

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1902

By: Representative Ladyman

For An Act To Be Entitled

AN ACT TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY ACT; TO AMEND PROVISIONS OF THE ARKANSAS SOLID WASTE MANAGEMENT LAW; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY ACT; AND TO AMEND PROVISIONS OF THE ARKANSAS SOLID WASTE MANAGEMENT LAW.

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

SECTION 1. Arkansas Code § 8-6-207(a)(11), concerning the powers and duties of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission, is amended to read as follows:

(11) To make periodic inspections ~~not less than quarterly in accordance with regulations promulgated by the commission~~ of all solid waste ~~disposal~~ facilities or ~~sites~~ locations permitted under this subchapter or the Used Tire Recycling and Accountability Act, § 8-9-401 et seq., to ensure compliance with all requirements of this subchapter and the regulations promulgated under this subchapter and to make a final inspection of closed or abandoned solid waste disposal sites to determine compliance with rules and regulations for proper closure and proper filling and drainage of the site;

SECTION 2. Arkansas Code § 8-9-402(3), concerning the definition of "electronic uniform used tire manifest system" under the Used Tire Recycling



and Accountability Act, is amended to read as follows:

(3) "Electronic uniform used tire manifest system" means an administrative method developed by the Arkansas Department of Environmental Quality under § 8-9-407 that:

(A) ~~Uses~~ Primarily uses an electronic application for the submission and management of information related to the generation, collection, transportation, distribution, and recycling, disposal, or resale of each recyclable tire, waste tire, and used tire culled for resale regulated under this subchapter; ~~and~~

(B) Secondarily may allow submission of used tire data that is manifested using an equivalent paper documentation; and

~~(B)~~(C) Records the origin, date of collection, date of transfer, quantity, type, transporter, and destination for each recyclable tire, waste tire, and used tire culled for resale regulated under this subchapter;

SECTION 3. Arkansas Code § 8-9-402(4), concerning the definition of "extra-large tires" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(4)(A) "Extra-large tire" means a tire that, due to its size or construction, is more difficult to process for recycling or disposal than a large tire and costs substantially more to process than a large tire.

(B) "Extra-large tire" includes without limitation ~~tires a~~ tire used, capable of being used, or designed to be used on any of the following vehicles or equipment:

(i) A skid steer loader;
 (ii) Excavation equipment;
 (iii) A farm implement, including without limitation a tractor;

(iv) A backhoe;
 (v) A road grader;
 (vi) Industrial equipment;
 (vii) A skidder; or
 (viii) A heavy duty truck used off-road for mining+.

(C) "Extra-large tire" includes without limitation a wide-base tire or extra-wide single tire;

SECTION 4. Arkansas Code § 8-9-402(6), concerning the definition of "large tire" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(6) "Large tire" means a tire with a ~~rim size greater than nineteen inches (19") and a load rating of "F" or higher, including without limitation a wide base or extra wide single tire;~~

SECTION 5. Arkansas Code § 8-9-402(12), concerning the definition of "small tire" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(12)(A) "Small tire" means a tire that has a load rating of lower than "F" ~~or lower and a rim size of nineteen inches (19") or smaller.~~

(B) "Small tire" includes a tire from any of the following vehicles:

- (i) An automobile;
- (ii) A motorcycle; or
- (iii) An all-terrain vehicle;

SECTION 6. Arkansas Code § 8-9-402(13), concerning the definition of "tire" under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(13)(A) "Tire" means any one (1) or more of the following:

(i) A continuous, ring-shaped, removable cover made of solid rubber, pneumatic rubber, or ~~semipneumatic~~ semi-pneumatic rubber that is installed around a wheel rim; or

(ii) Any other round piece of equipment that is attached or could be attached to a vehicle or aircraft and has a primary function of enabling surface mobility.

(B) "Tire" does not include a solid wheel rim with an integral rubber covering or a tire used on a ~~nonmotorized~~ non-motorized bicycle, golf cart, or lawn mower;

SECTION 7. Arkansas Code § 8-9-402, concerning definitions under the Used Tire Recycling and Accountability Act, is amended to add additional subdivisions to read as follows:

(28)(A) "Operator" means a person who performs a function that:

(i) Requires individual judgment; and

(ii) May directly affect the proper operation at one

(1) or more of the following:

(a) A tire collection center;

(b) A tire processing facility;

(c) A tire generator facility; or

(d) A waste tire monofill.

(B) "Operator" includes a person who performs a function at a waste tire site.

(C) "Operator" does not include a person who exclusively exercises general administrative supervision; and

(29) "Owner" means a person who holds legal title to property where a tire collection center, tire processing facility, tire generator facility, waste tire monofill, waste tire site, or other waste tire facility exists.

SECTION 8. Arkansas Code § 8-9-404(a)(3), concerning the fees imposed under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(3)(A) The rim removal fee shall be imposed at the rate of three dollars (\$3.00) for each new tire that replaces a tire removed from a rim and one dollar (\$1.00) for each used tire that replaces the tire removed from the rim.

(B) Except for the rim removal fees imposed under this section, a tire retailer shall not charge any other fee to a person who purchases the service of removal of a tire from a rim.

(C) For any tires collected by a tire retailer, the tire retailer shall ensure that the tires are transported by a licensed tire transporter to a permitted tire collection center, a solid waste management facility, a tire processing facility, or another tire retailer.

(D) The tire retailer shall account for each tire removed from a rim ~~using the electronic uniform used tire manifest system~~ in the manner prescribed by the Department of Finance and Administration.

