

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 501

By: Boren

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 amending 27A O.S. 2011, Section 2-11-401.2, as last
9 amended by Section 2, Chapter 336, O.S.L. 2019 (27A
10 O.S. Supp. 2020, Section 2-11-401.2), which relates
11 to used tire recycling fees; modifying fee schedule
12 for certain tires; providing for biennial increase of
13 certain fees; amending 27A O.S. 2011, Section 2-11-
14 401.4, as last amended by Section 3, Chapter 336,
15 O.S.L. 2019 (27A O.S. Supp. 2020, Section 2-11-
16 401.4), which relates to the allocation of the Used
17 Tire Recycling Indemnity Fund; modifying certain fee
18 amount; modifying allocation of monies from certain
19 fund; and providing an effective date.

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

21 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
22 as last amended by Section 2, Chapter 336, O.S.L. 2019 (27A O.S.
23 Supp. 2020, Section 2-11-401.2), is amended to read as follows:

24 A. 1. Except as otherwise provided by this section, the
25 following assessments shall be made for tires for use on vehicles:

26 a. at the time any tire:

27 (1) for an automobile as defined in the Oklahoma Used
28 Tire Recycling Act or a tire with a rim diameter

1 of less than or equal to nineteen and one-half
2 (19 1/2) inches is sold by a tire dealer, there
3 shall be assessed a used tire recycling fee of
4 ~~Two Dollars and ninety cents (\$2.90)~~ Three
5 Dollars (\$3.00) per tire,

6 (2) for vehicles other than automobiles as defined by
7 the Oklahoma Used Tire Recycling Act with a rim
8 diameter greater than nineteen and one-half (19
9 1/2) inches and a tread width of twelve (12)
10 inches or less is sold by a tire dealer, there
11 shall be assessed a used tire recycling fee of
12 ~~Five Dollars and fifty cents (\$5.50)~~ Five Dollars
13 and seventy-five cents per tire,

14 (3) with a rim diameter greater than nineteen and
15 one-half (19 1/2) inches and a tread width of
16 greater than twelve (12) inches is sold by a tire
17 dealer, there shall be assessed a used tire
18 recycling fee of ~~Ten Dollars (\$10.00)~~ Ten Dollars
19 and fifty cents (\$10.50) per tire, and

20 (4) is sold by a tire dealer for use on a motorcycle
21 or motor-driven cycle, there shall be assessed a
22 used tire recycling fee of ~~One Dollar (\$1.00)~~ Two
23 Dollars (\$2.00) per tire,
24

1 b. at any time an automobile as defined by the Oklahoma
2 Used Tire Recycling Act or a motor vehicle with a tire
3 rim diameter of less than or equal to nineteen and
4 one-half (19 1/2) inches is first registered in this
5 state, there shall be assessed a used tire recycling
6 fee of ~~Two Dollars and ninety cents (\$2.90)~~ Three
7 Dollars (\$3.00) per tire, except as otherwise provided
8 by subparagraphs e and f of this paragraph,

9 c. at any time a vehicle other than an automobile as
10 defined by the Oklahoma Used Tire Recycling Act with a
11 tire rim diameter of greater than nineteen and one-
12 half (19 1/2) inches is first registered in this
13 state, there shall be assessed a used tire recycling
14 fee of ~~Five Dollars and fifty cents (\$5.50)~~ Five
15 Dollars and seventy-five cents per tire, except as
16 otherwise provided by subparagraphs e, f and g of this
17 paragraph,

18 d. at any time a trailer or semitrailer with a tire rim
19 diameter of less than or equal to nineteen and one-
20 half (19 1/2) inches is first titled in this state,
21 there shall be assessed a used tire recycling fee of
22 ~~Two Dollars and ninety cents (\$2.90)~~ Three Dollars
23 (\$3.00) per tire,

