

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 197

By: Easley

AS INTRODUCED

An Act relating to waste tires; amending 19 O.S. 1991, Section 339, as last amended by Section 1, Chapter 200, O.S.L. 2000 (19 O.S. Supp. 2000, Section 339), 68 O.S. 1991, Section 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 11, Chapter 1, O.S.L. 1999, 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 12, Chapter 314, O.S.L. 1998, 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 2000, Sections 2-11-402, 2-11-405, and 2-11-406), which relate to the Oklahoma Waste Tire Recycling Act; modifying definitions; authorizing the Department of Environmental Quality to hire certain additional employees as authorized by the Legislature; providing for employees to be in the unclassified service; authorizing the Department to utilize certain monies for remediation of certain sites; modifying eligibility criteria for waste tire facilities to receive compensation from certain fund; providing compensation for collection of waste tires and transportation to certain facilities for energy recovery; stating procedures for reimbursement; prohibiting waste tire facilities from charging fee for certain tire disposal; modifying number of tires required for collection; stating construction; authorizing local or county governments to apply for waste tire processing permits for certain purpose; prohibiting use of certain tires; requiring the Board of Environmental Quality to promulgate rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 1991, Section 339, as last amended by Section 1, Chapter 200, O.S.L. 2000 (19 O.S. Supp. 2000, Section 339) is amended to read as follows:

Section 339. A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase

other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interests of the county in such grounds when an order made for the sale and a deed is executed in the name of the county by the chair of the board of county commissioners, reciting the order, and signed by the chair and acknowledged by the county clerk for and on behalf of the county;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

3. To construct and repair bridges and to open, lay out and vacate highways: Provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate the highway adjoining the property in the following manner:

If it should appear that it would be to the best use and interest of such institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to hold a public hearing and determine whether to vacate, alter or relocate such highway, setting forth the location and terminals of the road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of such hearing by publication in some newspaper in the county or counties in which the road is located, and such hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At such hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of such institution, school or

department, and the public generally, they may make an appropriate order either vacating, altering or relocating the highway, which order shall be final if approved by the board of county commissioners. Such institution, school or department may by agreement share the cost of changing any such road. No property owner shall be denied access to a public highway by such order;

4. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county;

5. To set off, organize and change the boundaries of townships and to designate and give names therefor: Provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election;

6. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment;

7. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines;

8. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers;

9. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county and, provide incentive awards for safety related job performance. However, no employee shall be recognized more than once per calendar

year and the award shall not exceed the value of One Hundred Dollars (\$100.00). The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners;

10. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds;

11. To do and perform such other duties and acts that the board of county commissioners may be required by law to do and perform;

12. To make purchases at a public auction pursuant to the county purchasing procedures in subsection D of Section 1505 of this title;

13. To deposit interest income from highway funds in the general fund of the county;

14. To submit sealed bids for the purchase of equipment from this state, or any agency or political subdivision of this state;

15. To utilize county owned equipment, labor and supplies at their disposal on property owned by the county, public schools, state and unincorporated towns and cities with populations less than two thousand five hundred (2,500), the county may be reimbursed expenses related to any particular project upon the development and agreement of the work order;

16. To enter into intergovernmental cooperative agreements with the federally recognized Indian tribes within this state to address issues of construction and maintenance of streets, roads, bridges and highways exclusive of the provisions of Section 1221 of Title 74 of the Oklahoma Statutes; ~~and~~

17. To execute hold harmless agreements with the lessor in the manner provided by subsection B of Section 636.5 of Title 69 of the Oklahoma Statutes when leasing or lease-purchasing equipment; and

18. To apply to the Department of Environmental Quality for a waste tire permit to bale waste tires for use in approved engineering projects.

B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

D. In order to timely comply with the Oklahoma Vehicle License and Registration Act with regard to county vehicles, the board of county commissioners may, by resolution, create a petty cash account. The board of county commissioners may request a purchase order for petty cash in an amount necessary to pay the expense of license and registration fees for county motor vehicles. Any balance in the petty cash account after the license and registration fees have been paid shall be returned to the account or fund from which the funds originated. The county purchasing agent shall be the custodian of the petty cash account, and the petty cash account shall be subject to audit.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 11, Chapter 1, O.S.L. 1999 (27A O.S. Supp. 2000, Section 2-11-402), is amended to read as follows:

Section 2-11-402. As used in the Oklahoma Waste Tire Recycling Act:

1. "Department" means the Department of Environmental Quality;
2. "Priority cleanup list" means a list of unpermitted waste

dumps which:

