

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S4/1/97 S4/2/97 H4/4/97

A Bill

SENATE BILL 675

4
5 By: Senators Fitch and Malone
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For An Act To Be Entitled

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9 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 8, CHAPTER 9,
10 SUBCHAPTER 4 OF THE ARKANSAS CODE *PERTAINING TO THE*
11 *STATE'S WASTE TIRE MANAGEMENT PROGRAM; AND FOR OTHER*
12 *PURPOSES.*
13

Subtitle

14
15 "AN ACT *PERTAINING TO THE STATE'S WASTE*
16 *TIRE MANAGEMENT PROGRAM.*"
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code 8-9-402 is amended to read as follows:

21 "8-9-402. Definitions.

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

23 (1) Automobile tire means any tire with a rim size less than nineteen
24 and one-half inches (19.5");

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

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

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

36 (5) Tire manufacturer means a manufacturing operation engaged in the

1 final assembly of the basic components of a tire;

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

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

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

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

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

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

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

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24 SECTION 2. Arkansas Code 8-9-403 is amended to read as follows:

25 "8-9-403. Operation of waste tire sites - Requirements and prohibited
26 activities.

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

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

36 (b) No person shall cause or permit the open burning of tires in the

1 State of Arkansas.

2 (c)(1) A person shall not maintain a waste tire site unless the site is
3 an integral part of that person's or another person's permitted waste tire
4 processing facility or collection center.

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

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

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

18 (4) A person who leases or owns real property may use waste tires
19 for soil erosion abatement and drainage purposes in accordance with procedures
20 approved by *the commission* and each Solid Waste Management District, or to
21 secure covers over silage, hay, straw, or agricultural products.

22 (d)(1) *The commission shall adopt* regulations to carry out the
23 provisions of this section.

24 (2) The regulations shall:

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

28 (B) Provide for the administration of waste tire hauler's
29 licenses, waste tire collection center permits, and for a fee for each permit
30 which shall not exceed two hundred fifty dollars (\$250) annually;

31 (C) Set standards for waste tire processing facilities and
32 associated waste tire sites, waste tire collection centers, and waste tire
33 collectors; and

34 (D) *Establish procedures for administering the waste tire*
35 *grant program and issuing grants; and*

36 (E) Authorize the final disposal of waste tires at a

1 permitted solid waste disposal facility, provided the tires have been cut into
2 sufficiently small parts to assure their proper disposal.

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

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

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

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

13 (f) *The commission and each Solid Waste Management District shall*
14 encourage the voluntary establishment of waste tire collection centers at
15 retail tire-selling businesses, waste tire processing facilities, and solid
16 waste disposal facilities, ~~to be open to the public, at no cost,~~ for the
17 deposit of used and waste tires generated in the State of Arkansas, except
18 those generated by a tire manufacturer.

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

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

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

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

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

"8-9-404. Waste tire fees.

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

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

(2)(A) Such fee shall be imposed at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar and seventy-five cents (\$1.75) per automobile and truck tire.

~~(A) It shall be illegal for a tire retailer to collect any additional fee, pursuant to this subchapter, for any other purpose, including, but not limited to, disposal, transportation, or administration.~~ (B) Solid Waste Management Districts are authorized to enact an additional fee on truck tires provided that their costs of properly removing and disposing of truck tires exceeds one dollar and seventy-five cents (\$1.75) per truck tire. Solid Waste Management Districts imposing an additional fee on truck tires may not impose a fee in excess of the costs of properly removing and disposing of such tires less one dollar and seventy-five cents (\$1.75) per tire. Fees imposed pursuant this subdivision shall be reviewed and approved by the Department of Pollution Control and Ecology. Provided however, in no instance shall the fee prescribed in this subsection (a)(2)(B) exceed four dollars (\$4.00) per tire.

~~(B)(C) It shall be the responsibility of the tire retailer to accept, at no additional cost to the customer other than those in accordance with subsection (a)(2)(B), any or all used or waste tires for which a new replacement tire was purchased.~~

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

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

(4) The ~~fee fees~~ imposed, ~~less ten percent (10%) of fees~~

1 ~~collected, which shall be retained by the tire retailer as administration~~
2 ~~cost,~~ shall be paid monthly to the Director of the Department of Finance and
3 Administration. Provided however, the tire retailer may retain five percent
4 (5%) of the fee levied by (a)(2)(A) as an administrative cost.

5 (5)(A) The ~~fee fees~~ 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 and each new motor vehicle dealer
9 shall file a return with the Director of the Department of Finance and
10 Administration and with the applicable Solid Waste Management District on or
11 before the twentieth of each month showing the total fees collected for both
12 passenger and truck tires during the preceding calendar month and shall remit
13 the fees with the return.