1 e. at any time a motorcycle or motor-driven cycle is
2 first registered in this state, there shall be
3 assessed a used tire recycling fee of ~~One Dollar~~
4 ~~(\$1.00)~~ Two Dollars (\$2.00) per tire,

5 f. at the time a motor vehicle is first titled in this
6 state, to be registered under the provisions of
7 Section 1120 of Title 47 of the Oklahoma Statutes,
8 there shall be assessed a used tire recycling fee of
9 ~~Seven Dollars (\$7.00)~~ Nine Dollars (\$9.00), and

10 g. at the time a trailer or semitrailer is first titled
11 in this state, to be registered under the provisions
12 of Section 1133 of Title 47 of the Oklahoma Statutes,
13 there shall be assessed a used tire recycling fee of
14 ~~Five Dollars (\$5.00)~~ Seven Dollars (\$7.00).

15 2. No fee shall be assessed by a tire dealer for reusable tires
16 or retreaded tires for which the tire dealer can document that the
17 recycling fee has been previously paid.

18 3. All-terrain vehicles and off-road motorcycles registered
19 pursuant to the provisions of Section 1132 of Title 47 of the
20 Oklahoma Statutes shall be exempt from the provisions of this
21 section.

22 B. 1. For tires used on implements of husbandry and
23 agricultural equipment with a rim diameter of less than or equal to
24 nineteen and one-half (19 1/2) inches and that are less than thirty

1 (30) inches in total diameter, there shall be assessed a used tire
2 recycling fee of ~~Two Dollars and ninety cents (\$2.90)~~ Three Dollars
3 (\$3.00) per tire.

4 2. For tires used on implements of husbandry and agricultural
5 equipment with a rim diameter of greater than nineteen and one-half
6 (19 1/2) inches and that are less than thirty (30) inches in total
7 diameter, there shall be assessed a used tire recycling fee of ~~Five~~
8 ~~Dollars and fifty cents (\$5.50)~~ Five Dollars and seventy-five cents
9 (\$5.75) per tire.

10 3. For tires used on implements of husbandry and agricultural
11 equipment that are greater than thirty (30) inches in total diameter
12 and less than or equal to forty-four (44) inches in total diameter,
13 there shall be assessed a used tire recycling fee of ~~Eight Dollars~~
14 ~~(\$8.00)~~ Eleven Dollars (\$11.00) per tire. No fee shall be assessed
15 by a tire dealer if the customer retains the used agricultural tire
16 for use on a farm or ranch. The customer may return the used tire
17 to the tire dealer at a later date and shall be assessed the proper
18 fee.

19 4. For tires used on implements of husbandry and agricultural
20 equipment that are greater than forty-four (44) inches in total
21 diameter and less than or equal to seventy-two (72) inches in total
22 diameter and not more than thirty (30) inches wide, there shall be
23 assessed a used tire recycling fee of ~~Sixteen Dollars (\$16.00)~~
24 Eighteen Dollars (\$18.00) per tire. No fee shall be assessed by a

1 tire dealer if the customer retains the used agricultural tire for
2 use on a farm or ranch. The customer may return the used tire to
3 the tire dealer at a later date and shall be assessed the proper
4 fee.

5 5. A tire dealer may pay the assessed fee for any used
6 agricultural tire in current inventory and include that tire in the
7 used tire recycling program.

8 C. 1. The tire dealer and motor license agent shall remit such
9 fee to the Oklahoma Tax Commission in the same manner as provided by
10 Section 1365 of Title 68 of the Oklahoma Statutes.

11 2. Except as otherwise provided by this section, the tire
12 dealer shall remit to the Tax Commission ninety-seven and three-
13 quarters percent (97.75%) of the fee due pursuant to this section at
14 the time of filing any report as required by the Tax Commission.

15 3. Motor license agents shall remit ninety percent (90%) of the
16 fee assessed on each vehicle registered.

