

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 704

By: Senator D. Wallace

## For An Act To Be Entitled

AN ACT TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY PROGRAM; TO AMEND THE AMOUNT IMPOSED FOR THE RIM REMOVAL FEES; TO IMPOSE A NEW MOTOR VEHICLE TIRE FEE; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY PROGRAM; TO AMEND THE AMOUNT IMPOSED FOR THE RIM REMOVAL FEES; AND TO IMPOSE A NEW MOTOR VEHICLE TIRE FEE.

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

SECTION 1. Arkansas Code § 8-9-401(b)(3), concerning the purpose of the Used Tire Recycling and Accountability Act, is amended to read as follows:

(3) Equalize the application of fees for all tires removed from rims and new tires sold on new motor vehicles; and

SECTION 2. Arkansas Code § 8-9-404 is amended to read as follows:

8-9-404. Rim removal fees – Import fees – Commercial generator fees – New motor vehicle tire fees – Definitions.

(a)(1) There is imposed a rim removal fee upon the transaction of removing a tire from a rim that is related to the sale of a replacement tire by a tire retailer.

(2) The rim removal fee shall be charged by the tire retailer to



a person who:

(A) Purchases a replacement tire for a rim that necessitates the removal of a different tire from the same rim; or

(B) Purchases the service of removal of a tire from a rim and replacement with a tire that was not purchased from the tire retailer if the person requesting the rim removal cannot show proof of payment of the rim removal fee under this section for the replacement tire.

(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 in the manner prescribed by the Department of Finance and Administration.

(E) Each tire retailer shall register with the department and comply with all requirements related to collecting and reporting rim removal fees.

(4) The rim removal fees imposed under this section shall be added to the total cost charged by the tire retailer to the purchaser after all applicable gross receipts or compensating use taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale.

(5)(A) The rim removal fees imposed under this section shall be paid monthly to the Secretary of the Department of Finance and Administration.

(B) However, the tire retailer may retain five percent (5%) of the rim removal fee imposed under subdivision (a)(3)(A) of this section for administrative costs.

(6)(A) The rim removal fees remitted under subdivision (a)(5)(A) of this section shall be collected by the secretary and shall be subject to

the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(B)(i) Each tire retailer shall file a return with the secretary on or before the twentieth of each month.

(ii) The return shall show the total rim removal fees collected for each tire removed from the rim during the preceding calendar month.

(iii) The tire retailer shall remit the rim removal fees with the return.

(iv) The secretary shall prescribe the form and contents of the return.

(b)(1) There is imposed a new motor vehicle tire fee for each new tire sold on a new motor vehicle.

(2) The new motor vehicle tire fee shall be imposed at a rate of three dollars (\$3.00) for each new motor vehicle tire.

(3) The new motor vehicle tire fee owed by a purchaser of a new motor vehicle shall be remitted by the purchaser to the department upon the registration of the new motor vehicle.

(4) The new motor vehicle tire fees remitted under subdivision (b)(3) of this section shall be collected by the secretary and are subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

~~(b)(1)~~ (c)(1) The department shall deposit the proceeds from rim removal fees and new motor vehicle tire fees collected under ~~subsection~~ subsections (a) and (b) of this section into the State Treasury as special revenues to the credit of the following funds in the following percentages:

(A) Ninety-three percent (93%) to be deposited into the Used Tire Recycling Fund; and

(B) Seven percent (7%) to be deposited into the Division of Environmental Quality Fee Trust Fund.

(2) As used in this section, “proceeds from rim removal fees and new motor vehicle tire fees” means all moneys collected and received by the department under this section for rim removal fees and new motor vehicle tire fees imposed under ~~subsection~~ subsections (a) and (b) of this section and interest and penalties on delinquent rim removal fees and new motor vehicle tire fees.

~~(e)(1)(A)~~ (d)(1)(A) 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 and comply with all requirements related to collecting and reporting import fees.

(2) The import fee imposed under this subsection shall be paid by the person who imports the used tire to the department in accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., and any rules promulgated by the department.

