

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1234

Bill Subtitle: TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY ACT; TO COMMERCIALIZE THE USED TIRE RECYCLING AND ACCOUNTABILITY PROGRAM; TO CREATE THE ARKANSAS COMMERCE TIRE PROGRAM ACT; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsors: Reps. L. Fite, S. Berry and Sen. Rice

HB1234 replaces the "Used Tire Recycling and Accountability Act" with the "Arkansas Commerce Tire Program Act." The purpose of the program is to set and implement standards to be followed in the hauling, collection, storage, and recycling or disposal of recyclable tires and waste tires. Under current law, the program is managed by the Department of Energy and Environment - Division of Environmental Quality (DEQ) which funds used tire programs, including regional solid waste management boards and inter-district used tire programs. HB1234 states that it commercializes the program.

HB1234 modifies the entity responsible for collecting the fees levied under the program. Under current law, a tire retailer is responsible for collecting and remitting a "rim removal fee" when it sells a replacement tire, which creates a used or waste tire by removing it from the tire rim. A tire retailer is required to collect and remit a rim removal fee of \$3.00 per new tire and \$1.00 per used tire sold. The fees are required to be remitted to the Department of Finance and Administration (DFA). HB1234 eliminates the rim removal fee.

HB1234 also eliminates the import fee of \$1.00 per used tire that is imported into the state. The import fee is required to be paid by the importer and is deposited as special revenue. HB1234 also eliminates the \$3.00 fee charged to a commercial generator for each new tire that is sold to an end user. Both fees are currently deposited 93% into the Used Tire Recycling Fund and 7% into the DEQ Fee Trust Fund.

HB1234 instead levies a "tire environmental fee" on a "tire wholesaler." A tire wholesaler is required to collect a tire environmental fee of \$1.00 per tire sold, to be remitted to DFA. A "tire wholesaler" is defined as: a person who sells new tires or provides delivery of new tires to any one or more of the following:

- A municipality;
- A county;
- A state agency;
- A federal agency;
- A school district;
- A political subdivision of the state;
- A person who in the ordinary course of business buys tires in bulk for use on commercial vehicles;
- A tire retailer;
- A general merchandise store that also sells tires;
- An internet tire company that sells tires in Arkansas; or
- A tire importer.

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A tire wholesaler is defined as a person who sells or delivers new tires, so the fee would only be required on the sale of a new tire. Tire wholesalers are required to register with DFA, file monthly returns, and remit the tire environmental fees monthly.

HB1234 provides that the fees will be deposited into a Tire Environmental Abatement Fund instead of the Used Tire Recycling Fund. The rim removal fees under current law are used by DEQ to support used tire recycling programs, abate and rehabilitate waste tire dumping sites, and to provide market and economic incentives. HB1234 limits the use of the tire environmental fees to the abatement of waste tire dumping sites and administrative costs. DEQ is required to report annually to the PEER subcommittee on the use of the fees.

HB1234 provides the ability of DEQ or law enforcement officers to assess a \$100 fine per tire on a waste tire site.

HB1234 contains an emergency clause and would become effective on July 1, 2023.

Revenue Impact :

FY2024 - \$5.2M reduction in fees collected.

[Revenue Impact is based upon FY2022 reported new tires sold of 2,844,556 and \$8,086,790 in waste tire fee collections. Using the FY2022 number of new tires sold, HB1234 would levy a \$1.00 tire environmental fee for each new tire sold resulting in the revenue of \$2,844,556, representing an estimated revenue loss of \$5,242,234.00.]

Taxpayer Impact :

A tire retailer, commercial generator, or tire importer would no longer be required to collect the fees levied under Used Tire Recycling and Accountability Act. A tire wholesaler would be required to collect the \$1.00 tire environmental fee for each new tire sold.

Resources Required :

This bill will require programming and software changes for the reporting of the tire environmental fee by tire wholesalers. Estimated costs for changes to Arkansas Integrated Revenue System (AIRS) are \$20,000.00.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

DFA staff would need to be trained on the new program.

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Other Comments :

HB1234 contains language that creates uncertainty because the Used Tire Recycling Fund will cease to exist as of July 1, 2023 to be replaced by the Tire Environmental Abatement Fund. This means the returns filed by July 20, 2023 will be rim removal fee funds collected for June 2023 under the Used Tire Recycling and Accountability Act. HB1234 is unclear if the fees, interest, and penalties for the period of June 2023 or earlier periods are to be deposited into the new account. Additionally, it is unclear whether any balance in the Used Tire Recycling as of June 30, 2023 should be transferred to the new Tire Environmental Abatement Fund.

Legal Analysis :

None.