

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative Goodwin

5 By: Senator Mahony

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7

8

A Bill

HOUSE BILL

1872

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
10 8, CHAPTER 9, SUBCHAPTER 4; TO EXPAND AND CLARIFY USES OF
11 WASTE TIRE GRANT FUNDS; TO PROVIDE CONSUMER PROTECTION
12 CLAUSES; TO ADJUST THE WASTE TIRE FEE ON TRUCK TIRES; TO
13 REPEAL ARKANSAS CODE 8-9-406; AND FOR OTHER PURPOSES."

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Subtitle

16

"AN ACT PERTAINING TO WASTE TIRES."

17

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

19

20 SECTION 1. Arkansas Code 8-9-402 is amended to read as follows:

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"8-9-402. Definitions.

22

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

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(1) Automobile tire means any tire with a rim size less than

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nineteen and one-half inches (19.5");

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(2) Compacted and baled tires means tires that have been

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mechanically compressed and tied with interlocking wrappings which have been
27 approved by the Department of Pollution Control and Ecology;

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(3) Motor vehicle means an automobile, motorcycle, truck, trailer,

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semitrailer, truck tractor and semitrailer combination, or any other vehicle
30 operated on the roads of this state, used to transport persons or property

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and propelled by power other than muscular power, but the term does not

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include traction engines, road rollers, such vehicles as run only upon a

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track, bicycles, mopeds, or farm tractors and trailers;

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(4) Tire manufacturer means a manufacturing operation engaged in the

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final assembly of the basic components of a tire;

1 (5) Truck or specialty tire means any tire with a rim size of
2 nineteen and one-half inches (19.5") or larger;

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

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

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

14 (9) Waste tire hauler means a person who transports used and waste
15 tires from one place to another over public highways;

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

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; and

25 (13) Whole Tire means a continuous solid or pneumatic rubber covering
26 which is used for encircling the wheel of a motor vehicle."
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28 SECTION 2. Arkansas Code 8-9-403 is amended to read as follows:

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

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

1 for the removal, disposal, or recycling of the tires.

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

4 (b) No person shall cause or permit the open burning of tires in the
5 State of Arkansas. *Provided however, that this prohibition shall not apply*
6 *to the burning of tires to assist in the aerial application of fertilizer,*
7 *herbicides, pesticides, or other chemicals upon agricultural land or crops*
8 *nor shall this prohibition apply to the burning of tires to assist in the*
9 *burning of the remains of crops, rubble, or dead trees on agricultural land*
10 *nor shall this prohibition apply to the burning of tires to assist in pest*
11 *control on agricultural lands.*

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

15 (2) It is illegal for any person to dispose of used or waste
16 tires or portions of tires in the state, unless such tires are disposed of
17 for processing, or collected for processing, at a permitted waste tire
18 processing facility, at a waste tire site which is an integral part of a
19 permitted waste tire processing facility, at a waste tire collection center,
20 or at a permitted solid waste disposal facility.

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

24 (B) Whole tires shall not be deposited in a landfill
25 containing any other type of waste unless the tires are deposited in a
26 separate area of the landfill and the area has been prepared in such a manner
27 that the tires can be recovered at a later date.

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

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

34 (2) The regulations shall:

35 (A) Provide for the administration of waste tire

1 processing facility permits, and for a fee for each permit which shall not
2 exceed two hundred fifty dollars (\$250) annually;

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

6 (C) Set standards for waste tire processing facilities and
7 associated waste tire sites, waste tire collection centers, and waste tire
8 haulers;

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

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

14 (e) A waste tire processing facility or collection center permit is
15 not required for:

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

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

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

24 (f) The commission shall encourage the voluntary establishment of
25 waste tire collection centers at retail tire-selling businesses, waste tire
26 processing facilities, and solid waste disposal facilities, to be open to the
27 public for the deposit of used and waste tires generated in the State of
28 Arkansas, except those generated by a tire manufacturer.

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

33 (2) Records of the disposition of the waste tires originating
34 from a tire manufacturer shall be maintained by that manufacturer for a
35 period of at least three (3) years and shall be available for review by the

1 department.

2 (h) The commission shall establish guidelines and adopt regulations
3 for a tire manifest system to monitor the sale and distribution of tires
4 between tire dealers, waste tire haulers, waste tire processing facilities,
5 and waste tire disposal facilities.

6 (i) Notwithstanding subsection (e) of this section, a retail
7 tire-selling business which is serving as a waste tire collection center may
8 keep up to one thousand (1,000) waste tires on the business premises without
9 obtaining a permit until a waste tire collection center becomes operational
10 in the regional solid waste management district where the business premises
11 are located."

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13 SECTION 3. Arkansas Code 8-9-404 is amended to read as follows:

14 "8-9-404. Waste tire fees.

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

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

20 (2) Such fee shall be imposed at the rate of one dollar and
21 fifty cents (\$1.50) per automobile tire and three dollars (\$3.00) per truck
22 tire or specialty tire.

23 (A) It shall be illegal for a tire retailer to collect any
24 additional fee on automobile tires, pursuant to this subchapter, for any
25 other purpose, including but not limited to disposal, transportation, or
26 administration.