17 4. Failure to remit the fee at the time of filing the returns
18 shall cause the fee to become delinquent. If the fee becomes
19 delinquent the tire dealer or motor license agent forfeits any claim
20 to the discount authorized by this section and shall remit to the
21 Tax Commission one hundred percent (100%) of the amount of the fee
22 due plus any penalty due.

23 D. If the fee imposed or levied by subsection A of this
24 section, or any part of such amount, is not paid before the fee

1 becomes delinquent, there shall be collected on the total delinquent
2 fee interest at the rate of one and one-quarter percent (1 1/4%) per
3 month from the date of the delinquency until paid.

4 E. If any fee due under subsection A of this section, or any
5 part thereof, is not paid within fifteen (15) days after the fee
6 becomes delinquent, a penalty of ten percent (10%) on the total
7 amount of fee due and delinquent shall be added and paid.

8 F. All penalties or interest imposed by this section shall be
9 recoverable by the Tax Commission as a part of the fee imposed and
10 all penalties and interest shall be apportioned the same as the fee
11 on which the penalties or interest are collected.

12 G. All fees collected pursuant to subsections A and B of this
13 section shall increase by four percent (4%) every other year
14 beginning on the effective date of this act.

15 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
16 as last amended by Section 3, Chapter 336, O.S.L. 2019 (27A O.S.
17 Supp. 2020, Section 2-11-401.4), is amended to read as follows:

18 A. Compensation to used tire facilities and tire-derived fuel
19 or TDF facilities pursuant to this section shall be limited to
20 facilities located in Oklahoma. Compensation for used tire
21 activities pursuant to this section shall be limited to used tires
22 from Oklahoma. A used tire recycling facility or tire-derived fuel
23 or TDF facility may transport and deliver used tires collected from
24 Oklahoma to an out-of-state used tire recycling facility or TDF

1 facility but shall not be eligible for compensation from the Used
2 Tire Recycling Indemnity Fund for those used tires. To be eligible,
3 applicants for compensation shall be in compliance with the Oklahoma
4 Used Tire Recycling Act.

5 B. The monies accruing annually to the Used Tire Recycling
6 Indemnity Fund shall be allocated first to the Department of
7 Environmental Quality Revolving Fund, to be used for implementing
8 applicable requirements related to the control of mobile and area
9 sources of air emissions, for monitoring and modeling the impacts on
10 Oklahoma of air pollution from other states, for implementing and
11 enforcing other applicable air pollution control requirements or for
12 other environmental programs or projects. The amount of money
13 allocated for this purpose shall be twenty-four and one-tenth
14 percent (24.1%) of the funds produced by the ~~two-dollar-and-ninety-~~
15 ~~cent~~ three-dollar per tire fee assessed pursuant to division (1) of
16 subparagraph a of paragraph 1 of subsection A of Section 2-11-401.2
17 of this title and subparagraph b of paragraph 1 of subsection A of
18 Section 2-11-401.2 of this title; provided, in no event shall the
19 amount allocated annually exceed the 3-year average of the total
20 fiscal year amounts allocated in fiscal years 2015, 2016 and 2017
21 and any amount in excess of the 3-year average shall be placed to
22 the credit of the General Revenue Fund. After this allocation is
23 deducted, the balance of the monies shall be allocated as follows:
24

1 1. Two and one-fourth percent (2.25%), not to exceed Twenty
2 Thousand Dollars (\$20,000.00) per month, to the Oklahoma Tax
3 Commission and five and three-fourths percent (5.75%), not to exceed
4 Fifty Thousand Dollars (\$50,000.00) per month, to the Department of
5 Environmental Quality for the purpose of administering the
6 requirements of the Oklahoma Used Tire Recycling Act; provided, in
7 no event shall either of the amounts allocated annually pursuant to
8 this paragraph exceed the 3-year average of the total fiscal year
9 amounts allocated in fiscal years 2015, 2016 and 2017 and any amount
10 in excess of the 3-year average shall be placed to the credit of the
11 Used Tire Recycling Indemnity Fund; ~~and~~

12 2. Four percent (4%) per month to the State Treasury for
13 deposit into the County Improvements for Roads and Bridges Fund,
14 Section 507 of Title 69; and

15 3. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
16 per audit to the State Auditor and Inspector for the purpose of
17 conducting audits of the Oklahoma Used Tire Recycling Program
18 pursuant to Section 2-11-401.6 of this title.

