

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001

# A Bill

HOUSE BILL 2270

4  
5 By: Representative Altes  
6  
7

## For An Act To Be Entitled

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

## Subtitle

18  
19 AN ACT TO SIMPLIFY THE WASTE TIRE  
20 PROGRAM.  
21  
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. The~~  
31 Arkansas Department of Environmental Quality shall administer the waste tire  
32 program and shall develop and implement a plan for the management of all  
33 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  
3 nineteen and one-half inches (19.5");

4 ~~(2) "Compacted and baled tires" means tires that have been~~  
5 ~~mechanically compressed and tied with interlocking wrappings which have been~~  
6 ~~approved by the Arkansas Department of Environmental Quality;~~

7 (2) "Commission" means the Arkansas Commission on Pollution Control  
8 and Ecology;

9 (3) "Motor vehicle" means an automobile, motorcycle, truck, trailer,  
10 semi trailer, truck tractor and semi trailer combination, or any other vehicle  
11 operated on the roads of this state, used to transport persons or property  
12 and propelled by power other than muscular power, but the term does not  
13 include traction engines, road rollers, such vehicles as run only upon a  
14 track, 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~~  
26 ~~of 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 ~~(12)~~(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 ~~(10)~~(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 ~~(11)~~(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~~  
21 ~~to its schedule.~~

22 ~~(b) (a) No person shall~~ It is illegal for any person to cause or  
23 permit 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  
32 collection 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  
8 carry 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~~  
14 ~~the landfill and the area has been prepared in such a manner that the tires~~  
15 ~~can be 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~~  
21 ~~provisions of 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; and

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; and

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~~  
33 ~~grant program and issuing grants; and~~

34 ~~(E) Authorize the final disposal of waste tires at a~~  
35 ~~permitted solid waste disposal facility, provided the tires have been cut~~  
36 ~~into 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~~  
4 ~~(500) waste tires are kept on the business premises;-~~

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

8               ~~(3) A retail tire selling business which is serving as a waste~~  
9 ~~tire collection center if fewer than five hundred (500) waste tires are kept~~  
10 ~~on the 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~~  
21 ~~from a tire manufacturer shall be maintained by that manufacturer for a~~  
22 ~~period of at least three (3) years and shall be available for review by the~~  
23 ~~department.-~~

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

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

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35       SECTION 4. Arkansas Code 8-9-404 is amended to read as follows:  
36       8-9-404. Waste tire fees.

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

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

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

8 (B)(i) ~~Solid waste management districts are~~ The Arkansas  
9 Department of Environmental Quality is authorized to ~~enact~~ approve an  
10 additional fee on truck tires provided that ~~their~~ costs of properly removing  
11 and disposing of truck tires exceeds one dollar and seventy-five cents  
12 (\$1.75) per truck tire. ~~Solid waste management districts imposing an~~  
13 ~~additional fee on truck tires may not impose a fee in excess of the costs of~~  
14 ~~properly removing and disposing of such tires less one dollar and~~  
15 ~~seventy five cents (\$1.75) per tire. Fees imposed pursuant this subdivision~~  
16 ~~shall be reviewed and approved by the Department of Environmental Quality.~~

17 (ii) Provided, however, in no instance shall the fee  
18 prescribed in this subdivision (a)(2)(B) of this section exceed four dollars  
19 (\$4.00) per tire.

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

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

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

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

36 (5)(A) The fees shall be collected by the Director of the

1 Department of Finance and Administration and shall be subject to the Arkansas  
2 Tax Procedure Act, § 26-18-101 et seq.

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

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

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

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

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

25 (1) A total of ~~ninety-two percent (92%)~~ eighty-five percent  
26 (85%) of the proceeds to be deposited into the fund known as the "Waste Tire  
27 ~~Grant Program Trust~~ Fund" herein created;

28 (2) A total of ~~eight percent (8%)~~ fifteen percent (15%) of the  
29 proceeds to be deposited into the Arkansas Department of Environmental  
30 Quality Fee Fund as created in § 8-1-105.

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

1 (d) The Waste Tire ~~Grant~~ Program Trust Fund shall be administered by  
2 the Arkansas Department of Environmental Quality, which shall authorize  
3 ~~grants~~ disbursements from the Waste Tire Grant Fund according to the  
4 provisions of this subchapter. ~~Provided, however, that all subdivision~~  
5 ~~(a)(2)(B) fees levied by solid waste management districts shall be remitted~~  
6 ~~monthly to the solid waste management districts within which the fees were~~  
7 ~~collected.~~

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

12 (f)(1) In addition to the fee imposed on new tires, a fee shall be  
13 imposed at the rate of one dollar (\$1.00) on all waste automobile and truck  
14 tires that are imported into Arkansas.

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

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

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

33 (h) The Arkansas Department of Environmental Quality shall collect  
34 fees, rates, tolls, or charges in accordance with regulations promulgated by  
35 the commission.

36



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

8-9-405. Waste tire grants fund distributions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (a) The monies earmarked for the Waste Tire Program Trust Fund shall  
7 be used by the Arkansas Department of Environmental Quality to fund waste  
8 tire management projects, specific abatement projects, cleanup actions, and  
9 other waste tire program activities.

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

17 (c) All monies disbursed from the Waste Tire Program Trust Fund or the  
18 Waste Tire Grant Fund and interest earnings thereon, any of which have not  
19 been utilized for waste tire management upon the date the Arkansas Department  
20 of Environmental Quality assumes a regional solid waste management board's  
21 responsibilities for waste tire management, shall be reimbursed to the Waste  
22 Tire Program Trust Fund as determined by the Arkansas Department of  
23 Environmental Quality.

24 ~~(d) The department shall provide technical assistance, upon request,~~  
25 ~~to a regional solid waste management board desiring assistance in applying~~  
26 ~~for waste tire grants or choosing a method of waste tire management which~~  
27 ~~would be an eligible use of the grant funds. The commission shall promulgate~~  
28 regulations necessary to carry out the provisions of this section.

29 (e) The department shall expand the waste tire grant program by  
30 setting aside a portion, not to exceed ten percent (10%) of the Waste Tire  
31 Grant Fund available, other than those fees established in § 8-9-  
32 404(a)(2)(B), to regional solid waste management districts, in order to  
33 provide supplemental aid wherever needed.

34  
35 SECTION 6. Effective date.

36 The responsibilities for waste tire management shall be transferred

1 from the Regional Solid Waste Management Districts to the Arkansas Department  
2 of Environmental Quality. The transfer of such responsibilities shall begin  
3 upon the effective date of this act and shall be completed within one (1)  
4 year after that date.

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