

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H3/10/99

# A Bill

HOUSE BILL 2124

5 By: Representative Judy  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §8-9-401  
10 THROUGH §8-9-405 AND TO ADD §8-9-407 TO SIMPLIFY THE  
11 WASTE TIRE PROGRAM BY PLACING THE RESPONSIBILITY OF  
12 THE MANAGEMENT OF THE PROGRAM WITH THE STATE AND BY  
13 REMOVING SUCH RESPONSIBILITY FROM REGIONAL SOLID WASTE  
14 MANAGEMENT DISTRICTS; TO SET AN EFFECTIVE DATE FOR  
15 THIS TRANSFER; TO FURTHER ENHANCE THE EFFICIENCY OF  
16 THE WASTE TIRE PROGRAM BY ESTABLISHING LICENSING AND  
17 MANIFESTING REQUIREMENTS; AND FOR OTHER PURPOSES."

## Subtitle

18  
19  
20 "AN ACT TO SIMPLIFY THE WASTE TIRE  
21 PROGRAM."  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code 8-9-401 is amended to read as follows:

27 "8-9-401. Legislative intent.

28 ~~The purpose of this subchapter is to protect the public health and the~~  
29 ~~state's environmental quality by setting and implementing standards to be~~  
30 ~~followed in the hauling, storage, recycling, and disposal of waste tires.~~

31 The Arkansas Department of Environmental Quality shall administer the  
32 waste tire program and shall develop and implement a plan for the management  
33 of all waste tires in the State of Arkansas."  
34

35 SECTION 2. Arkansas Code 8-9-402 is amended to read as follows:

36 "8-9-402. Definitions.

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

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

4 (2) 'Commission' means the Arkansas Pollution Control and Ecology  
5 Commission;

6 ~~(2) 'Compacted and baled tires' means tires that have been~~  
7 ~~mechanically compressed and tied with interlocking wrappings which have been~~  
8 ~~approved by the Department of Pollution Control and Ecology;~~

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

15 ~~(4) 'Tire' means a continuous solid or pneumatic rubber covering which~~  
16 ~~is used for encircling the wheel of a motor vehicle;~~

17 ~~(5)~~(4) 'Tire manufacturer' means a manufacturing operation engaged in  
18 the final assembly of the basic components of a tire;

19 ~~(6)~~(5) 'Truck or specialty tire' means any tire with a rim size of  
20 nineteen and one-half inches (19.5") or larger;

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

24 ~~(8) 'Waste tire' means a tire that is no longer repairable or~~  
25 ~~retreadable or no longer suitable for its original intended purpose because of~~  
26 ~~wear, damage, or defect;~~

27 ~~(9)~~(6) 'Waste tire collection center' means a site where used or waste  
28 tires are collected from the public prior to being offered for recycling and  
29 where fewer than three thousand (3,000) loosely stored tires are kept on the  
30 site on any given day or up to a maximum of ten thousand (10,000) tires which  
31 have been compacted or baled;

32 ~~(10)~~(7) 'Waste tires originating from a tire manufacturer' means those  
33 new tires which originate from a tire assembly process and are determined by  
34 the tire manufacturer to be either defective or unfit for use on a motor  
35 vehicle;

36 ~~(11)~~(8) 'Waste tire processing facility' means a site where equipment

1 is used to cut, chip, grind, or otherwise alter used or waste tires; and

2 ~~(12)~~ (9) 'Waste tire site' means a an unpermitted site at which one  
3 thousand (1,000) or more ~~unpermitted~~ used or waste tires are accumulated,  
4 whether loosely stored or compacted and baled or a combination thereof; and

5 (10) 'Waste tire transporter' means any person who collects and  
6 transports used or waste tires, processed tires, or tire residuals for  
7 storage, processing, recycling, reuse, resale or energy recovery, or as  
8 otherwise specified in regulations promulgated by the commission."

9  
10 SECTION 3. Arkansas Code 8-9-403 is amended to read as follows:

11 "8-9-403. ~~Operation of waste tire sites~~ — Requirements and prohibited  
12 activities.

13 ~~(a)(1) The owner or operator of any waste tire site shall, within six~~  
14 ~~(6) months after July 15, 1991, provide the department and the applicable~~  
15 ~~solid waste management district with information concerning the site's~~  
16 ~~location and size and the approximate number of waste tires that are~~  
17 ~~accumulated at the site and shall provide a written plan specifying a method~~  
18 ~~and time schedule, subject to approval by the department, for the removal,~~  
19 ~~disposal, or recycling of the tires.~~

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

22 ~~(b)~~ (a) No person shall It is illegal for any person to cause or permit  
23 the open burning of tires in the State of Arkansas.

