

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0192.01 Thomas Morris

HOUSE BILL 10-1018

HOUSE SPONSORSHIP

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House Committees

Transportation & Energy

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A BILL FOR AN ACT

101 CONCERNING INCREASED AUTHORITY TO REGULATE WASTE TIRES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Transportation Legislation Review Committee. Current law gives several departments authority over fees collected upon the sale of new motor vehicle tires to deal with waste tires. The bill consolidates all such authority in the department of public health and environment (department) and adds requirements for fire prevention planning, registration, decals, and manifests for certain waste tire haulers and waste tire facilities.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Section 1 of the bill ends the transfer of waste tire fees to the innovative higher education research authority program effective July 1, 2014. **Section 2** repeals the department of local affairs' administration of the waste tire cleanup fund. **Sections 3 and 4** repeal the advanced technology fund and, effective July 1, 2011, end the transfer of waste tire fees to the recycling resources economic opportunity grant program.

Section 5 repeals and reenacts, with amendments, the law that imposes the \$1.50 waste tire fee, repeals the 3.33% vendors' fee, and allocates the fee as follows:

- ! Until July 1, 2014, 30.33% to the processors and end users fund and 6.67% to the innovative higher education research fund; after July 1, 2014, 37% to the processors and end users fund;
- ! 39.66% to the waste tire cleanup fund;
- ! 6.67% to the waste tire fire prevention fund until July 1, 2011, after which the allocation is increased to 8%;
- ! 16.67% to the recycling resources economic opportunity fund until July 1, 2011;
- ! After July 1, 2011, 6.67% to the waste tire market development fund; and
- ! After July 1, 2011, 8.67% to the law enforcement grant fund.

Section 6 updates the law regarding the processors and end users fund. **Section 7** recreates the waste tire cleanup fund, creates the waste tire fire prevention fund, and creates the waste tire market development fund. Sections 6 and 7 also increase the maximum reimbursements to processors and end users from \$50 to \$65 per ton of waste tires.

Sections 8 and 9 update the law regarding waste tire haulers to require decals on hauling vehicles and the completion and retention of manifests. Section 9 also prohibits a person from hauling more than a quantity of waste tires in excess of a limit established by rule by the solid and hazardous waste commission (commission) unless the person is registered.

Section 10 creates several new sections of law that:

- ! Specify requirements for decals and manifests;
- ! Require the registration of waste tire facilities;
- ! Require, as a condition of maintaining their registration, that waste tire monofills submit to the department a waste tire inventory reduction plan and that certain waste tire facilities process 75% of the 3-year rolling annual average amount of waste tires accepted by that facility each year;
- ! Impose requirements relating to financial responsibility for closure and reclamation of waste tire facilities;
- ! Establish fees, give the commission general rule-making authority regarding waste tires, and identify enforcement

- authorities;
- ! Create a waste tire advisory committee; and
- ! Create a waste tire fund, used for the department's costs in administering the program.

Section 11 directs the department of regulatory agencies to conduct a sunset review of the waste tire advisory committee prior to the committee's repeal on July 1, 2020.

Section 12 conforms the definition of "waste tire" in the solid waste statute to that in the waste tire fee statute. **Section 13** specifies that sales tax is not assessed when the waste tire fee is collected upon the sale of a new tire.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 23-19.7-104, Colorado Revised Statutes, is
3 amended to read:

4 **23-19.7-104. Innovative higher education research fund -**
5 **funding - repeal.** (1) There is hereby created in the state treasury the
6 innovative higher education research fund, which shall consist of:

7 (a) Moneys transferred to the research fund ~~from the waste tire~~
8 ~~recycling development cash fund created in section 25-17-202 (3) (a);~~
9 ~~C.R.S., pursuant to section 25-17-202 (3) (b) (III), C.R.S., and the~~
10 ~~advanced technology fund created in section 25-16.5-105 (2) (a), C.R.S.,~~
11 ~~pursuant to section 25-16.5-105 (2) (e); 25-17-202 (3) (a) (I) (A), C.R.S.~~
12 THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2014.

13 (b) Any moneys that the general assembly may appropriate to the
14 research fund;

15 (c) Any moneys received pursuant to section 23-19.7-103 (1) (j);
16 and

17 (d) All income and interest derived from the deposit and
18 investment of moneys in the research fund.

19 (2) Moneys in the research fund shall be subject to annual

1 appropriation by the general assembly for the direct and indirect costs
2 associated with the implementation of this article. Unexpended and
3 unencumbered moneys remaining in the research fund at the end of any
4 fiscal year shall remain in the research fund and shall not be credited or
5 transferred to the general fund or any other fund.

6 **SECTION 2. Repeal.** 24-32-114, Colorado Revised Statutes, is
7 repealed.

8 **SECTION 3.** 25-16.5-105 (1) (j.5), (1) (k), and (2), Colorado
9 Revised Statutes, are amended to read:

10 **25-16.5-105. Powers and duties of advisory board - repeal.**

11 (1) The advisory board shall have the following powers and duties:

12 ~~(j.5) To receive and expend gifts, grants, and bequests from any~~
13 ~~source, public or private, specifically including state and federal moneys~~
14 ~~and other available moneys, to provide research funding and technology~~
15 ~~transfer capital from the advanced technology fund pursuant to paragraph~~
16 ~~(b) of subsection (2) of this section;~~

17 (k) (I) In consultation with the committee, to develop a formula
18 for paying a rebate to any local government or to any nonprofit or
19 for-profit entity that recycles any commodity. The rebate authorized by
20 this paragraph (k) shall be paid on commodities recycled on a per-ton
21 basis with differential rates for different commodities. FOR ANY ONE
22 STATE FISCAL YEAR, THE AMOUNT REBATED PURSUANT TO THIS
23 PARAGRAPH (k) SHALL EQUAL ONE-FOURTH OF THE AMOUNT OF MONEYS
24 COLLECTED IN THE FUND IN THE IMMEDIATELY PREVIOUS STATE FISCAL
25 YEAR. Any rebate shall be paid out of moneys collected:

26 (A) From the ~~additional~~ WASTE TIRE fee ~~imposed by~~ CREDITED
27 PURSUANT TO section 25-17-202 ~~(1)(a)(IV) that is allocated~~ (3) (a) (VI)

1 to the recycling resources economic opportunity fund created in section
2 25-16.5-106.5. THIS SUB-SUBPARAGRAPH (A) IS REPEALED, EFFECTIVE
3 JULY 1, 2011; and

4 (B) From the user fee imposed by section 25-16-104.5 (3.9) (a) to
5 fund the recycling resources economic opportunity program created in
6 section 25-16.5-106.7. ~~except that, for any one state fiscal year, the~~
7 ~~amount rebated pursuant to this paragraph (k) shall equal one-fourth of~~
8 ~~the amount of moneys collected in the fund in the immediately previous~~
9 ~~state fiscal year.~~

10 (II) Applications to the advisory board for any rebate may be
11 submitted after the last day of the month following the end of each
12 calendar quarter for recycling activities undertaken in such calendar
13 quarter, beginning with the calendar quarter ending on December 31,
14 2007; except that the period for the first rebate payment shall cover July
15 1, 2007, through December 31, 2007.

16 (2) (a) ~~There is hereby created in the state treasury the advanced~~
17 ~~technology fund. The fund shall consist of moneys transferred thereto~~
18 ~~pursuant to section 25-17-202 (3), any moneys available to the board~~
19 ~~pursuant to paragraph (j.5) of subsection (1) of this section that the board~~
20 ~~transmits to the state treasurer to be credited to the fund, and any moneys~~
21 ~~appropriated to the fund by the general assembly. All interest derived~~
22 ~~from the deposit and investment of moneys in the fund shall be credited~~
23 ~~to the fund. The moneys in the fund are hereby continuously appropriated~~
24 ~~to the board for the purposes specified in paragraph (b) of this subsection~~
25 ~~(2).~~

26 (b) ~~The board shall expend moneys in the advanced technology~~
27 ~~fund to finance research, including research regarding the use of waste~~

1 ~~tires for noise mitigation along state highways as prioritized by the~~
2 ~~department of transportation pursuant to section 43-2-402 (5) (b), C.R.S.,~~
3 ~~that will increase or improve recycling techniques and technology or~~
4 ~~create marketable uses for discarded materials, including strategies~~
5 ~~pertaining to waste tires, and address problems caused by inappropriate~~
6 ~~disposal of solid waste materials, including waste tire stockpiles, making~~
7 ~~use where possible of the research capacities of Colorado institutions of~~
8 ~~higher education. Grant awards shall be made, and the criteria for~~
9 ~~awarding grants shall be developed in consultation with the pollution~~
10 ~~prevention advisory board assistance committee created in section~~
11 ~~25-16.5-105.5 (2), enacted by House Bill 07-1288, enacted at the first~~
12 ~~regular session of the sixty-sixth general assembly. The board, in~~
13 ~~consultation with the committee shall adopt a policy for the expenditure~~
14 ~~of such moneys, which shall contain priorities and the criteria for~~
15 ~~providing research funding and technology transfer.~~

16 ~~(c) Notwithstanding the provisions of section 24-1-136 (11),~~
17 ~~C.R.S., the board shall biennially report to the general assembly about the~~
18 ~~status of financing the efforts described in paragraph (b) of this~~
19 ~~subsection (2), including an assessment of the activities of individuals or~~
20 ~~entities receiving grants from the advanced technology fund.~~

21 ~~(d) Notwithstanding any provision of this subsection (2) to the~~
22 ~~contrary, on March 5, 2003, the state treasurer shall deduct eight hundred~~
23 ~~eighty-six thousand one hundred eighty-nine dollars and fifty-one cents~~
24 ~~from the advanced technology fund and transfer such sum to the general~~
25 ~~fund.~~

26 ~~(e) Notwithstanding any other provision of this subsection (2), on~~
27 ~~May 31, 2007, the state treasurer shall transfer forty percent of the~~

1 unencumbered balance of the advanced technology fund to the innovative
2 higher education research fund created in section 23-19.7-104, C.R.S.