19 C. After the allocations under subsection B of this section are
20 made, the balance of monies in the Fund shall be available for
21 compensation pursuant to the provisions of the Oklahoma Used Tire
22 Recycling Act as follows:

23 1. Compensation to used tire facilities for used tire
24 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of
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1 processed tire material. For compensation the following conditions
2 shall apply:

3 a. facilities that process used tires by altering the
4 form of the used tires but do not produce tire-derived
5 product shall not receive compensation until the
6 facility documents the sale and movement of the
7 processed used tire material off-site to a third
8 party,

9 b. facilities shall report and certify used tire
10 processing activity in terms of weight. The facility
11 shall by sworn affidavit provide to the Department
12 sufficient information to verify that the facility has
13 processed used tires and sold processed used tires for
14 actual recycling or reuse in accordance with the
15 purposes of the Oklahoma Used Tire Recycling Act, and

16 c. to be eligible for compensation, a facility shall not
17 have accumulated more processed material than the
18 amount for which the facility has provided financial
19 assurance under its solid waste permit or the amount
20 accumulated from three (3) years of operation,
21 whichever is less;

22 2. a. Compensation to used tire recycling facilities or TDF
23 facilities at the rate of Fifty-three Dollars (\$53.00)
24 per ton of whole used tires for the collection and
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1 transportation of used tires from Oklahoma tire
2 dealers, automotive dismantlers and parts recyclers,
3 solid waste landfill sites, and dumps certified by the
4 Department priority cleanup list, and delivering the
5 tires to a used tire recycling facility or TDF
6 facility. The collection and transportation of used
7 tires shall be provided by the used tire recycling
8 facility or TDF facility at no additional cost to the
9 tire dealer or automotive dismantler and parts
10 recycler or to the Fund. The used tire recycling
11 facility or TDF facility shall collect from any
12 location at which there are at least three hundred
13 used tires.

14 b. Compensation under this paragraph shall not be payable
15 until the used tires have been actually processed
16 according to the solid waste permit for the facility
17 or actually used for energy or fuel recovery. A TDF
18 facility that collects and transports whole used tires
19 shall be eligible for compensation under this
20 paragraph only for those whole used tires consumed by
21 that facility.

22 c. No tire dealer shall charge any customer any
23 additional fee for the management, recycling, or
24 disposal of any used tire upon which the used tire
25

1 recycling fee has been remitted to the Tax Commission.
2 For customers who choose not to leave a used tire upon
3 which the used tire recycling fee has been remitted to
4 the Tax Commission, the tire dealer shall issue a
5 receipt which entitles the customer to deliver the
6 used tire to the dealer at a later date.

7 d. To be eligible for compensation pursuant to this
8 paragraph, the used tire recycling facility or TDF
9 facility shall:

10 (1) demonstrate to the satisfaction of the Department
11 that the facility is regularly engaged in the
12 collection, transportation and delivery of used
13 tires to a used tire recycling facility or to a
14 TDF facility, on a statewide basis, and from each
15 county of the state,

16 (2) provide documentation to the Department, signed
17 by a dealer at the time of collection, which
18 certifies remittance of appropriate fees to the
19 Oklahoma Tax Commission as a participating tire
20 dealer pursuant to the provisions of the Oklahoma
21 Used Tire Recycling Act, and

22 (3) annually demonstrate that at least three to six
23 percent (3-6%) of the tires were collected from
24 tire dumps or landfills on the Department

1 priority cleanup list or community-wide cleanup
2 events approved by the Department. The
3 Department is authorized to determine
4 periodically the applicable percentage within the
5 specified range set forth in this division based
6 on the number of tires remaining in illegal dumps
7 and available funding.