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

27 ~~(2)~~ (b) It is illegal for any person to dispose of used or waste tires  
28 or portions of used or waste tires in the state, unless such tires are  
29 disposed of for processing, or collected for processing, at a permitted waste  
30 tire processing facility, at a waste tire site which is an integral part of a  
31 permitted waste tire processing facility, at a permitted waste tire collection  
32 center, or at a permitted solid waste disposal facility.

33 (c) It is illegal for any waste tire transporter to transport used or  
34 waste tires or portions of used or waste tires in the State of Arkansas  
35 without first obtaining a transporter license from the Arkansas Department of  
36 Environmental Quality.

1       (d) It is illegal for any waste tire transporter to distribute or  
2 transport used or waste tires or portions of used or waste tires between tire  
3 dealers, waste tire collection centers, waste tire processing facilities,  
4 waste tire transporters, waste tire sites, and solid waste management  
5 facilities without an approved waste tire manifest provided by the Arkansas  
6 Department of Environmental Quality.

7       (e)(1) The commission shall promulgate regulations as necessary to carry  
8 out the provisions of this section.

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

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

16       ~~(4) A person who leases or owns real property may use waste tires for~~  
17 ~~soil erosion abatement and drainage purposes in accordance with procedures~~  
18 ~~approved by the commission and each solid waste management district, or to~~  
19 ~~secure covers over silage, hay, straw, or agricultural products.~~

20 ~~(d)(1) The commission shall adopt regulations to carry out the provisions of~~  
21 ~~this section.~~

22       (2) The regulations shall, at a minimum:

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

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

29               ~~(C) Set standards for waste tire processing facilities and~~  
30 ~~associated waste tire sites, waste tire collection centers, and waste tire~~  
31 ~~collectors; and~~

32               ~~(D) Establish procedures for administering the waste tire grant~~  
33 ~~program and issuing grants; and~~

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

1 ~~(e) A waste tire processing facility and/or collection center permit is~~  
2 ~~not required for:~~

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

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

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

11 ~~(f) The commission and each solid waste management district shall~~  
12 ~~encourage the voluntary establishment of waste tire collection centers at~~  
13 ~~retail tire-selling businesses, waste tire processing facilities, and solid~~  
14 ~~waste disposal facilities, for the deposit of used and waste tires generated~~  
15 ~~in the State of Arkansas, except those generated by a tire manufacturer.~~

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

20 ~~(2) Records of the disposition of the waste tires originating from a~~  
21 ~~tire manufacturer shall be maintained by that manufacturer for a period of at~~  
22 ~~least three (3) years and shall be available for review by the department.~~

23 ~~(h) The commission shall establish guidelines and adopt regulations for~~  
24 ~~a tire manifest system to monitor the sale and distribution of tires between~~  
25 ~~tire dealers, waste tire collectors, waste tire processing facilities, and~~  
26 ~~waste tire disposal facilities.~~

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

33  
34 SECTION 4. Arkansas Code 8-9-404 is amended to read as follows:

35 "8-9-404. Waste tire fees.

36 (a) There shall be imposed a fee upon the sale of each new motor vehicle

1 tire sold at retail.

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

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

7 (B) ~~Solid waste management districts are~~ The Arkansas Department of  
8 Environmental Quality is authorized to enact approve an additional fee on  
9 truck tires provided that ~~their~~ costs of properly removing and disposing of  
10 truck tires exceeds one dollar and seventy-five cents (\$1.75) per truck tire.  
11 ~~Solid waste management districts imposing an additional fee on truck tires may~~  
12 ~~not impose a fee in excess of the costs of properly removing and disposing of~~  
13 ~~such tires less one dollar and seventy-five cents (\$1.75) per tire. Fees~~  
14 ~~imposed pursuant this subdivision shall be reviewed and approved by the~~  
15 ~~Department of Pollution Control and Ecology.~~ Provided however, in no instance  
16 shall the fee prescribed in this subsection (a)(2)(B) of this section exceed  
17 four dollars (\$4.00) per tire.

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

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

27 (3) Such fees 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 fees imposed shall be paid monthly to the Director of the  
31 Department of Finance and Administration. Provided however, the tire retailer  
32 may retain five percent (5%) of the fee levied by subdivision (a)(2)(A) of  
33 this section as an administrative cost.