(E) Each tire retailer ~~who was not registered with the Department of Finance and Administration on August 1, 2017,~~ shall be

registered with the Department of Finance and Administration ~~on or before December 1, 2017,~~ and shall comply with all requirements related to collecting and reporting rim removal fees.

SECTION 9. Arkansas Code § 8-9-404(c)(1), concerning the fees imposed under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(c)(1)(A) ~~Beginning on January 1, 2018, there~~ There is imposed an import fee of one dollar (\$1.00) on each used tire that is imported into Arkansas.

(B) A person who imports a used tire shall be registered with the Department of Finance and Administration and comply with ~~the electronic uniform used tire manifest system~~ all requirements related to collecting and reporting import fees.

SECTION 10. Arkansas Code § 8-9-404(d)(3)(D), concerning the fees imposed under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(D) Each commercial generator ~~who was not registered with the Department of Finance and Administration on August 1, 2017,~~ shall be registered with the Department of Finance and Administration ~~on or before December 1, 2017,~~ and shall comply with all requirements related to collecting and reporting commercial generator fees.

SECTION 11. Arkansas Code § 8-9-405(d)-(f), concerning used tire reimbursements, are amended to read as follows:

(d) Moneys disbursed from the Used Tire Recycling Fund by the department for reimbursements under this section shall be:

(1) Distributed as provided under this section only to the used tire programs that comply with all applicable requirements in this subchapter related to the operation of used tire programs;

(2) Based on moneys available in the fund, ~~funding levels under subsection (e) of this section,~~ the approved business plan rate, ~~funding priorities under subsection (f) of this section,~~ quarterly financial reports, and other documentation submitted by the used tire programs; and

(3) Made on a quarterly basis to the used tire programs.

(e)(1) ~~The following funding levels for quarterly~~ Quarterly disbursements from the fund ~~are established.~~

~~(A) Level One Funding shall be paid first each quarter from all available moneys collected and available for disbursement in that quarter.~~

~~(B) Level Two Funding shall be paid each quarter only if any moneys are available after all Level One Funding obligations are paid in full for that quarter; and~~

~~(C) Level Three Funding shall be paid each quarter only if any moneys are available after all Level One Funding and Level Two Funding obligations are paid in full for that quarter.~~

(2) If there are insufficient moneys available in a quarter to make reimbursements for all submitted requests under ~~any funding level under~~ subsection (f) of this section, the department shall calculate the total remaining funding available ~~for the funding level~~ and allocate the moneys available for reimbursement to each used tire program based on a pro rata share of each used tire program's reimbursement request compared to the total moneys available ~~for that funding level~~.

(3)(A) The Arkansas Pollution Control and Ecology Commission may increase reimbursement rates if the director recommends an increase because of one (1) or more of the following:

(i) The relevant consumer price index for the preceding calendar year exceeded the consumer price index for calendar year 2018; or

(ii) The used tire programs have established an increase in operation costs.

(B) An increase to any reimbursement rate under subsection (f) of this section shall not exceed ten percent (10%) each calendar year.

(f) Based on data received from the electronic uniform used tire manifest system and quarterly reports, the ~~following~~ funding for reimbursement for processing, recycling, or disposing of used tires at the approved business plan rate may be available from the fund for used tire programs that are in compliance with all applicable requirements of this subchapter.

~~(1) Level One Funding for reimbursement for disposing of used tires at the approved business plan rate;~~

~~(2) Level Two Funding to an eligible inter-district used tire program under § 8-9-410(b) for assistance with funding an illegal dumps control officer position; and~~

~~(3) Level Three Funding to an eligible used tire program that is in compliance with § 8-9-408 for equipment purchases, repairs, or maintenance that are scheduled or planned at least six (6) months before and included in the business plan or revised business plan of the used tire program.~~

SECTION 12. Arkansas Code § 8-9-410 is amended to read as follows:

8-9-410. ~~Incentives to consolidate~~ Consolidation of used tire programs.

~~(a)~~ The General Assembly finds:

(1) The smaller the population and geographical area that a used tire program serves, the more unsustainable the used tire program is;

(2) In contrast, it has been noted nationally and within the state that used tire programs that serve a larger population and greater geographical area collect and process a large number of tires, are sustainable, and optimize the use of economies of scale;

(3) Before January 1, 2017, there were eleven (11) waste tire districts in the state; and

(4) It is in the best interest of the state for the used tire programs to combine to form inter-district used tire programs to operate in an efficient and financially sustainable manner.

~~(b)(1) If a used tire program joins with other used tire programs to create an inter-district used tire program that serves a population of four hundred thousand (400,000) or more based on the most recent federal decennial census, the inter-district used tire program may receive a reimbursement of not more than twenty five thousand dollars (\$25,000) each calendar year to assist with funding one (1) illegal dumps control officer position.~~

~~(2) The reimbursement under subdivision (b)(1) of this section shall be paid quarterly to the used tire program subject to:~~

~~(A) The availability and appropriation of funding; and~~

~~(B) The employment of at least one (1) illegal dumps control officer by an eligible inter-district used tire program during the quarter for which reimbursement is requested.~~

SECTION 13. DO NOT CODIFY. TEMPORARY LANGUAGE. If legislation concerning the transformation of the Arkansas Department of Environmental Quality is enacted during this Regular Session of the General Assembly, the Arkansas Code Revisor and the Arkansas Code Revision Commission shall correct the references to the Arkansas Department of Environmental Quality consistent with those laws.

APPROVED: 4/12/19