27 (B) It shall be the responsibility of the tire retailer to
28 accept, at no additional cost to the customer, any or all used or waste
29 automobile tires for which a new replacement tire was purchased, *provided*
30 *there is a free collection center in the district.*

31 (C) For any used or waste tires collected through a tire
32 retailer's business, the retailer shall ensure that said tires are
33 transported by a licensed hauler to a permitted waste tire collection center,
34 a solid waste management facility, a waste tire processing facility, or a
35 registered used tire dealer.

1 (3) *The fee imposed, less ten percent (10%) of fees collected*
2 *for automobile tires and truck or specialty tires, which shall be retained by*
3 *the tire retailer as administration cost, shall be paid monthly to the*
4 *Director of the Department of Finance and Administration.*

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

8 (B)(i) Each tire retailer shall file a return with the
9 Director of the Department of Finance and Administration on or before the
10 twentieth of each month showing the total fees collected during the preceding
11 calendar month and shall remit the fees with the return.

12 (ii) The director shall prescribe the form and
13 contents of the return.

14 (5) The fee imposed by this section does not apply to recapped
15 *tires or tires included as part of the equipment of a new motor vehicle.*

16 (6) The terms sold at retail and retail sales do not include
17 the sale of new tires to a person solely for the purpose of resale, provided
18 the subsequent retail sale in this state is subject to the fee.

19 (b) The Department of Finance and Administration shall deposit the
20 proceeds of the waste tire fee in the State Treasury as special revenues and
21 shall credit the proceeds to the following special funds created on the books
22 of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer
23 of the State in the following proportions:

24 (1) A total of ninety percent (90%) of the proceeds to be
25 deposited into the fund known as the Waste Tire Grant Fund herein created;

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

29 (c) In addition to all moneys appropriated by the General Assembly to
30 the Waste Tire Grant Fund, there shall be deposited in the Waste Tire Grant
31 Fund any federal government moneys designated to enter the Waste Tire Grant
32 Fund, any moneys received by the state as a gift or donation to the Waste
33 Tire Grant Fund, and all interest upon money deposited in the Waste Tire
34 Grant Fund.

35 (d) The Waste Tire Grant Fund shall be administered by the department,

1 which shall authorize grants from the fund according to the provisions of
2 this subchapter.

3 (e) For the purposes of this section, *_proceeds of the fee_ shall mean*
4 *all funds collected and received by the Department of Finance and*
5 *Administration under this section, and interest and penalties on delinquent*
6 *waste tire fees.*

7 (f) In addition to the fee imposed on new tires, a fee shall be
8 *imposed at the rate of one dollar fifty cents (\$1.50) on all waste automobile*
9 *tires imported into Arkansas, and three dollars (\$3.00) on all waste truck*
10 *tires imported into Arkansas.*

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

15 (2) The Department of Finance and Administration shall deposit
16 the proceeds of this fee in the State Treasury as special revenues and shall
17 credit the proceeds to the special fund created on the books of the Treasurer
18 of State, the Auditor of State, and the Chief Fiscal Officer of the State to
19 be known as the *_Waste Tire Grant Fund,_* as described in subsection (b) of
20 this section.

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

30 "8-9-405. Waste tire grants.

31 (a) The department shall establish a program to make waste tire grants
32 to regional solid waste management boards which desire, individually or
33 collectively, to:

34 (1) Construct or operate, or contract for the construction or
35 operation of, a waste tire processing facility and equipment purchases

1 therefor;

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

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

6 (4) Perform or contract for the performance of research designed
7 to facilitate waste tire recycling;

8 (5) Establish waste tire collection centers at solid waste
9 disposal facilities, waste tire processing facilities, or waste tire
10 generators, that may accept automobile and truck and specialty tires from the
11 public at no charge provided the waste tires had a waste tire management fee
12 *collected at the time of retail sale.*

13 (6) Establish at least one waste tire collection center within
14 the district that may accept all tires for which a management fee was not
15 previously collected, including but not limited to mining, farming, or off-
16 the-road vehicle tires. Any fee charged for said tires must be first
17 approved by the department;

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

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

23 (9) Fund additional transportation costs incurred as a result of
24 using waste tire disposal alternatives as a preference over landfill
25 disposal; or

26 (10) Use moneys for other purposes approved by the department.

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

30 (c) *Waste tire grant* funds for waste tire management programs shall be
31 distributed to the regional solid waste management boards.

32 (1) To be eligible to receive waste tire grant funds, regional
33 solid waste management boards shall provide the department with quarterly
34 financial and progress reports, as determined by the department.

35 (2) Distribution of *waste tire* grant funds shall be based upon

1 moneys available in the fund and upon *approved* quarterly financial reports.
2 The reports shall show funds expended on waste tire projects during the
3 previous quarter and expenses expected on waste tire projects during the next
4 quarter and any other information as determined by the department.
5 Accordingly, and upon department approval, quarterly distributions shall be
6 made to the boards.

7 (d) The department shall provide technical assistance, upon request,
8 to a regional solid waste management board desiring assistance in applying
9 for waste tire grants or choosing a method of waste tire management which
10 would be an eligible use of the *waste tire* grant funds."
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12 SECTION 5. Arkansas Code 8-9-406 is repealed.
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14 SECTION 6. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.
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18 SECTION 7. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.
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24 SECTION 8. All laws and parts of laws in conflict with this act are
25 hereby repealed.
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27 /s/Rep. Goodwin, et al
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