(3)(A) The department shall deposit the proceeds from import fees imposed under this subsection into the State Treasury as special revenues to the credit of the following funds in the following percentages:

(i) Ninety-three percent (93%) to be deposited into the Used Tire Recycling Fund; and

(ii) Seven percent (7%) to be deposited into the Division of Environmental Quality Fee Trust Fund.

(B) As used in this section, "proceeds from import fees" means all moneys collected and received by the department under this subsection and interest and penalties on delinquent import fees.

~~(d)(1)~~(e)(1) There is imposed a commercial generator fee upon the transaction of a commercial generator selling or delivering a new tire as part of fleet services.

(2) The commercial generator fee shall be charged by the commercial generator to a person who in the ordinary course of business is an end user that removes used tires from the rim and replaces them with a new tire.

(3)(A) The commercial generator fee shall be imposed at the rate of three dollars (\$3.00) for each new tire that is sold or delivered to an end user that removes used tires from the rim and replaces them with a new tire.

(B) Except for the commercial generator fees imposed under this section, the commercial generator shall not charge any other fee to the end user.

(C)(i) For any used tires collected by a commercial generator, the first transportation of the used tire from the end user to the commercial generator's facility does not require a licensed tire transporter.

(ii) Any subsequent transportation of the used tire by the commercial generator for recycling or disposal requires a licensed

tire transporter and shall be accounted for using the electronic uniform used tire manifest system.

(D) Each commercial generator shall register with the department and comply with all requirements related to collecting and reporting commercial generator fees.

(4) The commercial generator fees imposed under this section shall be added to the total cost charged by the commercial generator to the end user after all applicable gross receipts or compensating use taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale.

(5)(A) The commercial generator fees imposed under this section shall be paid monthly to the secretary.

(B) However, the commercial generator may retain five percent (5%) of the commercial generator fee imposed under subdivision ~~(d)(3)(A)~~(e)(3)(A) of this section for administrative costs.

(6)(A) The commercial generator fees remitted in subdivision ~~(d)(5)(A)~~(e)(5)(A) of this section shall be collected by the secretary and shall be subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(B)(i)(a) Each commercial generator shall file a return with the secretary on or before the twentieth of each month.

(b) The return shall show the total commercial generator fees collected for each tire sold or delivered to the end user during the preceding calendar month.

(c) The commercial generator shall remit the commercial generator fees with the return.

(ii) The secretary shall prescribe the form and contents of the return.

(7) The department shall deposit the proceeds from commercial generator fees collected under this subsection into the State Treasury as special revenues to the credit of the following funds in the following percentages:

(A) Ninety-three percent (93%) to be deposited into the Used Tire Recycling Fund; and

(B) Seven percent (7%) to be deposited into the Division of Environmental Quality Fee Trust Fund.

(8) As used in this section, "proceeds from commercial generator

fees” means all moneys collected and received by the department under this section for commercial generator fees imposed under this subsection and interest and penalties on delinquent commercial generator fees.

~~(e)(1)~~(f)(1) It is the purpose and intent of this section that only one (1) of the following fees imposed under this section be charged for the transaction of removing a tire from a rim that is related to the sale of a replacement tire:

- (A) The rim removal fee; or
- (B) The commercial generator fee.

(2) If a person establishes that he or she has paid ~~one (1) of either the fees~~ rim removal fee or commercial generator fee for a tire as described in subdivision (f)(1) of this section, the tire retailer or tire generator shall not charge an additional fee for that tire.

SECTION 3. Arkansas Code § 8-9-413 is amended to read as follows:  
8-9-413. Applicability.

The fees imposed by this subchapter shall not apply to:

- (1) Large retreaded tires; or
- (2) ~~Tires included as part of the equipment of a new vehicle; or~~
- ~~(3)~~ Tires included as part of the equipment of a used vehicle if included on the used vehicle at the time of sale and in the sales price of the used vehicle.

SECTION 4. Arkansas Code § 19-6-301(165), concerning the enumeration of special revenues related to rim removal fees and import fees, is amended to read as follows:

(165) That portion of rim removal fees, new motor vehicle tire fees, and import fees, § 8-9-404;