- a. did not exist when the owner took possession of the property where the tires are located, and were created without the consent of or benefit to the owner of the property, and
- b. such other tire dumps designated by the Department pursuant to Section 2-11-406 of this title;

3. "Tire" means any solid or air-filled covering for motor vehicle wheels;

4. "Tire dealer" means any person engaged in the business of selling new and used tires to final consumers, not for resale;

5. "Waste tire facility" means any place which is permitted as a solid waste disposal site, in accordance with the Oklahoma Solid Waste Management Act, at which waste tires are collected or deposited for waste tire processing by shredding or other technology, except baling, which alters the form of at least one-half of the tires collected, for the purpose of facilitating the future extraction of useful materials for recycling, reuse or energy recovery; and

6. "Waste tire processing" means the ~~preparation of waste tires to facilitate use for recycling, reuse or energy recovery~~ following:

- a. altering the form of the tires by shredding or other technology, except baling, to facilitate use for recycling, reuse or energy recovery, or
- b. the proper installation of tires in a project as authorized by Section 2-11-407.1 of this title or baling of tires as authorized by Section 5 of this act, or
- c. direct utilization of whole tires for energy recovery.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last

amended by Section 12, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-11-405), is amended to read as follows:

Section 2-11-405. A. Of the monies accruing annually to the Waste Tire Recycling Indemnity Fund, four percent (4%) thereof shall be available to the Oklahoma Tax Commission and four percent (4%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act. In addition, an amount not to exceed Fifty Thousand Dollars (\$50,000.00) per required audit shall be available to the State Auditor and Inspector for the purpose of conducting audits of the Oklahoma Waste Tire Recycling Program pursuant to Section 2-11-411 of this title.

B. Of the ninety-two percent (92%) of the remaining monies in the Waste Tire Recycling Indemnity Fund, ten percent (10%) shall be allocated to businesses located in Oklahoma who manufacture new products or derive energy benefits from waste tires which have been processed according to the requirements of the Oklahoma Waste Tire Recycling Act. Such businesses shall be eligible for compensation in a total amount not to exceed one hundred percent (100%) of their capital investment in equipment necessary to utilize processed waste tires purchased on or after January 1, 1995, at a rate of Twenty Dollars (\$20.00) per ton of processed waste tires consumed in the manufacturing or energy recovery process. Funds shall be awarded based on a proportionate share of the funds available and based on the relative amount of each capital investment. Such businesses may apply for compensation monthly to the Oklahoma Tax Commission, and shall supply any information required by the Commission to document compliance with the provisions of the Oklahoma Waste Tire Recycling ~~Indemnity~~ Act.

C. The balance of the monies remaining in the Waste Tire Recycling Indemnity Fund shall be allocated pursuant to the provisions of the Oklahoma Waste Tire Recycling Act to waste tire

facilities or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Waste Tire Recycling Act to receive reimbursement which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act, demonstrate that such facilities or legal entities have successfully processed discarded vehicle tires pursuant to the Oklahoma Waste Tire Recycling Act.

D. To the extent that monies accruing to the Waste Tire Recycling Indemnity Fund exceeds the monies needed for the purposes previously specified in this section, the Department may be reimbursed from the remaining funds for necessary costs associated with remediation of sites at which waste tires or other wastes present a threat to human health or the environment.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-11-406), is amended to read as follows:

Section 2-11-406. A. 1. Waste tire facilities meeting the requirements of the Oklahoma Waste Tire Recycling Act shall be eligible for compensation from the Waste Tire Recycling Indemnity Fund, ~~for processing tires discarded in this state~~ to the extent that funds are therein contained for processing tires from this state, at a rate not to exceed Fifty-three Dollars and forty-eight cents (\$53.48) per ton of processed tire material ~~in any calendar year by the facility as demonstrated through the application and submission of documentation to the Tax Commission.~~

2. The waste tire facility shall demonstrate the processing or utilization through the application and submission of required documentation to the Tax Commission.

3. a. In addition to other requirements of the Oklahoma Waste Tire Recycling Act, in order to qualify for such

compensation, the applicant shall demonstrate that over the life of the facility prior to each request for compensation, at least ten percent (10%) of the tires processed by the waste tire facility were collected from tire dumps or landfills as identified through placement on the priority cleanup list by the Department of Environmental Quality or community-wide cleanup events approved by the Department.

- b. In developing the priority cleanup list required by this section and Section 2-11-407.1 of this title, the Department shall prioritize those dumps where the landowner was a victim of illegal dumping. Any other tire dump may be placed on the priority cleanup list in cases where the administrative enforcement process has been exhausted.
- c. For those illegal tire dumps placed on the list where administrative enforcement has been exhausted, the Department may provide for the cleanup of such dumps pursuant to Section 2-11-413 of this title.

