

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H3/14/23 H3/27/23

A Bill

HOUSE BILL 1234

By: Representatives L. Fite, S. Berry

By: Senator Rice

For An Act To Be Entitled

AN ACT TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY ACT; TO COMMERCIALIZE THE USED TIRE RECYCLING AND ACCOUNTABILITY PROGRAM; TO CREATE THE ARKANSAS COMMERCE TIRE PROGRAM ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE USED TIRE RECYCLING AND ACCOUNTABILITY ACT; TO COMMERCIALIZE THE USED TIRE RECYCLING AND ACCOUNTABILITY PROGRAM; TO CREATE THE ARKANSAS COMMERCE TIRE PROGRAM ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 8-6-718 is repealed.

~~*8-6-718. Waste tire collection center.*~~

~~*Beginning July 1, 1993, each regional solid waste management board shall establish a waste tire collection center at which residents of the regional solid waste management district may dispose of their waste motor vehicle tires at no cost except as provided by rule of the Arkansas Pollution Control and Ecology Commission or the board.*~~

SECTION 2. Arkansas Code § 8-9-401 - 8-9-412 are amended to read as follows:



03-27-2023 10:40:03 CRH029

8-9-401. Title – Legislative intent – Findings.

(a) This subchapter shall be known and may be cited as the ~~“Used Tire Recycling and Accountability Act”~~ “Arkansas Commerce Tire Program Act”.

(b) The purpose of this subchapter is to+

~~(1) Protect~~ protect the public health and the state’s environmental quality by setting and implementing standards to be followed in the hauling, collection, storage, and recycling or disposal of recyclable tires, and waste tires, and used tires culled for resale;

~~(2) Provide accountability and sustainability for used tire programs by requiring use of the electronic uniform used tire manifest system developed by the Division of Environmental Quality and business plans for used tire programs;~~

~~(3) Equalize the application of fees for all tires removed from rims; and~~

~~(4) Ensure that reimbursements for used tire programs are related to the overall used tire program goals.~~

(c) The General Assembly finds that:

(1) If not properly managed, used tires pose a potential threat to human health and safety and the environment because used tires:

(A) Are a known breeding habitat for mosquitoes and other disease-transmitting vectors; and

(B) Pose substantial fire hazards;

~~(2) The state must have a used tire program for recyclable tires, waste tires, and used tires culled for resale that is accountable, effective, and efficient~~ After years of state-managed used tire programs, the removal of government from the commercial transactions and control of waste tire disposal to allow for private commerce to manage and dispose of waste tires will save the state money and provide opportunities for private enterprise; and

(3) The primary goal of the ~~used tire program~~ Arkansas Commerce Tire Program is to recycle or put to beneficial use as many used tires as possible.

8-9-402. Definitions.

As used in this subchapter:

(1) “Beneficial use” means using a tire or part of a tire:

- (A) To make another product;
- (B) To make a component material of another product;
- (C) As a substitute for a commercial product or material;

or

(D) As a component to produce an alternative fuel for commercial purposes;

~~(2)(A) “Commercial generator” means a person who sells new tires or provides delivery of new tires as part of fleet services to any one (1) or more of the following:~~

- ~~(i) A municipality;~~
- ~~(ii) A county;~~
- ~~(iii) A state agency;~~
- ~~(iv) A federal agency;~~
- ~~(v) A school district;~~
- ~~(vi) A political subdivision of the state; or~~
- ~~(vii) A person who in the ordinary course of~~

~~business buys tires in bulk for use on commercial vehicles.~~

~~(B) “Commercial generator” does not include a tire retailer;~~

~~(3) “Electronic uniform used tire manifest system” means an administrative method developed by the Division of Environmental Quality under § 8-9-407 that:~~

~~(A) 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;~~

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

~~(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;~~

~~(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 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;~~

~~(5) “Inter-district used tire program” means a program formed by agreement of two (2) or more regional solid waste management boards to pool resources of all regional solid waste management boards that are parties to the agreement for the administration of one (1) consolidated used tire program;~~

~~(6) “Large tire” means a tire with a load rating of “F” or higher;~~

~~(7) “Load rating” means the system of trade designations that identifies the weight-carrying capacity range of a tire;~~

~~(8)(A)(2)(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;

~~(9)~~(3) “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;

~~(10)~~(4) “Person” means an individual, government entity, or any other entity that is recognized by law with rights and duties;

~~(11)~~ “Qualified entity” means an entity that demonstrates to the division that the entity has the capability, experience, and resources to operate and administer a used tire program in compliance with this subchapter;

~~(12)~~(5) “Recyclable tire” means a worn, damaged, or defective tire that is recycled because it is no longer repairable, reusable, or suitable for its original intended purpose;

~~(13)~~(6) “Recycle” means the systematic process of collecting, sorting, decontaminating, and returning waste materials to commerce as commodities for use, other beneficial use, or exchange;

~~(14)~~(A) “Small tire” means a tire that has a load rating lower than “F”.