3 **SECTION 4.** 25-16.5-106.5 (1) and (2), Colorado Revised
4 Statutes, are amended to read:

5 **25-16.5-106.5. Recycling resources economic opportunity fund**
6 **- creation - repeal.** (1) (a) The recycling resources economic
7 opportunity fund is hereby created in the state treasury, referred to in this
8 section as the "fund". The fund shall consist of:

9 (I) (A) Moneys collected for the fund pursuant to sections
10 25-16-104.5 (3.9) (b) and 25-17-202 ~~(1)(a)(IV)~~ (3) (a) (VI) and credited
11 to the fund in accordance with the provisions of section 25-16-104.5 (3.9)
12 (b). THIS SUB-SUBPARAGRAPH (A) IS REPEALED, EFFECTIVE JULY 1, 2011.

13 (B) EFFECTIVE JULY 1, 2011, MONEYS COLLECTED FOR THE FUND
14 PURSUANT TO SECTION 25-16-104.5 (3.9) (b) AND CREDITED TO THE FUND
15 IN ACCORDANCE WITH SECTION 25-16-104.5 (3.9) (b).

16 (II) Any moneys appropriated to the fund by the general assembly;
17 and

18 (III) All other moneys that may be available to the fund, including
19 moneys made available from gifts, grants, or bequests.

20 (b) All interest derived from the deposit of moneys in the fund
21 shall be credited to the fund. At the end of any fiscal year, all
22 unexpended and unencumbered moneys in the fund shall remain ~~therein~~
23 IN THE FUND and shall not be credited or transferred to the general fund
24 or any other fund.

25 (2) Any moneys generated ~~from the imposition of solid waste user~~
26 ~~fees pursuant to sections 25-16-104.5 (3.9) and 25-17-202 (1)(a)(IV)~~
27 PURSUANT TO SUBSECTION (1) OF THIS SECTION shall be annually

1 appropriated to the department for allocation to the advisory board for the
2 purpose of funding the recycling resources economic opportunity
3 activities authorized by section 25-16.5-106.7, as well as any
4 administrative costs associated therewith, including without limitation the
5 grants authorized to be made under section 25-16.5-106.7 (3) and grant
6 program oversight authorized by section 25-16.5-105.5 (3).

7 **SECTION 5.** 25-17-202, Colorado Revised Statutes, is
8 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

9 **25-17-202. Waste tire fees - definitions - repeal.** (1) AS USED
10 IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 (a) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
12 COMMISSION CREATED IN SECTION 25-15-302.

13 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
14 AND ENVIRONMENT.

15 (c) "END USER" MEANS A PERSON WHO USES PROCESSED WASTE
16 TIRES FOR A COMMERCIAL OR INDUSTRIAL PURPOSE.

17 (d) "PROCESSOR" MEANS A PERSON WHO PROCESSES WASTE TIRES
18 IN COLORADO FOR RECYCLING OR BENEFICIAL USE.

19 (e) "PUBLIC PROJECT" MEANS:

20 (I) ANY PUBLICLY FUNDED CONTRACT ENTERED INTO BY A
21 GOVERNMENTAL BODY OF THE EXECUTIVE BRANCH OF THIS STATE THAT
22 IS SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE
23 24, C.R.S.; AND

24 (II) ANY PUBLICLY FUNDED CONTRACT ENTERED INTO BY ANY
25 POLITICAL SUBDIVISION OF THE STATE.

26 (f) "TIRE" MEANS A TIRE FOR ANY PASSENGER VEHICLE, INCLUDING
27 ANY TRUCK, WEIGHING LESS THAN FIFTEEN THOUSAND POUNDS, AND FOR

1 ANY TRUCK, INCLUDING ANY TRUCK TRACTOR, TRAILER, OR SEMITRAILER,
2 WEIGHING MORE THAN FIFTEEN THOUSAND POUNDS; EXCEPT THAT "TIRE"
3 DOES NOT INCLUDE:

4 (I) TIRES THAT ARE RECAPPED OR OTHERWISE REPROCESSED FOR
5 USE; OR

6 (II) TIRES THAT ARE USED FOR:

7 (A) FARM EQUIPMENT EXEMPT FROM SALES AND USE TAXES
8 PURSUANT TO SECTION 39-26-716, C.R.S.; OR

9 (B) A FARM TRACTOR OR IMPLEMENT OF HUSBANDRY EXEMPT
10 FROM REGISTRATION PURSUANT TO SECTION 42-3-104, C.R.S.

11 (g) "TIRE-DERIVED PRODUCT" MEANS MATTER THAT:

12 (I) IS DERIVED FROM A PROCESS THAT USES WHOLE TIRES AS A
13 FEEDSTOCK, INCLUDING SHREDDING, CRUMBING, AND CHIPPING; AND

14 (II) HAS BEEN SOLD AND REMOVED FROM THE FACILITY OF A
15 PROCESSOR.

16 (h) (I) "WASTE TIRE" MEANS A TIRE THAT IS NO LONGER MOUNTED
17 ON A MOTOR VEHICLE AND IS NO LONGER SUITABLE FOR USE AS A TIRE DUE
18 TO WEAR, DAMAGE, OR DEVIATION FROM THE MANUFACTURER'S ORIGINAL
19 SPECIFICATIONS.

20 (II) "WASTE TIRE" INCLUDES THE FOLLOWING TYPES OF TIRES THAT
21 ARE NOT ORGANIZED FOR RESALE BY SIZE IN A RACK OR A STACK IN A
22 MANNER THAT ALLOWS THE INSPECTION OF EACH INDIVIDUAL TIRE: A
23 REPAIRABLE TIRE, SCRAP TIRE, ALTERED WASTE TIRE, AND A USED TIRE.

24 (III) "WASTE TIRE" DOES NOT INCLUDE A TIRE-DERIVED PRODUCT
25 OR CRUMB RUBBER.

26 (i) "WASTE TIRE CLEANUP PROGRAM" OR "PROGRAM" MEANS THE
27 PROGRAM CREATED BY THIS PART 2.

1 (j) (I) "WASTE TIRE FACILITY" MEANS:
2 (A) A WASTE TIRE MONOFILL, AS THAT TERM IS DEFINED IN
3 SECTION 30-20-1001, C.R.S.;
4 (B) A FACILITY OF AN END USER OR PROCESSOR;
5 (C) A FACILITY OF A TIRE RETAILER OR TIRE WHOLESALER THAT IS
6 A SOURCE OF WASTE TIRES PURSUANT TO SECTION 30-20-1007 OR
7 30-20-1008, C.R.S.;
8 (D) A COLLECTION FACILITY, AS THAT TERM IS DEFINED BY THE
9 COMMISSION BY RULE; OR
10 (E) ANY OTHER FACILITY AT WHICH A QUANTITY OF WASTE TIRES
11 IN EXCESS OF A LIMIT ESTABLISHED BY RULE BY THE COMMISSION ARE
12 STORED FOR AT LEAST NINETY DAYS, PROCESSED, OR DISPOSED OF.
13 (II) "WASTE TIRE FACILITY" DOES NOT INCLUDE THE FACILITY OF
14 A WASTE TIRE HAULER UNLESS THE HAULER STORES A QUANTITY OF WASTE
15 TIRES IN EXCESS OF A LIMIT ESTABLISHED BY RULE BY THE COMMISSION AT
16 THE FACILITY FOR AT LEAST NINETY DAYS.
17 (k) "WASTE TIRE HAULER" MEANS A PERSON WHO TRANSPORTS
18 WASTE TIRE FOR COMPENSATION.
19 (2) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AS
20 AMENDED, RETAILERS OF NEW TIRES SHALL COLLECT A WASTE TIRE FEE OF
21 ONE DOLLAR AND FIFTY CENTS ON THE SALE OF EACH NEW TIRE. THE
22 RECEIPT FROM THE RETAILER TO THE CUSTOMER FOR EVERY NEW TIRE
23 SHALL CONTAIN THE FOLLOWING STATEMENT IN THE LARGEST
24 BOLD-FACED PRINT CAPABLE ON EXISTING INVOICE PRINTERS, NOT TO
25 EXCEED FIFTEEN POINTS: "SECTION 25-17-202, COLORADO REVISED
26 STATUTES, REQUIRES RETAILERS TO COLLECT A \$1.50 WASTE TIRE FEE ON
27 THE SALE OF EACH NEW MOTOR VEHICLE TIRE."