B. 1. In addition to the compensation authorized by subsection A of this section, any waste tire facility, person or entity that is in good standing with the Department shall be eligible for compensation at the rate of Thirty-seven Dollars and forty-three cents (\$37.43) per ton of processed tire material for the collection and transportation of waste tires obtained from dealers, automotive dismantlers, parts recyclers, solid waste landfill sites, and dumps certified by the Department's priority cleanup list, and delivering such tires to the waste tire facility.

- 2. a. The collection and transportation of waste tires shall be on a statewide basis and shall be provided by the waste tire facility at no additional cost.

- b. No tire dealer shall charge any customer any additional fee for the management, recycling, or disposal of any waste tire upon which the waste tire recycling fee has been remitted to the ~~Oklahoma~~ Tax Commission.
- c. A tire dealer who collects waste tires for which the waste tire recycling fee has been paid and transports such tires to a waste tire processing facility which uses whole tires for energy recovery is authorized to withhold thirty-five cents (\$0.35) per tire transported from the total of waste tire recycling fees remitted to the Tax Commission. When the tire dealer delivers waste tires to the processing facility, the dealer shall present an affidavit that the waste tire recycling fee has been paid on each tire delivered. The processing facility to which the tires are delivered shall issue a receipt to the dealer for the number of the tires delivered. The dealer shall present such receipts to the Tax Commission the next time the dealer remits waste tire recycling fees collected.
- d. For customers who choose not to leave a waste tire upon which the waste tire recycling fee has been remitted to the ~~Oklahoma~~ Tax Commission, the tire dealer shall issue a receipt which will entitle the customer to deliver the waste tire to the dealer at a later date. No waste tire facility shall charge a person any fee for the disposal or recycling of waste tires, regardless of whether the waste tire recycling fee has been assessed upon the waste tires, when such person collects and voluntarily transports ten or fewer waste tires to the processing facility.

Compensation to a waste tire facility shall be authorized by the Department for waste tires received pursuant to this paragraph.

e. The Department shall not require a waste tire facility to collect less than ~~one thousand~~ three hundred discarded vehicle tires at any one location. Such tires shall be collected within one month.

3. To be eligible for compensation pursuant to this subsection, the waste tire facility, person or entity shall:

- a. demonstrate to the satisfaction of the Department that such facility is regularly engaged in the collection, transportation and delivery of waste tires, on a statewide basis, and from each county of the state, and
- b. provide documentation to the ~~Oklahoma~~ Tax Commission, signed by a participating dealer at the time of collection, which certifies the total amount of waste tire recycling fees, itemized by month, remitted by the dealer since the date the dealer's waste tires were last collected.

C. Compensation pursuant to this section shall be payable only for the tires collected and processed in accordance with the purposes of the Oklahoma Waste Tire Recycling Act and as authorized by the Department pursuant thereto. In lieu of proof of remitted tire recycling fees, the waste tire facility shall accept proof of purchase of a salvage vehicle registered in Oklahoma by an automotive dismantler and parts recycler, licensed pursuant to the Automotive Dismantlers and Parts Recycler Act, for the collection and transportation of up to five waste tires per salvage vehicle purchased on or after January 1, 1996. The Environmental Quality Board shall promulgate rules to ensure proper verification and proof of purchase information.

D. The provisions of this section shall not be construed to require:

1. A waste tire facility to accept more waste tires than the number of tires authorized by the solid waste disposal permit of such facility issued pursuant to the Oklahoma Solid Waste Management Act; or

2. A tire dealer to accept more tires than the total amount authorized by Section 2-11-413 of this title.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-407.2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Any unit of local or county government may apply to the Department of Environmental Quality for a waste tire processing permit to bale waste tires for use in approved engineering projects.

B. Any unit of local or county government that obtains a permit and performs processing by baling shall be eligible for, and the Tax Commission shall provide, compensation from the Waste Tire Recycling Indemnity Fund at the rate of fifty cents (\$0.50) per tire, subject to the same application, documentation and fund availability conditions specified in subsections B and C of Section 2-11-407.1 and subsection B of Section 2-11-408 of Title 27A of the Oklahoma Statutes.

C. Waste tires processed by baling pursuant to this section cannot be obtained from tire manufacturers, retailers, wholesalers, retreaders, or parts dismantlers.

D. The Board of Environmental Quality shall promulgate rules necessary to implement the use of baled tires in accordance with the provisions of this section.

SECTION 6. This act shall become effective November 1, 2001.