~~(B)~~ “Small tire” includes a tire from any of the following vehicles:

~~(i)~~ An automobile;

~~(ii)~~ A motorcycle; or

~~(iii)~~ An all-terrain vehicle;

~~(15)~~(A)(7)(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 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 bicycle, golf cart, or lawn mower;

~~(16)~~(8) “Tire collection center” means a site where tires are collected from tire generators, tire transporters, or the public before being recycled or disposed of by a used tire program;

~~(17)(A)(9)~~ “Tire generator” means a person who+
~~(i)~~ Removes removes tires from rims for disposal or resale; ~~or~~

~~(ii)~~ Stores used tires on or in property owned, leased, or otherwise controlled by that person.

~~(B)~~ “Tire generator” includes without limitation+

~~(i)~~ A tire retailer;

~~(ii)~~ A tire wholesaler;

~~(iii)~~ A tire transporter;

~~(iv)~~ A tire manufacturer;

~~(v)~~ A manufacturer of retreaded tires;

~~(vi)~~ A new car dealer;

~~(vii)~~ A used car dealer;

~~(viii)~~ An auto repair shop; or

~~(ix)~~ A salvage yard.

~~(C)~~ “Tire generator” does not include a commercial generator;

~~(18)(10)~~ “Tire manufacturer” means a manufacturing operation engaged in the final assembly of the basic components of a tire;

~~(19)(11)~~ “Tire processing facility” means a site where equipment is used to cut, chip, grind, or otherwise alter used tires into recyclable material;

~~(20)(A)(12)(A)~~ “Tire retailer” means any one (1) or more of the following:

(i) A person who is in the business of selling new tires, used tires, or both new tires and used tires to the end consumer; or

(ii) A person who is in the business of or receives compensation for removing tires from rims.

(B) “Tire retailer” does not include a person who sells tires to another person exclusively for the purpose of resale if the subsequent retail sale is subject to the fee imposed under § 8-9-404 ~~or a commercial generator~~;

~~(21)(13)~~ “Tire transporter” means a person who is in the business of or receives compensation for transferring used tires from one (1) location to another location for collection, storage, processing, recycling, disposal, reuse, or resale;

(14) "Tire wholesaler" means a person who sells new tires or provides delivery of new tires to any one (1) or more of the following:

- (i) A municipality;
- (ii) A county;
- (iii) A state agency;
- (iv) A federal agency;
- (v) A school district;
- (vi) A political subdivision of the state;
- (vii) A person who in the ordinary course of business buys tires in bulk for use on commercial vehicles;
- (viii) A tire retailer;
- (ix) A general merchandise store that also sells tires;
- (x) An internet tire company that sells tires in Arkansas; or
- (xi) A tire importer;

~~(22)(A)~~(15)(A) "Used tire" means a tire that meets one (1) or more of the following criteria:

- (i) Is repairable or retreadable for its original intended purpose;
- (ii) Is reusable;
- (iii) Is recyclable; or
- (iv) Has been collected by a tire retailer or at a tire collection center operated under this subchapter.

(B) "Used tire" includes without limitation a recyclable tire, waste tire, and used tire culled for resale.

(C) "Used tire" does not include a tire being held for ninety (90) days or less for the purpose of retreading or repairing the tire;

~~(23)~~(16) "Used tire culled for resale" means a tire that is removed from the rim but is diverted from a tire collection center, tire processing facility, or tire transporter with the intention of selling for reuse;

~~(24) "Used tire program" means a program that receives funding under this subchapter and is operated by:~~

- ~~(A) A regional solid waste management board; or~~
- ~~(B) An inter-district used tire program;~~

~~(25)~~(17) “Vehicle” means any piece of equipment that uses wheels for surface mobility;

~~(26)~~(18) “Waste tire” means a worn, damaged, or defective tire that is land disposed because it is no longer repairable, reusable, or suitable for its original intended purpose;

~~(27)~~(A)(19)(A) “Waste tire site” means a location where unpermitted used tires are accumulated, whether loosely stored, compacted and baled, or a combination of both loosely stored and compacted and baled.