1 (b) THE RETAILER SHALL SUBMIT TO THE DEPARTMENT OF
2 REVENUE ALL FEES COLLECTED PURSUANT TO THIS SECTION TOGETHER
3 WITH ANY REPORT REQUIRED BY THE DEPARTMENT OF REVENUE IN
4 CONJUNCTION WITH THE REMITTANCE OF ANY SALES TAX IN ACCORDANCE
5 WITH ARTICLE 26 OF TITLE 39, C.R.S.

6 (c) A PERSON WHO FAILS TO COMPLY WITH THIS SECTION SHALL BE
7 SUBJECT TO SECTION 39-21-118, C.R.S. THE DEPARTMENT OF REVENUE
8 SHALL NOTIFY RETAILERS OF NEW TIRES CONCERNING THE NEW
9 REQUIREMENTS IN THIS SECTION ENACTED BY SENATE BILL 09-289,
10 ENACTED IN 2009.

11 (3) (a) THE DEPARTMENT OF REVENUE SHALL TRANSMIT THE FEES,
12 TOGETHER WITH A REPORT OF ITS DIRECT AND INDIRECT ADMINISTRATIVE
13 COSTS IN COMPLYING WITH THIS SECTION, TO THE STATE TREASURER. THE
14 STATE TREASURER SHALL PAY TO THE DEPARTMENT OF REVENUE AN
15 AMOUNT EQUAL TO THE DEPARTMENT OF REVENUE'S DIRECT AND INDIRECT
16 ADMINISTRATIVE COSTS SPECIFIED IN THIS PARAGRAPH (a); EXCEPT THAT
17 THIS AMOUNT SHALL NOT EXCEED ONE AND TWO-THIRDS PERCENT OF THE
18 TOTAL AMOUNT OF FEES CREDITED PURSUANT TO THIS PARAGRAPH (a).
19 THE STATE TREASURER SHALL, SUBJECT TO PARAGRAPH (b) OF THIS
20 SUBSECTION (3), CREDIT THE REMAINING FEES AS FOLLOWS:

21 (I) (A) THIRTY AND THIRTY-THREE ONE-HUNDREDTHS PERCENT TO
22 THE PROCESSORS AND END USERS FUND CREATED IN SECTION 25-17-202.5
23 AND SIX AND SIXTY-SEVEN ONE-HUNDREDTHS PERCENT TO THE
24 INNOVATIVE HIGHER EDUCATION RESEARCH FUND CREATED IN SECTION
25 23-19.7-104, C.R.S. THIS SUB-SUBPARAGRAPH (A) IS REPEALED,
26 EFFECTIVE JULY 1, 2014.

27 (B) EFFECTIVE JULY 1, 2014, THIRTY-SEVEN PERCENT TO THE

1 PROCESSORS AND END USERS FUND CREATED IN SECTION 25-17-202.5;

2 (II) THIRTY-NINE AND SIXTY-SIX ONE-HUNDREDTHS PERCENT TO

3 THE WASTE TIRE CLEANUP FUND CREATED IN SECTION 25-17-202.6;

4 (III) (A) SIX AND SIXTY-SEVEN ONE-HUNDREDTHS PERCENT TO THE

5 WASTE TIRE FIRE PREVENTION FUND CREATED IN SECTION 25-17-202.8.

6 THIS SUB-SUBPARAGRAPH (A) IS REPEALED, EFFECTIVE JULY 1, 2011.

7 (B) EFFECTIVE JULY 1, 2011, EIGHT PERCENT TO THE WASTE TIRE

8 FIRE PREVENTION FUND CREATED IN SECTION 25-17-202.8;

9 (IV) EFFECTIVE JULY 1, 2011, SIX AND SIXTY-SEVEN

10 ONE-HUNDREDTHS PERCENT TO THE WASTE TIRE MARKET DEVELOPMENT

11 FUND CREATED IN SECTION 25-17-202.9;

12 (V) EFFECTIVE JULY 1, 2011, EIGHT AND SIXTY-SEVEN

13 ONE-HUNDREDTHS PERCENT TO THE LAW ENFORCEMENT GRANT FUND

14 CREATED IN SECTION 25-17-207 (5); AND

15 (VI) SIXTEEN AND SIXTY-SEVEN ONE-HUNDREDTHS PERCENT TO

16 THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY FUND CREATED IN

17 SECTION 25-16.5-106.5. THIS SUBPARAGRAPH (VI) IS REPEALED,

18 EFFECTIVE JULY 1, 2011.

19 (b) THE DEPARTMENT MAY REALLOCATE UNCOMMITTED MONEYS

20 AMONG FUNDING CATEGORIES DESCRIBED IN THIS SUBSECTION (3) AT THE

21 END OF EACH FISCAL QUARTER.

22 (4) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE

23 DEPARTMENT SHALL DISTRIBUTE, WHETHER BY GRANT, REIMBURSEMENT,

24 OR OTHERWISE, FEES COLLECTED PURSUANT TO THIS SECTION ONLY TO A

25 PERSON OR ENTITY THAT IS LOCATED IN AND HAS OPERATIONS IN

26 COLORADO, AND SHALL NOT DISTRIBUTE ANY SUCH FEES TO A PERSON OR

27 ENTITY LOCATED OUTSIDE OF COLORADO.

1 **SECTION 6.** 25-17-202.5 (1), Colorado Revised Statutes, is
2 amended to read:

3 **25-17-202.5. Processors and end users fund created - rules -**
4 **repeal.** (1) There is hereby created, in the state treasury, the processors
5 and end users of waste tires cash fund. Such fund shall consist of the fee
6 revenue ~~collected~~ CREDITED pursuant to section 25-17-202 ~~(1)(a)(HH)~~ (3)
7 (a) (I) AND YEAR-END SURPLUSES TRANSFERRED PURSUANT TO SECTIONS
8 25-17-202.6 (1), 25-17-202.8 (1), 25-17-202.9 (1), AND 25-17-207 (6).
9 ALL INTEREST OR ANY OTHER RETURN ON THE INVESTMENT OF MONEYS IN
10 THE FUND SHALL BE DEPOSITED IN THE FUND. Any moneys in the fund not
11 expended or encumbered from any appropriation at the end of any fiscal
12 year shall remain available, without further appropriation, for expenditure
13 in the next fiscal year by the department of local affairs for allocation to
14 ~~the division of local government~~ to be used in the following amounts for
15 ~~the following purposes~~ MONTHLY PARTIAL REIMBURSEMENT TO
16 PROCESSORS AND END USERS, UP TO A MAXIMUM OF SIXTY-FIVE DOLLARS
17 FOR EACH TON OF RAW COLORADO WASTE TIRES THAT ARE PROCESSED OR
18 USED. THE PURPOSE OF SUCH PARTIAL REIMBURSEMENTS SHALL BE TO
19 ASSIST NEW WASTE TIRE RECYCLING TECHNOLOGIES TO BECOME
20 ECONOMICALLY FEASIBLE AND TO THEREBY ENCOURAGE THE USE OF
21 WASTE TIRES AND REDUCE THE STORAGE OF WASTE TIRES IN COLORADO.

22 ~~(a) Seventy-two percent shall be used for the purposes described~~
23 ~~in section 24-32-114 (1) (c), C.R.S.~~

24 ~~(b) Twenty-eight percent shall be used for the purposes described~~
25 ~~in section 24-32-114 (1) (b), C.R.S.~~

26 **SECTION 7.** Part 2 of article 17 of title 25, Colorado Revised
27 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW

1 SECTIONS to read:

2 **25-17-202.6. Waste tire cleanup fund - rules.** (1) THERE IS
3 HEREBY CREATED IN THE STATE TREASURY THE WASTE TIRE CLEANUP
4 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF
5 REVENUES CREDITED PURSUANT TO SECTION 25-17-202 (3) (a) (II). ALL
6 INTEREST OR ANY OTHER RETURN ON THE INVESTMENTS SHALL BE
7 DEPOSITED IN THE FUND. AT THE END OF EACH FISCAL YEAR, THE STATE
8 TREASURER SHALL TRANSFER ALL UNEXPENDED AND UNENCUMBERED
9 MONEYS IN THE FUND TO THE PROCESSORS AND END USERS FUND CREATED
10 IN SECTION 25-17-202.5. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
11 APPROPRIATIONS OUT OF THE FUND TO THE DEPARTMENT IN AN AMOUNT
12 EQUAL TO THE DEPARTMENT'S DIRECT AND INDIRECT ADMINISTRATIVE
13 COSTS INCURRED PURSUANT TO THIS SECTION AND SECTIONS 25-17-202.5
14 AND 25-17-204, NOT TO EXCEED SIX PERCENT OF THE ANNUAL INCOME TO
15 THE FUND.

