

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

SENATE BILL 451

4 By: Senate Public, Health, Welfare & Labor Committee
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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."
13

Subtitle

14 "AN ACT TO AMEND VARIOUS SECTIONS OF
15 ARKANSAS CODE PERTAINING TO WASTE TIRE
16 RECYCLING."
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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
26 nineteen 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
33 and propelled by power other than muscular power, but the term does not
34 include traction engines, road rollers, such vehicles as run only upon a
35 track, bicycles, mopeds, or farm tractors and trailers;

1 (4) Tire means a continuous solid or pneumatic rubber covering which
2 is used for encircling the wheel of a motor vehicle;

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

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

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

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

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

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

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

23 (12) Waste tire site means a site at which one thousand (1,000) or
24 more used or waste tires are accumulated, whether loosely stored or compacted
25 and baled or a combination thereof."
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27 SECTION 2. Arkansas Code Annotated § 8-9-403 is amended to read as
28 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.

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

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

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

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

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

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

28 (2) The regulations shall:

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

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

35 (C) Set standards for waste tire processing facilities and

1 associated waste tire sites, waste tire collection centers, and waste tire
2 collectors;

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

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

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

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

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

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

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

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

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

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

35 (i) Notwithstanding subsection (e) of this section, a retail

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

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

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

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

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

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

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

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

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

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

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

34 (5)(A) The fee shall be collected by the Director of the
35 Department of Finance and Administration and shall be subject to the Arkansas

1 Tax Procedure Act, § 26-18-101 et seq.

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

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

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

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

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

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

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

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

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

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

1 waste tire fees.

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

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

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

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

25 "8-9-405. Waste tire grants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 boards.

2 (d) The department shall provide technical assistance, upon request, to
3 a regional solid waste management board desiring assistance in applying for
4 waste tire grants or choosing a method of waste tire management which would
5 be an eligible use of the grant funds."

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7 SECTION 5. All provisions of this act of a general and permanent
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
9 Code Revision Commission shall incorporate the same in the Code.

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11 SECTION 6. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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

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/s/Bookout

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