(B) “Waste tire site” does not include:

(i) A location where only new tires are stored; or

(ii) A location that is authorized to store tires by the ~~division~~ Division of Environmental Quality or rules promulgated by the Arkansas Pollution Control and Ecology Commission; and

~~(28)~~(20) “Waste tires originating from a tire manufacturer” means those new tires that originate from a tire assembly process and are determined by the tire manufacturer to be either defective or unfit for use on a vehicle; ~~and~~

~~(29)~~ “Wide base tire” or “extra wide single tire” means a tire approximately four hundred fifty five millimeters (455 mm) wide that is used on a vehicle in which the front axle load exceeds the load capacity of a truck tire.

8-9-403. Operation of waste tire sites – Requirements and prohibited activities.

(a)(1) The owner or operator of any waste tire site shall provide the Division of Environmental Quality ~~and the applicable regional solid waste management district~~ with:

(A) Information concerning the waste tire site’s location and size and the approximate number of waste tires that are accumulated at the waste tire site; and

(B) A written plan specifying a method and time schedule, subject to approval by the division, for the removal, disposal, or recycling of the waste tires.

(2) The owner or operator shall implement a written plan approved by the division according to the written plan’s schedule.

(b) A person shall not cause or permit the open burning of tires in

the state.

(c)(1) A person shall not maintain a waste tire site.

(2) It is illegal for any person to dispose of tires or portions of tires in the state unless the tires or portions of tires are disposed of for processing or collected for processing at a permitted tire processing facility, or a tire collection center, ~~or a permitted solid waste disposal facility.~~

(3)(A) Unless otherwise provided by law or rule, whole tires shall not be deposited into a landfill or a waste tire monofill as a method of final disposal ~~unless shredded or split into sufficiently small parts to assure their proper disposal.~~

~~(B) Unless otherwise provided by law or rule, only small tires that have been processed by cutting, shredding, or splitting into sufficiently small parts to assure proper disposal or small tires processed by baling may be disposed of at a disposal site that has a permit issued for a landfill designed and operated as a waste tire monofill.~~

~~(C) Suitable processed-tire materials may be used in the construction of daily and intermediate cover systems for all landfills if the use is:~~

~~(i) Authorized by the division;~~

~~(ii) Shown to not present a threat to human health and the environment; and~~

~~(iii) Shown to control disease, vectors, fires, odors, blowing litter, or scavenging.~~

(4) A person who leases, owns, or otherwise controls real property may use tires in compliance with procedures approved by and rules promulgated by the Arkansas Pollution Control and Ecology Commission ~~and procedures approved by each district:~~

~~(A) For soil erosion abatement and drainage purposes; or~~

~~(B) To secure covers over silage, hay, straw, or agricultural products.~~

(d) A tire processing facility permit or tire collection center permit, or both, is required for:

(1) A tire retreading business where tires are kept on any real property owned, leased, or otherwise controlled by the tire retreading business;

(2) A person that in the ordinary course of business removes tires from rims and the tires removed from rims are stored on any real property owned, leased, or otherwise controlled by the person; or

(3) A tire retailer that is serving as a tire collection center if recyclable tires, waste tires, or used tires culled for resale are kept on any real property owned, leased, or otherwise controlled by the tire retailer.

(e)(1) If disposed in the state, waste tires originating from a tire manufacturer shall be disposed of at a permitted tire collection center or a permitted tire processing facility for a fee to be established by the permitted tire collection center or permitted tire processing facility.

(2) Records of the disposition of the waste tires originating from a tire manufacturer shall be maintained by that tire manufacturer for a period of at least three (3) years and shall be available for review by the division.

~~8-9-404. Rim removal fees—Import fees—Commercial generator fees—~~
Definitions Tire environmental fee.

~~(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~~ A tire environmental fee is imposed upon the transaction of selling tires by a tire wholesaler at a rate of one dollar (\$1.00) per tire sold by the tire wholesaler.

~~(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~~ wholesaler shall register with the ~~department~~ Department of Finance and Administration and comply with all requirements related to collecting and reporting ~~rim removal~~ tire environmental 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)~~ (3) The ~~rim removal~~ tire environmental 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)(4)(A)~~ The ~~rim removal~~ tire environmental fees remitted under subdivision ~~(a)(5)(A)~~ (a)(3) 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~~ wholesaler shall file a return with the secretary on or before the twentieth of each month.