16 (2) THE DEPARTMENT SHALL USE THE REMAINING MONEYS IN THE
17 FUND AS FOLLOWS:

18 (a) UP TO TWO-THIRDS MAY BE EXPENDED TO PROVIDE GRANTS TO
19 COUNTIES AND MUNICIPALITIES FOR THE DISPOSAL, RECYCLING, OR REUSE
20 OF ILLEGALLY DUMPED OR STORED WASTE TIRES AT A WASTE TIRE
21 FACILITY AND ALLOW FOR PARTIAL REIMBURSEMENT TO PROCESSORS AND
22 END USERS UP TO A MAXIMUM OF SIXTY-FIVE DOLLARS FOR EACH TON OF
23 RAW WASTE TIRES THAT ARE PROCESSED OR USED AND THAT ARE LOCATED
24 AT A WASTE TIRE FACILITY;

25 (b) (I) UP TO ONE-THIRD MAY BE EXPENDED TO PROVIDE FOR TIRE
26 REUSE OR RECYCLING INCENTIVES IN PUBLIC PROJECTS FOR PRODUCTS
27 THAT CONTAIN OR MAKE USE OF RECYCLED, RECAPPED, AND OTHER

1 PREVIOUSLY USED WASTE TIRES, INCLUDING TIRE-DERIVED PRODUCTS.
2 THE DEPARTMENT SHALL DETERMINE HOW MONEYS FOR SUCH INCENTIVES
3 SHALL BE DISTRIBUTED AMONG PROJECTS. ANY STATE AGENCY IS
4 AUTHORIZED TO EXPEND TIRE REUSE OR RECYCLING INCENTIVE MONEYS
5 DISTRIBUTED PURSUANT TO THIS SECTION.

6 (II) THE GENERAL ASSEMBLY HEREBY FINDS THAT THE PURPOSE OF
7 THE TIRE REUSE OR RECYCLING INCENTIVES UNDER THIS PARAGRAPH (b)
8 IS TO ENCOURAGE THE BENEFICIAL REUSE AND RECYCLING OF COLORADO
9 WASTE TIRES AND IS NOT INTENDED TO USURP FUNCTIONS PROPERLY
10 PERFORMED BY THE PRIVATE SECTOR OR TO COMPETE UNFAIRLY WITH
11 PRIVATE BUSINESSES.

12 (III) FOR THE PURPOSE OF EXPENDING TIRE REUSE OR RECYCLING
13 INCENTIVES UNDER THIS PARAGRAPH (b), THE STATE PURCHASING
14 DIRECTOR AND ANY PURCHASING AGENT HAVE THE AUTHORITY TO
15 PURCHASE TIRE-DERIVED PRODUCTS UNLESS ANY OF THE FOLLOWING
16 CONDITIONS EXIST:

17 (A) THE PRODUCT IS NOT AVAILABLE WITHIN A REASONABLE
18 PERIOD OF TIME;

19 (B) THE PRODUCT FAILS TO MEET EXISTING PURCHASING RULES,
20 INCLUDING ANY APPLICABLE SPECIFICATIONS; OR

21 (C) THE PRODUCT FAILS TO MEET FEDERAL OR STATE HEALTH OR
22 SAFETY STANDARDS AS SET FORTH IN THE CODE OF FEDERAL REGULATIONS
23 OR THE COLORADO CODE OF REGULATIONS.

24 (3) ALL MONEYS ENCUMBERED BY JUNE 30 OF A FISCAL YEAR
25 SHALL ROLL FORWARD FOR EXPENDITURE IN THE FOLLOWING FISCAL YEAR.

26 (4) IN PROVIDING ASSISTANCE TO COUNTIES PURSUANT TO THIS
27 SECTION, THE DEPARTMENT SHALL GIVE PRIMARY CONSIDERATION TO THE

1 NUMBER OF ILLEGAL WASTE TIRE DUMPS OR STORAGE FACILITIES IN EACH
2 COUNTY AND WHETHER FACILITIES ARE AVAILABLE TO RECYCLE SUCH
3 WASTE TIRES.

4 (5) (a) COUNTIES AND MUNICIPALITIES RECEIVING GRANTS
5 PURSUANT TO THIS SECTION MAY USE SUCH GRANTS TO FUND THE
6 REMOVAL AND DISPOSAL OR RECYCLING OF WASTE TIRES WITH COUNTY OR
7 MUNICIPAL PERSONNEL OR MAY CONTRACT WITH PRIVATE ENTITIES, OTHER
8 LOCAL GOVERNMENTS, OR OTHER GOVERNMENTAL AGENCIES FOR SUCH
9 ACTIVITIES IF SUCH CONTRACTS ARE OTHERWISE IN ACCORDANCE WITH
10 LAW. THE USE OF INMATE LABOR SHALL BE PURSUED WHENEVER
11 FEASIBLE, AT THE SOLE DISCRETION OF THE BOARD OF COUNTY
12 COMMISSIONERS OR THE GOVERNING BODY OF THE MUNICIPALITY.

13 (b) IN AWARDING CONTRACTS FOR SERVICES PURSUANT TO THIS
14 SECTION, A COUNTY OR MUNICIPALITY MAY GIVE PREFERENTIAL BIDDING
15 TREATMENT TO INDIVIDUALS OR ENTITIES THAT WILL RECYCLE, PURSUANT
16 TO RULES OF THE DEPARTMENT CONCERNING RECYCLING, AND REUSE,
17 RATHER THAN DISPOSE OF, THE WASTE TIRES.

18 (c) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT
19 IT IS THE POLICY OF THIS STATE TO PURSUE PROPOSALS FOR RECYCLING
20 AND MAKING OTHER BENEFICIAL USE OF WASTE TIRES, IN LIEU OF STORAGE
21 OR LANDFILL DISPOSAL, WHENEVER FEASIBLE.

22 (6) (a) NO LATER THAN JANUARY 1, 2011, AND BIENNIALY
23 THEREAFTER, EACH COUNTY AND MUNICIPALITY IN THE STATE THAT HAS
24 RECEIVED FUNDS PURSUANT TO THIS SECTION SHALL SUBMIT A REPORT TO
25 THE DEPARTMENT CONCERNING:

26 (I) THE QUANTITY, EXPRESSED IN WEIGHT OR AS A NUMBER, OF
27 TIRES REMOVED FROM ILLEGAL DUMPS OR STORAGE FACILITIES IN THE

1 COUNTY OR MUNICIPALITY AND DISPOSED OF AT APPROVED FACILITIES OR
2 IN RECYCLING OR REUSE PROJECTS;

3 (II) THE METHOD IN WHICH SUCH DISPOSAL WAS ACCOMPLISHED
4 AND THE METHOD OF RECYCLING OR REUSE, IF ANY; AND

5 (III) THE QUANTITY OF WASTE TIRES IN THE COUNTY OR
6 MUNICIPALITY REMAINING TO BE LEGALLY DISPOSED OF OR RECYCLED IN
7 FUTURE YEARS.

8 (b) (I) THE DEPARTMENT SHALL CREATE A PRIORITY ABATEMENT
9 LIST OF WASTE TIRE STORAGE OR DISPOSAL FACILITIES AND COORDINATE
10 THE LIST WITH THE TEN-YEAR MONOFILL TIRE LANDFILL ELIMINATION PLAN
11 REQUIRED BY SECTION 30-20-121 (4), C.R.S. ABATEMENT PROJECTS
12 SHALL BE RANKED BASED ON THE POTENTIAL ENVIRONMENTAL DAMAGE
13 OF THE INDIVIDUAL WASTE TIRE FACILITIES. THE DEPARTMENT SHALL
14 PROVIDE AN ANNUAL UPDATE TO THE GENERAL ASSEMBLY OF THE
15 ABATEMENT PROJECTS.

16 (II) THE DEPARTMENT, IN CONJUNCTION WITH THE WASTE TIRE
17 ADVISORY COMMITTEE CREATED IN SECTION 25-17-208, EITHER ITSELF OR
18 THROUGH A CONTRACTOR:

19 (A) SHALL PROVIDE EDUCATIONAL PROGRAMS TO COUNTIES AND
20 THE PUBLIC REGARDING METHODS FOR PROPER DISPOSAL OF TIRES AND
21 THE USE AND AVAILABILITY OF TIRE-DERIVED PRODUCTS; AND

22 (B) MAY CONDUCT FEASIBILITY STUDIES, INCLUDING SITE-SPECIFIC
23 FEASIBILITY STUDIES AND LIFE CYCLE ASSESSMENTS, ON POTENTIAL USES
24 OF WASTE TIRES, INCLUDING AS SOIL ABSORPTION MEDIA, LIGHTWEIGHT
25 FILL USED IN ROADBEDS AND OTHER TYPES OF CIVIL ENGINEERING
26 PROJECTS, RUBBERIZED ASPHALT FOR ROAD CONSTRUCTION PROJECTS,
27 GEOSYNTHETIC LINED LANDFILLS, AND AS TIRE-DERIVED FUEL AT

1 ELECTRIC UTILITIES IN CONJUNCTION WITH BOTTOM ASH, EXISTING
2 PORTLAND CEMENT PLANTS, AND COAL-FIRED BOILERS.

3 (7) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT
4 THIS SECTION.

