire manufacturer shall be maintained by that manufacturer for a period
28 of at least three (3) years and shall be available for review by the
29 department.

30 (h) The commission shall establish guidelines and adopt regulations for
31 a tire manifest system to monitor the sale and distribution of tires between
32 tire dealers, waste tire collectors, waste tire processing facilities, and
33 waste tire disposal facilities.

34 (i) Notwithstanding subsection (e) of this section, a retail
35 tire-selling business which is serving as a waste tire collection center may

1 keep up to one thousand (1,000) waste tires on the business premises without
2 obtaining a permit until a waste tire collection center becomes operational in
3 the regional solid waste management district where the business premises are
4 located."

5

6 SECTION 3. Arkansas Code Annotated § 8-9-404 is amended to read as
7 follows:

8 "8-9-404. Waste tire fees.

9 (a) There shall be imposed a fee upon the sale of each new motor
10 vehicle tire sold at retail.

11 (1) The fee shall be charged by the tire retailer to the person
12 who purchases a motor vehicle tire for use on a motor vehicle and not for
13 resale.

14 (2) Such fee shall be imposed at the rate of one dollar and fifty
15 cents (\$1.50) per automobile and truck tire.

16 (A) It shall be illegal for a tire retailer to collect any
17 additional fee, pursuant to this subchapter, for any other purpose, including
18 but not limited to disposal, transportation, or administration.

19 (B) It shall be the responsibility of the tire retailer to
20 accept, at no additional cost to the customer, any or all used or waste tires
21 for which a new replacement tire was purchased.

22 (C) For any used or waste tires collected through a tire
23 retailer_s business, the retailer shall ensure that said tires are transported
24 by a licensed hauler to a permitted waste tire collection center, a solid
25 waste management facility, a waste tire processing facility, or a registered
26 used tire dealer.

27 (3) Such fee shall be added to the total cost to the purchaser at
28 retail after all applicable sales taxes on the tires have been computed and
29 shall be separately stated on the invoice or bill of sale.

30 (4) The fee imposed, *less* ten percent (10%) of fees collected,
31 which shall be retained by the tire retailer as administration cost, shall be
32 paid monthly to the Director of the Department of Finance and Administration.

33 (5) (A) The fee shall be collected by the Director of the
34 Department of Finance and Administration and shall be subject to the Arkansas
35 Tax Procedure Act, § 26-18-101 et seq.

1 (B) (i) Each tire retailer and each new motor vehicle dealer
2 shall file a return with the Director of the Department of Finance and
3 Administration on or before the twentieth of each month showing the total fees
4 collected during the preceding calendar month and shall remit the fees with
5 the return.

6 (ii) The director shall prescribe the form and
7 contents of the return.

8 (6) The fee imposed by this section does not apply to recapped
9 tires or tires included as part of the equipment of a new motor vehicle.

10 (7) The terms _sold at retail_ and _retail sales_ do not include
11 the sale of new tires to a person solely for the purpose of resale, provided
12 the subsequent retail sale in this state is subject to the fee.

13 (b) The Department of Finance and Administration shall deposit the
14 proceeds of the waste tire fee in the State Treasury as special revenues and
15 shall credit the proceeds to the following special funds created on the books
16 of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer
17 of the State in the following proportions:

18 (1) A total of ninety percent (90%) of the proceeds to be
19 deposited into the fund known as the _Waste Tire Grant Fund_ herein created;

20 (2) A total of ten percent (10%) of the proceeds to be deposited
21 into the Arkansas Department of Pollution Control and Ecology Fee Fund as
22 created in § 8-1-105.

23 (c) In addition to all moneys appropriated by the General Assembly to
24 the Waste Tire Grant Fund, there shall be deposited in the Waste Tire Grant
25 Fund any federal government moneys designated to enter the Waste Tire Grant
26 Fund, any moneys received by the state as a gift or donation to the Waste Tire
27 Grant Fund, and all interest upon money deposited in the Waste Tire Grant
28 Fund.

29 (d) The Waste Tire Grant Fund shall be administered by the department,
30 which shall authorize grants from the fund according to the provisions of this
31 subchapter.

32 (e) For the purposes of this section, _proceeds of the fee_ shall mean
33 all funds collected and received by the Department of Finance and
34 Administration under this section, and interest and penalties on delinquent
35 waste tire fees.