14 (ii) The director shall prescribe the form and
15 contents of the return. At a minimum, the form must indicate separately the
16 number of passenger tires and number of truck tires sold for which a fee was
17 collected. In addition, the form must indicate which Solid Waste Management
18 District the tires were sold in.

19 (6) The ~~fee fees~~ imposed by this section does not apply to
20 recapped tires or tires included as part of the equipment of a new motor
21 vehicle.

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

25 (b) The Department of Finance and Administration shall deposit the
26 proceeds of the waste tire fee in the State Treasury as special revenues and
27 shall credit the proceeds to the following special funds created on the books
28 of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer
29 of the State in the following proportions:

30 (1) A total of ~~ninety percent (90%)~~ ninety-two percent (92%) of the
31 proceeds to be deposited into the fund known as the Waste Tire Grant Fund
32 herein created;

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

36 (c) In addition to all moneys appropriated by the General Assembly to the

1 Waste Tire Grant Fund, there shall be deposited in the Waste Tire Grant Fund
2 any federal government moneys designated to enter the Waste Tire Grant Fund,
3 any moneys received by the state as a gift or donation to the Waste Tire Grant
4 Fund, and all interest upon money deposited in the Waste Tire Grant Fund.

5 (d) The Waste Tire Grant Fund shall be administered by the department,
6 which shall authorize grants from the fund according to the provisions of this
7 subchapter provided however that all subsection (a)(2)(B) fees levied by Solid
8 Waste Management Districts shall be remitted monthly to the Solid Waste
9 Management Districts within which the fees were collected.

10 (e) For the purposes of this section, proceeds of the fee shall mean all
11 funds collected and received by the Department of Finance and Administration
12 under this section, and interest and penalties on delinquent waste tire fees.

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

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

20 (2) The Department of Finance and Administration shall deposit
21 the proceeds of this fee in the State Treasury as special revenues and shall
22 credit the proceeds to the special fund created on the books of the Treasurer
23 of State, the Auditor of State, and the Chief Fiscal Officer of the State to
24 be known as the Waste Tire Grant Fund, as described in subsection (b) of this
25 section.

26 (g) The Department of Pollution Control and Ecology is hereby authorized
27 to promulgate such rules and regulations necessary to administer the fees,
28 rates, tolls, or charges for services established by this section and is
29 directed to prescribe and collect such fees, rates, tolls, or charges for the
30 services delivered by the Department of Pollution Control and Ecology in such
31 manner as may be necessary to support the programs of the department as
32 directed by the Governor and the General Assembly.

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34 SECTION 4. Arkansas Code 8-9-405 is amended to read as follows:

35 "8-9-405. Waste tire grants.

36 (a) The department shall, by July 1, 1992, establish a program to make

1 waste tire grants to regional solid waste management boards which desire,
2 individually or collectively, to:

3 (1) Construct or operate, or contract for the construction or
4 operation of, a waste tire processing facility and equipment purchases
5 therefor;

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

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

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

12 (5) Establish waste tire collection centers at solid waste
13 disposal facilities, waste tire processing facilities, or waste tire
14 generators, that shall accept automobile and truck or specialty tires from ~~the~~
15 public registered tire dealers at no charge, provided the waste tires had a
16 waste tire management fee collected at the time of retail sale;

17 (6) Establish at least one (1) waste tire collection center
18 within the district that may accept all tires for which a management fee was
19 not previously collected, including, but not limited to, mining, farming, or
20 off-the-road vehicle tires. Any fee charged for said tires must ~~be first~~
21 approved by the department not be in excess of the costs of properly removing
22 and disposing of such tires;

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

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

28 (9) Fund additional transportation costs incurred as a result of
29 using waste tire disposal alternatives as a preference over landfill disposal;
30 or

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

32 (b) Regional solid waste management boards may join together, pooling
33 their financial resources, when utilizing their ~~grants~~ funds for the purposes
34 described in this section.

35 (c)(1) *Grant funds for waste tire management programs shall be*
36 *distributed to the regional solid waste management boards.*

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

4 (3) Distribution of grant funds shall be based upon moneys
5 available in the fund and upon approved quarterly financial reports. Such
6 reports shall show funds expended on waste tire projects during the previous
7 quarter, and expenses expected on waste tire projects during the next quarter,
8 and any other information as determined by the department. Accordingly, and
9 upon department approval, quarterly distributions shall be made to the boards.

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

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

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19 SECTION 6. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 7. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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/s/Fitch et al

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