5 **25-17-202.8. Waste tire fire prevention fund.** (1) THERE IS
6 HEREBY CREATED IN THE STATE TREASURY THE WASTE TIRE FIRE
7 PREVENTION FUND, REFERRED TO IN THIS SECTION AS THE "FUND",
8 CONSISTING OF REVENUES CREDITED PURSUANT TO SECTION 25-17-202 (3)
9 (a) (III). ALL INTEREST OR ANY OTHER RETURN ON THE INVESTMENT OF
10 MONEYS IN THE FUND SHALL BE DEPOSITED IN THE FUND. AT THE END OF
11 EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER ALL
12 UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND TO THE
13 PROCESSORS AND END USERS FUND CREATED IN SECTION 25-17-202.5.

14 (2) THE DEPARTMENT SHALL USE THE FUND FOR:

15 (a) ENFORCEMENT OF THE REQUIREMENTS OF THIS PART 2
16 ACCORDING TO SECTIONS 30-20-113 AND 30-20-114;

17 (b) TRAINING THE STATE PATROL, SHERIFFS' OFFICES, POLICE
18 DEPARTMENTS, FIRE DEPARTMENTS, AND LOCAL DEPARTMENTS OF HEALTH
19 TO ENFORCE WASTE TIRE DISPOSAL, REGISTRATION, DECAL, AND MANIFEST
20 REQUIREMENTS OF SECTIONS 25-17-204 TO 25-17-206, 30-20-121 (3), AND
21 30-20-1006, C.R.S.; AND

22 (c) ALLOCATION TO THE DIVISION OF FIRE SAFETY IN THE
23 DEPARTMENT OF PUBLIC SAFETY FOR ITS ADMINISTRATIVE COSTS
24 PURSUANT TO SECTION 25-17-206 (3).

25 **25-17-202.9. Waste tire market development fund.** (1) THERE
26 IS HEREBY CREATED IN THE STATE TREASURY THE WASTE TIRE MARKET
27 DEVELOPMENT FUND, REFERRED TO IN THIS SECTION AS THE "FUND",

1 CONSISTING OF REVENUES CREDITED PURSUANT TO SECTION 25-17-202 (3)
2 (a) (IV). ALL INTEREST OR ANY OTHER RETURN ON THE INVESTMENT OF
3 MONEYS IN THE FUND SHALL BE DEPOSITED IN THE FUND. AT THE END OF
4 EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER ALL
5 UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND TO THE WASTE
6 TIRE CLEAN UP FUND CREATED IN SECTION 25-17-202.6.

7 (2) THE DEPARTMENT SHALL USE THE FUND TO ENCOURAGE WASTE
8 TIRE MARKET DEVELOPMENT PURSUANT TO A MARKET DEVELOPMENT
9 PLAN DEVELOPED BY THE WASTE TIRE ADVISORY COMMITTEE CREATED IN
10 SECTION 25-17-208.

11 **SECTION 8.** The introductory portion to 25-17-204 (1), Colorado
12 Revised Statutes, is amended, and the said 25-17-204 (1) is further
13 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

14 **25-17-204. Waste tire haulers - registration - rules - violations.**

15 (1) No person shall ~~for commercial purposes~~, transport A QUANTITY OF
16 waste tires IN EXCESS OF A LIMIT ESTABLISHED BY THE COMMISSION BY
17 RULE for storage or disposal to any location in this state:

18 (c) UNLESS THE PERSON:

19 (I) HAS AFFIXED TO THE VEHICLE USED FOR SUCH
20 TRANSPORTATION A DECAL ACQUIRED FROM THE DEPARTMENT PURSUANT
21 TO SECTION 25-17-205; AND

22 (II) COMPLIES WITH THE MANIFEST REQUIREMENTS OF SECTION
23 25-17-205.

24 **SECTION 9.** 25-17-204 (2) and (3) (a), Colorado Revised
25 Statutes, are amended to read:

26 **25-17-204. Waste tire haulers - registration - rules - violations.**

27 (2) Nothing in this section shall prohibit a person from transporting a

1 ~~waste tire~~ A QUANTITY OF WASTE TIRES THAT IS NOT IN EXCESS OF A LIMIT
2 ESTABLISHED BY THE COMMISSION BY RULE DURING ANY ONE TRIP to a
3 beneficial user, a waste tire recycling facility, or a facility that possesses
4 a valid air quality permit if the permit allows for an approved beneficial
5 use of the waste tires and the facility is not used to store waste tires for
6 more than a ~~ninety-day period~~ NINETY DAYS prior to any beneficial use.
7 NO PERSON SHALL TRANSPORT A QUANTITY OF WASTE TIRES IN EXCESS OF
8 THE LIMIT ESTABLISHED BY THE COMMISSION BY RULE DURING ANY ONE
9 TRIP UNLESS THE PERSON IS REGISTERED PURSUANT TO THIS SECTION.

10 (3) The ~~solid and hazardous waste~~ commission shall promulgate
11 rules to implement this section, including:

12 (a) Requirements that persons who transport A CERTAIN NUMBER
13 OR MORE OF waste tires for storage or disposal:

14 (I) Create and maintain records, INCLUDING THE MANIFEST
15 REQUIRED BY SECTION 25-17-205 (2), relating to such transportation and
16 report to the department; ~~of public health and environment;~~

17 (II) Register with the department ~~of public health and environment~~
18 and annually provide a copy of the currently valid registration to each
19 retailer of motor vehicle tires from whom the person accepts ~~for~~
20 ~~commercial purposes~~ a waste tire ~~and~~ FOR HAULING;

21 (III) Post a bond in a form and an amount set by the ~~solid and~~
22 ~~hazardous waste~~ commission, not to exceed ten thousand dollars; AND

23 (IV) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 25-17-205
24 (1) ON EACH VEHICLE USED TO TRANSPORT WASTE TIRES.

25 **SECTION 10.** Part 2 of article 17 of title 25, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
27 SECTIONS to read:

1 **25-17-205. Decals - manifests. (1) Decals.** (a) ON AND AFTER
2 A DATE SPECIFIED BY RULE PROMULGATED PURSUANT TO SECTION
3 25-17-207 (2), NO PERSON SHALL STORE A QUANTITY OF WASTE TIRES IN
4 EXCESS OF A LIMIT ESTABLISHED BY THE COMMISSION IN COLORADO FOR
5 ANY PURPOSE UNLESS:

6 (I) THE DEPARTMENT HAS ISSUED TO THE PERSON A DECAL
7 PURSUANT TO THIS SECTION; AND

8 (II) THE PERSON HAS, PURSUANT TO RULES PROMULGATED
9 PURSUANT TO SECTION 25-17-207 (2), AFFIXED THE DECAL TO A UNIFORM
10 LOCATION AT THE ADDRESS USED TO STORE THE WASTE TIRES.

11 (b) ON AND AFTER A DATE SPECIFIED BY RULE PROMULGATED
12 PURSUANT TO SECTION 25-17-207 (2), NO PERSON SHALL TRANSPORT A
13 QUANTITY OF WASTE TIRES IN EXCESS OF A LIMIT ESTABLISHED BY THE
14 COMMISSION IN COLORADO UNLESS:

15 (I) THE DEPARTMENT HAS ISSUED TO THE PERSON A DECAL
16 PURSUANT TO THIS SECTION; AND

17 (II) THE PERSON HAS, PURSUANT TO RULES PROMULGATED
18 PURSUANT TO SECTION 25-17-207 (2), AFFIXED THE DECAL TO THE
19 VEHICLE USED TO TRANSPORT WASTE TIRES AT A UNIFORM LOCATION.

20 (c) THE DEPARTMENT SHALL ISSUE A DECAL TO A PERSON IF THE
21 PERSON HAS SUBMITTED AN APPLICATION TO THE DEPARTMENT
22 CONTAINING ALL INFORMATION REQUIRED BY THE COMMISSION BY RULE
23 PROMULGATED PURSUANT TO SECTION 25-17-207 (2).

24 (d) DECALS SHALL BE VALID FOR A PERIOD DETERMINED BY THE
25 COMMISSION BY RULE, NOT TO EXCEED FIVE YEARS. A DECAL ISSUED
26 PURSUANT TO THIS SECTION SHALL CONTAIN THE INFORMATION REQUIRED
27 BY RULE PROMULGATED PURSUANT TO SECTION 25-17-207 (2), INCLUDING

1 AT LEAST AN EXPIRATION DATE AND THE DECAL NUMBER.

2 (2) **Uniform manifests.** (a) ON AND AFTER A DATE SPECIFIED BY
3 RULE PROMULGATED PURSUANT TO SECTION 25-17-207 (2), NO PERSON
4 SHALL ACCEPT FOR TRANSPORTATION A QUANTITY OF WASTE TIRES IN
5 EXCESS OF A LIMIT ESTABLISHED BY THE COMMISSION BY RULE UNLESS
6 THE PERSON HAS COMPLETELY FILLED OUT IN QUADRUPLICATE A UNIFORM
7 MANIFEST IN A FORM ESTABLISHED BY THE DEPARTMENT CONTAINING THE
8 INFORMATION SPECIFIED BY RULE PROMULGATED PURSUANT TO SECTION
9 25-17-207 (2), INCLUDING AT LEAST THE FOLLOWING:

10 (I) THE MANIFEST NUMBER;

11 (II) THE DECAL NUMBER OF THE VEHICLE USED TO TRANSPORT THE
12 TIRES;

13 (III) THE PERSON'S SIGNATURE UNDER PENALTY OF PERJURY,
14 NAME, ADDRESS, AND TELEPHONE NUMBER;

15 (IV) THE CURRENT DATE; THE WASTE TIRE FACILITY REGISTRATION
16 NUMBER, NAME, ADDRESS, AND TELEPHONE NUMBER OF THE SOURCE OF
17 THE TIRES; AND THE WASTE TIRE FACILITY REGISTRATION NUMBER, NAME,
18 ADDRESS, AND TELEPHONE NUMBER OF THE WASTE TIRE FACILITY TO
19 WHICH THE WASTE TIRES WILL BE TRANSPORTED; AND

20 (V) THE NUMBER OR WEIGHT OF TIRES IN THE LOAD.