1 (f) In addition to the fee imposed on new tires, a fee shall be imposed
2 at the rate of one dollar (\$1.00) on all waste automobile and truck tires that
3 are imported into Arkansas.

4 (1) The fee imposed shall be paid by the importer to the
5 Department of Finance and Administration in accordance with § 26-18-101 et
6 seq. and any regulations promulgated by the Department of Finance and
7 Administration.

8 (2) The Department of Finance and Administration shall deposit
9 the proceeds of this fee in the State Treasury as special revenues and shall
10 credit the proceeds to the special fund created on the books of the Treasurer
11 of State, the Auditor of State, and the Chief Fiscal Officer of the State to
12 be known as the Waste Tire Grant Fund, as described in subsection (b) of
13 this section.

14 (g) The Department of Pollution Control and Ecology is hereby
15 authorized to promulgate such rules and regulations necessary to administer
16 the fees, rates, tolls, or charges for services established by this section
17 and is directed to prescribe and collect such fees, rates, tolls, or charges
18 for the services delivered by the Department of Pollution Control and Ecology
19 in such manner as may be necessary to support the programs of the department
20 as directed by the Governor and the General Assembly."
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22 SECTION 4. Arkansas Code Annotated § 8-9-405 is amended to read as
23 follows:

24 "8-9-405. Waste tire grants.

25 (a) The department shall, by July 1, 1992, establish a program to make
26 waste tire grants to regional solid waste management boards which desire,
27 individually or collectively, to:

28 (1) Construct or operate, or contract for the construction or
29 operation of, a waste tire processing facility and equipment purchases
30 therefor;

31 (2) Contract for a waste tire processing facility service within
32 or outside the regional solid waste management district;

33 (3) Remove or contract for the removal of waste tires from
34 illegal waste tire sites within the regional solid waste management district;

35 (4) Perform or contract for the performance of research designed

1 to facilitate waste tire recycling;

2 (5) Establish waste tire collection centers at solid waste
3 disposal facilities, waste tire processing facilities, or waste tire
4 generators, that shall accept automobile and truck or specialty tires from the
5 public at no charge provided the waste tires had a waste tire management fee
6 collected at the time of retail sale; or

7 (6) Establish at least one (1) waste tire collection center
8 within the district that may accept all tires which a management fee was not
9 previously collected, including but not limited to mining, farming, or off-
10 the-road vehicle tires. Any fee charged for said tires must be first approved
11 by the Department.

12 (7) Provide incentives for establishing privately operated waste
13 tire collection centers for the public. This provision does not pertain to
14 off-the-road tires that are exempt from the tire management fee;

15 (8) Establish educational programs designed to inform the public
16 of available recycling options and programs;

17 (9) Fund additional transportation costs incurred as a result of
18 using waste tire disposal alternatives as a preference over landfill disposal;
19 or

20 (10) Use moneys for other purposes approved by the Department.

21 (b) Regional solid waste management boards may join together, pooling
22 their financial resources, when utilizing their grants for the purposes
23 described in this section.

24 (c) Grant funds for waste tire management programs shall be distributed
25 to the regional solid waste management boards.

26 (1) To be eligible to receive waste tire management grant funds,
27 regional solid waste management boards shall provide the Department with
28 quarterly financial and progress reports, as determined by the Department.

29 (2) Distribution of grant funds shall be based upon moneys
30 available in the fund and upon approved quarterly financial reports. Such
31 reports shall show funds expended on waste tire projects during the previous
32 quarter and expenses expected on waste tire projects during the next quarter
33 and any other information as determined by the department. Accordingly, and
34 upon Department approval, quarterly distributions shall be made to the boards.

35 (d) The department shall provide technical assistance, upon request, to

1 a regional solid waste management board desiring assistance in applying for
2 waste tire grants or choosing a method of waste tire management which would be
3 an eligible use of the grant funds."
4

5 SECTION 5. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.
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9 SECTION 6. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.
14

15 SECTION 7. Arkansas Code Annotated § 8-9-406 and all laws and parts of
16 laws in conflict with this act are hereby repealed.

17 */s/Bookout*
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19 APPROVED: 4-14-95
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