8 e. In lieu of proof of remitted tire recycling fees, the
9 used tire recycling facility or TDF facility shall
10 accept proof of purchase of a salvage vehicle
11 registered in Oklahoma by an automotive dismantler and
12 parts recycler, licensed pursuant to the Automotive
13 Dismantlers and Parts Recycler Act, for the collection
14 and transportation of up to five used tires per
15 salvage vehicle purchased on or after January 1, 1996;

16 3. a. Compensation to a unit of local or county government
17 that submits to the Department for approval a plan for
18 the use of baled used tires in an engineering project.
19 Compensation shall be at the rate of fifty cents
20 (\$0.50) per tire.

21 b. The plan shall be approved by the Department before
22 construction of the project begins.

23 c. Any unit of local or county government baling used
24 tires shall not accumulate more than fifty used tire

1 bales prior to beginning construction of an approved
2 project.

3 d. Used tires baled pursuant to this paragraph cannot be
4 obtained from tire manufacturers, retailers,
5 wholesalers, retreaders, or automotive dismantlers and
6 parts recyclers.

7 e. Any unit of local or county government authorized to
8 receive reimbursement for the use of baled used tires
9 in an engineering project shall report and certify
10 whole used tires by number. The governmental unit
11 shall by sworn affidavit provide sufficient
12 information to the Department to verify that the unit
13 has utilized the tires in accordance with the purposes
14 of the Oklahoma Used Tire Recycling Act; and

15 4. If the Fund contains insufficient funds in any month to
16 satisfy the eligible reimbursements under this subsection, the
17 Department shall determine the apportionment of payments to be made
18 among the qualified applicants under this subsection according to
19 the percentage of used tires processed, collected and transported,
20 or utilized.

21 D. 1. After the allocations under subsections B and C of this
22 section are made, any remaining monies in the Fund shall be
23 available for TDF facilities and used tire recycling facilities that
24 produce tire-derived product for compensation at the rate of Twenty-

1 nine Dollars (\$29.00) per ton of processed or used tires utilized
2 for energy or fuel recovery or the production of tire-derived
3 product.

4 2. The production of tire-derived product shall be considered a
5 compensable event separate from and in addition to any compensation
6 for used tire processing under subsection C of this section.

7 3. TDF facilities and used tire recycling facilities authorized
8 to receive reimbursement under this subsection shall report and
9 certify tire material used by weight.

10 4. The facilities shall by sworn affidavit provide to the
11 Department sufficient information to verify that the facility has
12 used the tires in accordance with the purposes of the Oklahoma Used
13 Tire Recycling Act.

14 5. If the Fund contains insufficient funds in any month to
15 satisfy the eligible reimbursements under this subsection, the
16 Department shall determine the apportionment of payments to be made
17 among the qualified applicants according to the percentage of used
18 tires intended for energy or fuel recovery or the production of
19 tire-derived product.

20 E. 1. After the allocations under subsections B, C and D of
21 this section are made, any remaining monies in the Fund shall be
22 available for capital investment reimbursement to used tire
23 facilities and TDF facilities for the purchase of equipment
24 necessary to utilize used tires. Only equipment purchased on or
25

1 after January 1, 1995, shall be eligible. The facilities are
2 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
3 ton of used tires used. Total reimbursement shall not exceed one
4 hundred percent (100%) of the capital investment in eligible
5 equipment. The facilities may apply for compensation monthly to the
6 Department of Environmental Quality and shall supply any information
7 required by the Department.

8 2. If the Fund contains insufficient funds in any month to
9 satisfy the eligible reimbursements under this subsection, the
10 Department shall determine the apportionment of payments to be made
11 among the qualified applicants.