21 (b) THE PERSON SHALL RETAIN ONE COPY OF THE MANIFEST AND
22 SHALL PROVIDE ONE COPY OF THE MANIFEST TO:

23 (I) THE SOURCE OF THE WASTE TIRE;

24 (II) THE WASTE TIRE FACILITY TO WHICH THE WASTE TIRES ARE
25 TRANSPORTED; AND

26 (III) THE DEPARTMENT.

27 (c) (I) THE PERSON, THE SOURCE OF THE WASTE TIRE, AND THE

1 WASTE TIRE FACILITY TO WHICH THE WASTE TIRES ARE TRANSPORTED
2 SHALL EACH KEEP A COPY OF THE MANIFEST FOR AT LEAST THREE YEARS
3 AFTER THE DATE STATED ON THE MANIFEST.

4 (II) THE DEPARTMENT MAY ENTER AND INSPECT THE FACILITY OF
5 ANY OF THE ENTITIES NAMED ON THE MANIFEST DURING NORMAL
6 WORKING HOURS AND MAY REQUEST A COPY OF THE MANIFEST. FAILURE
7 TO KEEP THE MANIFEST AS REQUIRED BY THIS PARAGRAPH (c) OR TO
8 PRODUCE THE MANIFEST UPON REQUEST BY THE DEPARTMENT OR THE
9 DEPARTMENT'S AGENT IS A VIOLATION OF THIS SECTION.

10 **25-17-206. Registration of waste tire facilities - definitions.**

11 (1) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES, "LOCAL FIRE AUTHORITY" MEANS EITHER:

13 (a) THE CHIEF OF A FIRE DEPARTMENT, IF THE WASTE TIRE FACILITY
14 IS LOCATED IN A FIRE PROTECTION DISTRICT;

15 (b) THE SHERIFF OF THE COUNTY IN WHICH THE WASTE TIRE
16 FACILITY IS LOCATED, ACTING AS FIRE WARDEN, IF THE FACILITY IS
17 LOCATED IN THE UNINCORPORATED PORTION OF A COUNTY AND IS NOT
18 LOCATED IN A FIRE PROTECTION DISTRICT;

19 (c) THE CHIEF OF A MUNICIPAL FIRE DEPARTMENT, IF THE WASTE
20 TIRE FACILITY IS LOCATED IN THE INCORPORATED PORTION OF A COUNTY
21 THAT IS PROTECTED BY A MUNICIPAL FIRE DEPARTMENT; OR

22 (d) THE GOVERNING BODY OF A MUNICIPALITY, IF THE WASTE TIRE
23 FACILITY IS LOCATED IN THE INCORPORATED PORTION OF A COUNTY AND
24 IS NOT LOCATED IN A FIRE PROTECTION DISTRICT OR PROTECTED BY A
25 MUNICIPAL FIRE DEPARTMENT.

26 (2) ON AND AFTER A DATE SPECIFIED BY RULE PROMULGATED
27 PURSUANT TO SECTION 25-17-207 (2), NO PERSON SHALL CONSTRUCT OR

1 MAINTAIN A WASTE TIRE FACILITY UNLESS THE PERSON HAS REGISTERED
2 WITH THE DEPARTMENT AND PAID THE FEE ESTABLISHED BY THE
3 COMMISSION PURSUANT TO SECTION 25-17-207 (1).

4 (3) (a) (I) ON AND AFTER A DATE SPECIFIED BY RULE
5 PROMULGATED PURSUANT TO SECTION 25-17-207 (2), A WASTE TIRE
6 FACILITY SHALL HAVE A FIRE PREVENTION, TRAINING, AND FIREFIGHTING
7 PROGRAM AS DETERMINED BY THE COMMISSION BY RULE; EXCEPT THAT
8 THIS SUBSECTION (3) SHALL NOT APPLY TO:

9 (A) A WASTE TIRE FACILITY THAT IS OPERATING WITH AN EXISTING
10 CERTIFICATE OF DESIGNATION AND THAT IS IN COMPLIANCE WITH ALL
11 LOCAL, STATE, AND FEDERAL REGULATIONS AND LAWS ON THE EFFECTIVE
12 DATE OF THIS SECTION; EXCEPT THAT, UPON THE RENEWAL OF OR
13 RE-APPLICATION FOR A CERTIFICATE OF DESIGNATION BY A WASTE TIRE
14 FACILITY, THE WASTE TIRE FACILITY SHALL BE REQUIRED TO COMPLY WITH
15 THIS SUBSECTION (3); OR

16 (B) A TIRE RETAILER OR TIRE WHOLESALER THAT IS A SOURCE OF
17 WASTE TIRES PURSUANT TO SECTION 30-20-1007 OR 30-20-1008, C.R.S.

18 (II) (A) THE LOCAL FIRE AUTHORITY SHALL REVIEW THE PROGRAM
19 IN ACCORDANCE WITH RULES AND, IF APPROPRIATE, RECOMMEND CHANGES
20 NECESSARY TO APPROVE THE PROGRAM.

21 (B) UPON REQUEST OF THE LOCAL FIRE AUTHORITY, THE DIRECTOR
22 OF THE DIVISION OF FIRE SAFETY IN THE DEPARTMENT OF PUBLIC SAFETY
23 SHALL PROVIDE TECHNICAL ASSISTANCE IN THE REVIEW OF THE PROGRAM
24 AND, IF APPROPRIATE, RECOMMEND CHANGES NECESSARY FOR THE LOCAL
25 FIRE AUTHORITY TO APPROVE THE PROGRAM.

26 (b) IF THE LOCAL FIRE AUTHORITY APPROVES THE PROGRAM, IT
27 SHALL CERTIFY THAT FACT TO THE DEPARTMENT. IF THE LOCAL FIRE

1 AUTHORITY RECOMMENDS CHANGES NECESSARY TO APPROVE THE
2 PROGRAM AND THE WASTE TIRE FACILITY FAILS TO IMPLEMENT THE
3 CHANGES, IT SHALL CERTIFY THAT FACT TO THE DEPARTMENT. THE
4 DEPARTMENT SHALL REVOKE THE REGISTRATION OF A WASTE TIRE
5 FACILITY THAT DOES NOT HAVE AN APPROVED FIRE PREVENTION,
6 TRAINING, AND FIREFIGHTING PROGRAM.

7 (4) (a) ON AND AFTER A DATE SPECIFIED BY RULE PROMULGATED
8 PURSUANT TO SECTION 25-17-207 (2), EACH WASTE TIRE MONOFILL SHALL:

9 (I) BY AN ANNUAL DATE ESTABLISHED BY RULE, SUBMIT TO THE
10 DEPARTMENT A WASTE TIRE INVENTORY REDUCTION PLAN THAT COMPLIES
11 WITH RULES ESTABLISHED BY THE COMMISSION. THE DEPARTMENT SHALL
12 HOLD ANY INFORMATION OR DATA SUBMITTED TO IT BY A WASTE TIRE
13 MONOFILL OR FACILITY OF AN END USER OR PROCESSOR PURSUANT TO THIS
14 SUBPARAGRAPH (I) AS CONFIDENTIAL BUSINESS INFORMATION UPON
15 REQUEST OF THE SUBMITTING ENTITY IF THE INFORMATION OR DATA
16 SATISFIES THE DEFINITION OF TRADE SECRET AS SPECIFIED IN SECTIONS
17 7-74-102 AND 18-4-408 (2), C.R.S. THE BURDEN OF PROVING THAT THE
18 INFORMATION OR DATA IS PROTECTED AS A TRADE SECRET SHALL BE UPON
19 THE PARTY ASSERTING THE CLAIM.

20 (II) COMPLY WITH THE INVENTORY REDUCTION PLAN AS APPROVED
21 BY THE DEPARTMENT BY THE END OF THE FOLLOWING YEAR.