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

1 (B)(i) Each tire retailer and each new motor vehicle dealer shall file a  
 2 return with the Director of the Department of Finance and Administration ~~and~~  
 3 ~~with the applicable solid waste management district~~ on or before the twentieth  
 4 of each month showing the total fees collected for both ~~passenger~~ automobile  
 5 and truck tires during the preceding calendar month and shall remit the fees  
 6 with the return.

7 (ii) The director shall prescribe the form and contents of the  
 8 return. At a minimum, the form must indicate separately the number of  
 9 ~~passenger~~ automobile tires and number of truck tires sold for which a fee was  
 10 collected. In addition, the form must indicate which ~~solid waste management~~  
 11 ~~district~~ county the tires were sold in.

12 (6) The fees imposed by this section do not apply to recapped tires or  
 13 tires included as part of the equipment of a new motor vehicle.

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

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

22 (1) A total of ~~ninety-two percent (92%)~~ eighty-five percent (85%) of the  
 23 proceeds to be deposited into the fund known as the 'Waste Tire ~~Grant~~ Program  
 24 Trust Fund' herein created;

25 (2) A total of ~~eight percent (8%)~~ fifteen percent (15%) of the proceeds  
 26 to be deposited into the Arkansas Department of ~~Pollution Control and Ecology~~  
 27 Environmental Quality Fee Fund as created in § 8-1-105.

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

34 (d) The Waste Tire ~~Grant~~ Program Trust Fund shall be administered by the  
 35 department, which shall authorize ~~grants~~ disbursements from the fund according  
 36 to the provisions of this subchapter. ~~provided however that all subsection~~

1 ~~(a)(2)(B) fees levied by solid waste management districts shall be remitted~~  
 2 ~~monthly to the solid waste management districts within which the fees were~~  
 3 ~~collected.~~

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

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

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

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

20 (g) ~~The Department of Pollution Control and Ecology~~ commission is hereby  
 21 authorized to promulgate such rules and regulations necessary to administer  
 22 the fees, rates, tolls, or charges for services established by this section  
 23 and is directed to prescribe ~~and collect~~ such fees, rates, tolls, or charges  
 24 for the services delivered by the Department of ~~Pollution Control and Ecology~~  
 25 Environmental Quality in such manner as may be necessary to support the  
 26 programs of the department as directed by the Governor and the General  
 27 Assembly.

28 (h) The Arkansas Department of Environmental Quality shall collect fees,  
 29 rates, tolls, or charges in accordance with regulations promulgated by the  
 30 commission."

31  
 32 SECTION 5. Arkansas Code 8-9-405 is amended to read as follows:

33 "8-9-405. Waste tire ~~grants~~ fund distributions.

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



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

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

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

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

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

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

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

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

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

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

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

30 ~~(c)(1) Grant funds for waste tire management programs shall be~~  
31 ~~distributed to the regional solid waste management boards.~~

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

35 (a) The monies earmarked for the Waste Tire Program Trust Fund shall be  
36 used by the Arkansas Department of Environmental Quality to fund waste tire

1 management projects, specific abatement projects, cleanup actions, and other  
 2 waste tire program activities.

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

9 (c) All monies disbursed from the Waste Tire Program Trust Fund or the  
 10 Waste Tire Grant Fund and interest earnings thereon, any of which have not  
 11 been utilized for waste tire management upon the date the Arkansas Department  
 12 of Environmental Quality assumes a regional solid waste management board's  
 13 responsibilities for waste tire management, shall be reimbursed to the Waste  
 14 Tire Program Trust Fund as determined by the Arkansas Department of  
 15 Environmental Quality.

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

20 (d) The commission shall promulgate regulations necessary to carry out  
 21 the provisions of this section."

22  
 23 SECTION 6. Title 8, Chapter 9, Subchapter 4 of the Arkansas Code is  
 24 amended to add the following section to be numbered by the Arkansas Code  
 25 Revision Commission:

26 "8-9-407. Effective Date.

27 The responsibilities for waste tire management shall be transferred from  
 28 the Regional Solid Waste Management Districts to the Arkansas Department of  
 29 Environmental Quality. The transfer of such responsibilities shall begin upon  
 30 the effective date hereof and shall be completed within one (1) year."

31  
 32 SECTION 7. All provisions of this act of a general and permanent nature  
 33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 34 Revision Commission shall incorporate the same in the Code.

35  
 36 SECTION 8. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 9. All laws and parts of laws in conflict with this act are  
7 repealed.

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/s/ Judy

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