12 F. Subject to subsection G of this section, after the
13 allocations under subsections B, C, D and E of this section are
14 made, any remaining monies in the Fund, excluding monies collected
15 pursuant to paragraphs 3 and 4 of subsection B of Section 2-11-401.2
16 of this title, shall be disbursed as follows:

17 1. Additional compensation to used tire recycling facilities or
18 TDF facilities for the remediation of dumps certified by the
19 Department and delivering the tires to a used tire recycling
20 facility or a TDF facility. The Department shall determine
21 additional compensation made to qualified applicants under this
22 subsection based on cleanup feasibility of the dump. The Board
23 shall promulgate rules establishing unit costs for compensation
24 based on the remediation feasibility of the tire dumps. The

1 Department may solicit bids for the remediation of tire dumps if no
2 used tire recycling facilities or TDF facilities agree to remediate
3 a priority tire dump authorized by the Department or if the
4 Department determines the qualified applicant has not remediated the
5 tires in the tire dump to meet reference conditions of comparable
6 property in the immediate area; and

7 2. Reimbursement to the Department of Environmental Quality for
8 necessary costs associated with remediation or other necessary
9 actions at sites at which used tires or other wastes incidental to
10 the used tires present a threat to human health or environment, or
11 for projects to increase market demand for products made from
12 Oklahoma used tires. The Solid Waste Management Advisory Council
13 shall recommend and the Environmental Quality Board shall adopt
14 rules governing the types of market development projects that may
15 qualify for reimbursement. To the extent possible, the rules shall
16 favor and the Department shall prioritize projects with the greatest
17 potential to benefit schools, communities and local governments.
18 Upon its receipt of documentation from the Department showing
19 expenditures relating to the remediation of such sites or market
20 development projects, the Tax Commission shall reimburse the
21 Department for its documented expenditures.

22 G. Accrued funding for the purposes specified in subsection F
23 of this section shall not exceed Five Hundred Thousand Dollars
24 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is

1 reached, any additional funds shall be distributed as additional
2 compensation under paragraph 1 of subsection C of this section.

3 H. 1. Used tire recycling facilities and TDF facilities that
4 collect, transport and process tires used on implements of husbandry
5 and agricultural equipment that are greater than thirty (30) inches
6 in total diameter and less than or equal to forty-four (44) inches
7 in total diameter shall be eligible for compensation at a rate of
8 Eight Dollars (\$8.00) per tire.

9 a. Collection, transportation and processing of tires
10 under this paragraph shall be considered a compensable
11 event separate from and in addition to any
12 compensation under subsection C of this section.

13 b. Used tire recycling facilities and TDF facilities
14 authorized to receive reimbursement under this
15 paragraph shall report and certify the number of tires
16 collected and transported.

17 2. Used tire recycling facilities and TDF facilities that
18 collect, transport and process tires used on implements of husbandry
19 and agricultural equipment that are greater than forty-four (44)
20 inches in total diameter and less than or equal to seventy-two (72)
21 inches in total diameter and not more than thirty (30) inches wide,
22 shall be eligible for compensation at the rate of Sixteen Dollars
23 (\$16.00) per tire.

1 a. Collection, transportation and processing of tires
2 under this paragraph shall be considered a compensable
3 event separate from and in addition to any
4 compensation under subsection C of this section.

5 b. Used tire recycling facilities and TDF facilities
6 authorized to receive reimbursement under this
7 paragraph shall report and certify the number of tires
8 collected and transported.

9 I. Used tire recycling facilities, TDF facilities, or persons,
10 corporations or other legal entities authorized by the provisions of
11 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
12 demonstrate that the facilities or legal entities have successfully
13 complied with the requirements of the Oklahoma Used Tire Recycling
14 Act through the filing of appropriate applications, reports, and
15 other documentation that may be required by the Tax Commission and
16 the Department.

17 SECTION 3. This act shall become effective November 1, 2021.

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