22 (b) ON AND AFTER A DATE SPECIFIED BY RULE PROMULGATED
23 PURSUANT TO SECTION 25-17-207 (2), DURING EACH CALENDAR YEAR,
24 AND AS DETERMINED BY RULE:

25 (I) A PROCESSOR SHALL PROCESS INTO TIRE-DERIVED PRODUCT AT
26 LEAST SEVENTY-FIVE PERCENT OF THE THREE-YEAR ROLLING AVERAGE
27 ANNUAL AMOUNT, BY WEIGHT OR NUMBER, OF WASTE TIRES THAT THE

1 PROCESSOR ACCEPTED DURING THE PREVIOUS THREE CALENDAR YEARS;

2 (II) AN END USER SHALL CONVERT INTO AN END PRODUCT AT
3 LEAST SEVENTY-FIVE PERCENT OF THE THREE-YEAR ROLLING AVERAGE
4 ANNUAL AMOUNT BY WEIGHT OF TIRE-DERIVED PRODUCT THAT THE END
5 USER ACCEPTED DURING THE PREVIOUS THREE CALENDAR YEARS;

6 (III) A WASTE TIRE MONOFILL SHALL ARRANGE FOR THE
7 PROCESSING INTO TIRE-DERIVED PRODUCT OF AT LEAST SEVENTY-FIVE
8 PERCENT OF THE THREE-YEAR ROLLING AVERAGE ANNUAL AMOUNT, BY
9 WEIGHT OR NUMBER, OF WASTE TIRES THAT THE WASTE TIRE MONOFILL
10 ACCEPTED DURING THE PREVIOUS THREE CALENDAR YEARS.

11 (c) THE DEPARTMENT SHALL REVOKE THE REGISTRATION OF A
12 WASTE TIRE FACILITY THAT VIOLATES THIS SUBSECTION (4).

13 (5) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
14 SUBSECTION (5), ON AND AFTER A DATE SPECIFIED BY RULE PROMULGATED
15 PURSUANT TO SECTION 25-17-207 (2), A WASTE TIRE FACILITY SHALL:

16 (I) HAVE AN OPERATIONS PLAN, INCLUDING SITE SECURITY
17 MEASURES THAT INCLUDE LOCKED GATES AND AT LEAST A SIX-FOOT FENCE
18 SURROUNDING THE FACILITY;

19 (II) HAVE AN EMERGENCY RESPONSE PLAN;

20 (III) HAVE A FACILITY CLOSURE PLAN;

21 (IV) POST A BOND IN A FORM AND AMOUNT SET BY THE SOLID AND
22 HAZARDOUS WASTE COMMISSION, USING ONE OR MORE OF THE FOLLOWING
23 FINANCIAL MECHANISMS, TO COVER RECLAMATION OF THE FACILITY, IF
24 APPLICABLE, AND TO FINANCIALLY ASSURE FULL PAYMENT OF ALL
25 CLOSURE, POST-CLOSURE, AND, IF APPLICABLE, CORRECTIVE ACTION
26 ESTIMATED COSTS:

27 (A) TRUST FUND;

- 1 (B) LETTER OF CREDIT;
- 2 (C) SURETY BOND;
- 3 (D) INSURANCE;
- 4 (E) CORPORATE FINANCIAL TEST;
- 5 (F) LOCAL GOVERNMENT FINANCIAL TEST;
- 6 (G) CORPORATE GUARANTEE;
- 7 (H) LOCAL GOVERNMENT GUARANTEE; OR
- 8 (I) ONE OF THE FOLLOWING STATE-APPROVED MECHANISMS:
- 9 CERTIFICATE OF DEPOSIT; MULTIPLE FINANCIAL MECHANISMS; OR OTHER
- 10 METHODS AS APPROVED BY THE DEPARTMENT AND THE GOVERNING BODY
- 11 HAVING JURISDICTION;
- 12 (V) HAVE AN ADEQUATE WATER SUPPLY AVAILABLE FOR USE BY
- 13 THE LOCAL FIRE AUTHORITY IN THE EVENT OF A FIRE. OWNERS AND
- 14 OPERATORS OF WASTE TIRE FACILITIES MAY DEMONSTRATE COMPLIANCE
- 15 WITH THIS REQUIREMENT THROUGH ALTERNATIVE METHODS AS APPROVED
- 16 BY THE LOCAL FIRE AUTHORITY.
- 17 (VI) MEET THE STANDARDS AND CONDITIONS FOR THE
- 18 SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AS DETERMINED BY THE
- 19 LOCAL FIRE AUTHORITY. IN MAKING SUCH DETERMINATION, THE
- 20 INTERNATIONAL FIRE CODE, 2009 EDITION, PUBLISHED BY THE
- 21 INTERNATIONAL CODE COUNCIL IS HEREBY ADOPTED AS THE MINIMUM FIRE
- 22 SAFETY STANDARD FOR WASTE TIRE FACILITIES.
- 23 (b) THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION
- 24 (5):
- 25 (I) SHALL BE IMPLEMENTED BY THE DEPARTMENT IN
- 26 CONSULTATION WITH THE LOCAL FIRE OFFICIALS AND IN ACCORDANCE
- 27 WITH THE ADOPTED MINIMUM FIRE SAFETY STANDARDS; AND

1 (II) SHALL NOT APPLY TO:

2 (A) A WASTE TIRE FACILITY THAT IS OPERATING WITH AN EXISTING
3 CERTIFICATE OF DESIGNATION AND THAT IS IN COMPLIANCE WITH ALL
4 LOCAL, STATE, AND FEDERAL REGULATIONS AND LAWS ON THE EFFECTIVE
5 DATE OF THIS SECTION; EXCEPT THAT, UPON THE RENEWAL OF OR
6 RE-APPLICATION FOR A CERTIFICATE OF DESIGNATION BY A WASTE TIRE
7 FACILITY, THE WASTE TIRE FACILITY SHALL BE REQUIRED TO COMPLY WITH
8 PARAGRAPH (a) OF THIS SUBSECTION (5); OR

9 (B) A TIRE RETAILER OR TIRE WHOLESALER THAT IS A SOURCE OF
10 WASTE TIRES PURSUANT TO SECTION 30-20-1007 OR 30-20-1008, C.R.S.

11 **25-17-207. Fees - rules - penalties - enforcement - fund.**

12 (1) THE COMMISSION MAY ESTABLISH BY RULE PROMULGATED PURSUANT
13 TO SUBSECTION (2) OF THIS SECTION FEES FOR DECALS, MANIFESTS, AND
14 REGISTRATIONS TO RECOUP ITS DIRECT AND INDIRECT COSTS IN
15 ADMINISTERING THIS PART 2. NO SINGLE FEE SHALL EXCEED FIVE
16 HUNDRED DOLLARS. THE COMMISSION MAY ESTABLISH DIFFERENT FEES
17 FOR EACH CATEGORY OF WASTE TIRE FACILITY. ALL FEES SHALL BE
18 TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO
19 THE WASTE TIRE FUND CREATED IN SECTION 25-17-209.

20 (2) THE COMMISSION SHALL ADOPT RULES AS NECESSARY AND
21 CONVENIENT FOR THE ADMINISTRATION OF THIS PART 2.

22 (3) A PEACE OFFICER SHALL ENFORCE THE REQUIREMENTS OF THIS
23 PART 2.

24 (4) THE DEPARTMENT SHALL DEVELOP AN ON-LINE COMPLAINT
25 FORM AND PROCESSES FOR LAW ENFORCEMENT, FIRE DEPARTMENTS, AND
26 CITIZENS TO REPORT POTENTIAL WASTE TIRE VIOLATIONS.

27 (5) THERE IS HEREBY CREATED IN THE STATE TREASURY THE LAW

1 ENFORCEMENT GRANT FUND, CONSISTING OF THE FEE REVENUE CREDITED
2 PURSUANT TO SECTION 25-17-202 (3) (a) (V) AND ALL PENALTIES
3 ASSESSED PURSUANT TO THIS SECTION. ALL INTEREST OR ANY OTHER
4 RETURN ON THE INVESTMENTS SHALL BE PAID INTO THE FUND. AT THE
5 END OF EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER ALL
6 UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND TO THE
7 PROCESSORS AND END USERS FUND CREATED IN SECTION 25-17-202.5.
8 THE DEPARTMENT SHALL USE THE FUND FOR GRANTS TO AND
9 EDUCATIONAL PROGRAMS FOR COUNTY SHERIFFS, THE STATE PATROL,
10 POLICE DEPARTMENTS, FIRE DEPARTMENTS, AND LOCAL HEALTH
11 DEPARTMENTS FOR ENFORCEMENT, TRAINING, AND OVERSIGHT OF WASTE
12 TIRE FACILITIES.

13 **25-17-208. Waste tire advisory committee - repeal.** (1) THERE
14 IS HEREBY CREATED, UNDER THE COMMISSION, A WASTE TIRE ADVISORY
15 COMMITTEE CONSISTING OF THE FOLLOWING NINE MEMBERS:

16 (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
17 EXECUTIVE DIRECTOR'S DESIGNEE; AND

18 (b) THE FOLLOWING EIGHT MEMBERS APPOINTED BY THE
19 GOVERNOR WITH THE CONSENT OF THE SENATE:

20 (I) ONE MEMBER REPRESENTING LAW ENFORCEMENT FROM
21 JURISDICTIONS THAT HAVE A WASTE TIRE FACILITY;

22 (II) ONE MEMBER REPRESENTING TIRE RETAILERS;

23 (III) ONE MEMBER REPRESENTING END USERS;

24 (IV) ONE MEMBER REPRESENTING TIRE MANUFACTURERS;

25 (V) ONE MEMBER REPRESENTING WASTE TIRE HAULERS;

26 (VI) ONE MEMBER REPRESENTING WASTE TIRE PROCESSORS;

27 (VII) ONE MEMBER REPRESENTING WASTE TIRE MONOFILLS THAT

1 ARE OPERATING IN COMPLIANCE WITH THEIR CERTIFICATES OF
2 DESIGNATION; AND

3 (VIII) ONE MEMBER REPRESENTING LOCAL FIRE AUTHORITIES
4 THAT HAVE A WASTE TIRE FACILITY WITHIN THEIR JURISDICTION.

5 (2) THE ADVISORY COMMITTEE SHALL MEET ONCE PER QUARTER
6 FOR THE FIRST FOUR YEARS AFTER JULY 1, 2010, TO PROVIDE INPUT AND
7 ASSESSMENT OF THE WASTE TIRE CLEANUP PROGRAM, PROPOSE NEW
8 RULES, AND RECOMMEND TO THE DEPARTMENT POTENTIAL RULES TO
9 EFFECTIVELY MANAGE THE WASTE TIRE CLEANUP PROGRAM. THE
10 ADVISORY COMMITTEE SHALL ADVISE THE COMMISSION AND THE
11 DEPARTMENT ON CRITERIA AND PRIORITIES FOR WASTE TIRE-RELATED
12 FUNDING, MAKE RECOMMENDATIONS TO THE DEPARTMENT CONCERNING
13 EDUCATIONAL PROGRAMS AND FEASIBILITY STUDIES AS CONTEMPLATED
14 BY SECTION 25-17-202.6 (6) (b) (II), AND ASSIST THE DEPARTMENT AS
15 NEEDED WITH MAKING GRANTS RELATED TO WASTE TIRE CLEAN UP. THE
16 COMMITTEE SHALL DETERMINE THE FREQUENCY OF ITS MEETINGS AFTER
17 JULY 1, 2014. THE FOCUS FOR THE COMMITTEE IS TO:

18 (a) PROTECT THE SAFETY AND WELFARE OF THE CITIZENS,
19 WILDLIFE, AND ENVIRONMENT ADJACENT TO WASTE TIRE FACILITIES;

20 (b) DEVELOP SOUND ENFORCEMENT PRACTICES AND RISK
21 MITIGATION PRACTICES TO PREVENT THE LOSS OF LIFE, PROPERTY, AND
22 THE ENVIRONMENT CAUSED BY WASTE TIRES;

23 (c) PREVENT THE ILLEGAL TRANSPORTATION AND DISPOSAL OF
24 WASTE TIRES;

25 (d) DEVELOP MARKETS FOR TIRE-DERIVED PRODUCTS; AND

26 (e) PROVIDE A LONG-TERM PLAN TO REDUCE WASTE TIRE
27 STOCKPILES AND A WASTE TIRE MARKET DEVELOPMENT PLAN.

1 (3) THE ADVISORY COMMITTEE SHALL HAVE A CHAIR AND
2 VICE-CHAIR AND SHALL REPORT TO THE COMMISSION, ON AN ANNUAL
3 BASIS, CONCERNING THE PROGRESS OF THE WASTE TIRE CLEANUP
4 PROGRAM. THE ADVISORY COMMITTEE SHALL TRACK THE VIOLATIONS
5 ALLEGED PURSUANT TO SECTION 25-17-207 (5) AND REPORT A SUMMARY
6 OF THE COMPLAINTS IN THE ANNUAL REPORT TO THE COMMISSION.

7 (4) APPOINTED MEMBERS OF THE ADVISORY COMMITTEE SHALL
8 SERVE THREE-YEAR TERMS; EXCEPT THAT, OF THE INITIAL APPOINTEES,
9 TWO SHALL BE APPOINTED FOR ONE-YEAR TERMS; THREE SHALL BE
10 APPOINTED FOR TWO-YEAR TERMS; AND THREE SHALL BE APPOINTED FOR
11 THREE-YEAR TERMS. THE GOVERNOR SHALL DESIGNATE THE LENGTH OF
12 TERMS FOR EACH OF THE MEMBERS FIRST APPOINTED IN ACCORDANCE
13 WITH THIS SUBSECTION (4). VACANCIES SHALL BE FILLED BY
14 APPOINTMENT FOR THE DURATION OF THE UNEXPIRED TERM.

15 (5) MEMBERS OF THE ADVISORY COMMITTEE SHALL HOLD THEIR
16 FIRST MEETING NO LATER THAN OCTOBER 10, 2010.

17 (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020. PRIOR TO
18 SUCH REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED AS
19 PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

20 **25-17-209. Waste tire fund.** ALL FEES COLLECTED PURSUANT TO
21 THIS PART 2, OTHER THAN FEES COLLECTED PURSUANT TO SECTION
22 25-17-202, SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO
23 SHALL CREDIT THEM TO THE WASTE TIRE FUND, WHICH FUND IS HEREBY
24 CREATED IN THE STATE TREASURY. EXCEPT AS SPECIFIED IN SECTION
25 25-17-202.6(1), THE FUND SHALL BE USED FOR THE DEPARTMENT'S DIRECT
26 AND INDIRECT COSTS IN ADMINISTERING THIS PART 2, INCLUDING PER DIEM
27 EXPENSES FOR THE ADVISORY COMMITTEE CREATED IN SECTION

1 25-17-208.

2 **SECTION 11.** 2-3-1203 (3), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **2-3-1203. Sunset review of advisory committees.** (3) The
5 following dates are the dates for which the statutory authorization for the
6 designated advisory committees is scheduled for repeal:

7 (gg) JULY 1, 2020: THE WASTE TIRE ADVISORY COMMITTEE
8 CREATED IN SECTION 25-17-208, C.R.S.

9 **SECTION 12.** 30-20-1001 (17), Colorado Revised Statutes, is
10 amended to read:

11 **30-20-1001. Definitions.** As used in this part 10, unless the
12 context otherwise requires:

13 (17) (a) ~~"Waste tire" means a light-duty whole tire used on a~~
14 ~~passenger-type vehicle or truck that is no longer suitable for its original~~
15 ~~intended purpose because of wear, damage, or defect.~~ HAS THE MEANING
16 ESTABLISHED IN SECTION 25-17-202 (1), C.R.S.

17 (b) ~~"Waste tire" does not include waste tires from any device~~
18 ~~moved exclusively by human power.~~

19 **SECTION 13.** 39-26-706, Colorado Revised Statutes, is amended
20 BY THE ADDITION OF A NEW SUBSECTION to read:

21 **39-26-706. Miscellaneous sales and use tax exemptions -**
22 **cigarettes - internet access - refractory materials - precious metal**
23 **bullion and coins - waste tires.** (5) THE COLLECTION OF THE WASTE
24 TIRE FEE PURSUANT TO SECTION 25-17-202, C.R.S., IS EXEMPT FROM
25 TAXATION UNDER PART 1 OF THIS ARTICLE.

26 **SECTION 14.** 43-2-402 (5), Colorado Revised Statutes, is
27 amended to read:

1 **43-2-402. Noise mitigation measures.** (5) (a) The department
2 shall construct noise mitigation measures on the list of approved measures
3 for which a local government has agreed to provide no less than fifty
4 percent of the necessary moneys in the order of priority established
5 pursuant to subsection (4) of this section, using moneys provided by local
6 governments and any moneys distributed to the department by ~~the director~~
7 ~~of the division of local government in the department of local affairs~~
8 PUBLIC HEALTH AND ENVIRONMENT pursuant to ~~section 24-32-114 (1) (b),~~
9 ~~C.R.S.~~ PART 2 OF ARTICLE 17 OF TITLE 25, C.R.S.

10 (b) After the construction of noise mitigation measures in
11 accordance with paragraph (a) of this subsection (5), the department shall
12 use any moneys provided by local governments or distributed to the
13 department pursuant to ~~section 24-32-114 (1) (b), C.R.S.,~~ PART 2 OF
14 ARTICLE 17 OF TITLE 25, C.R.S., to construct other noise mitigation
15 measures on the list of approved measures in the order of priority
16 established pursuant to subsection (4) of this section.

17 (c) If a noise mitigation measure on the list of approved measures
18 is not constructed in a state fiscal year, the applicant may submit an
19 application for the noise mitigation measure for the next state fiscal year.

20 **SECTION 15. Act subject to petition - effective date -**
21 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
22 following the expiration of the ninety-day period after final adjournment
23 of the general assembly (August 11, 2010, if adjournment sine die is on
24 May 12, 2010); except that, if a referendum petition is filed pursuant to
25 section 1 (3) of article V of the state constitution against this act or an
26 item, section, or part of this act within such period, then the act, item,
27 section, or part shall not take effect unless approved by the people at the

1 general election to be held in November 2010 and shall take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) The provisions of this act shall apply to conduct occurring on
4 or after the applicable effective date of this act.