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

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

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

(b)(1) The department shall deposit the proceeds from ~~rim-removal~~ tire environmental fees collected under subsection (a) 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 Tire Environmental Abatement 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~~ tire environmental fees” means all moneys collected and received by the department under this section for ~~rim-removal~~ tire environmental fees imposed under subsection (a) of this section and interest and penalties on delinquent ~~rim-removal~~ tire environmental fees.

(3) The Division of Environmental Quality shall report annually to the PEER Subcommittee of the Legislative Council on the use of tire environmental fees from the Tire Environmental Abatement Fund.

~~(c)(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 This section applies to in-state and out-of-state tire wholesalers selling tires within~~

this state.

(2) An out-of-state tire wholesaler shall pay the applicable tire environmental fees for tires sold in this state by the out-of-state tire wholesaler if, in the previous calendar year or in the current calendar year, the out-of-state tire wholesaler had aggregate sales of tires within this state or delivered to locations within this state exceeding:

(A) One hundred thousand dollars (\$100,000); or

(B) Two hundred (200) transactions.

~~(d)(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) of this section for administrative costs.~~

~~(6)(A) The commercial generator fees remitted in subdivision (d)(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) 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 the fees for a tire, the tire retailer or tire generator shall not charge an additional fee for that tire.~~

~~8-9-405. Used tire program reimbursements.~~

~~(a) The Division of Environmental Quality shall establish the Used Tire Recycling and Accountability Program to:~~

~~(1) Reimburse used tire programs for used tire recycling and disposal costs;~~

~~(2) Incentivize recycling used tires collected under this subchapter;~~

~~(3) Provide accountability for the disbursement of moneys to used tire programs; and~~

~~(4) Otherwise improve the sustainability of used tire programs.~~

~~(b) To be eligible for reimbursements under this subchapter, a used tire program shall:~~

~~(1) Be included in the solid waste management system under § 8-9-101 et seq. for each regional solid waste management district that the used tire program serves;~~

~~(2) Have a used tire management plan for each regional solid waste management district that the used tire program serves to include without limitation a schedule for identification and cleanup of waste tire sites that is updated until abatement of each identified waste tire site is completed;~~

~~(3) Be included in each regional solid waste management district's recycling program under § 8-9-203 that the used tire program serves;~~

~~(4) If operated by a political subdivision of the state or other public entity:~~

~~(A) Use the financial management system under § 14-21-101 et seq.;~~

~~(B) Comply with the county purchasing procedures under § 14-22-101 et seq.;~~

~~(C) Comply with the Arkansas County Accounting Law of 1973, § 14-25-101 et seq.; and~~

~~(D) Comply with the Local Fiscal Management Responsibility~~

~~Act, § 14-77-101 et seq.;~~

~~(5) Be operated in compliance with this subchapter and all other laws and rules related to the administration of solid waste management systems and recycling programs in Arkansas;~~

~~(6) Encourage the voluntary establishment of tire collection centers at tire retailers, tire processing facilities, and solid waste disposal facilities for the deposit of tires generated in the state;~~

~~(7) Provide the division with business plan information required under § 8-9-408;~~

~~(8) Provide the division with all quarterly financial information and progress reports related to § 8-9-409;~~

~~(9)(A) Establish tire collection centers within each county served by the used tire program that accepts tires from tire retailers at no charge if the tire retailer establishes that it:~~

~~(i) Collects the rim removal fee imposed under § 8-9-404(a); and~~

~~(ii) Complies with the electronic uniform used tire manifest system under § 8-9-407.~~

~~(B) The tire collection centers under this subdivision (b)(9) may be at any one (1) or more of the following:~~

~~(i) A solid waste disposal facility;~~

~~(ii) A tire processing facility; or~~

~~(iii) A tire retailer; and~~

~~(10) Establish at least one (1) tire collection center within each county served by the used tire program.~~

~~(c) A used tire program that receives reimbursements under this section may:~~

~~(1) Contract with a tire processing facility that is approved by the Director of the Division of Environmental Quality;~~

~~(2) Remove or contract for the removal of tires from waste tire sites within the regional solid waste management district;~~

~~(3) Provide incentives for establishing privately operated tire collection centers for the public; and~~

~~(4) Form an inter-district used tire program.~~

~~(d) Moneys disbursed from the Used Tire Recycling Fund by the division 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, the approved business plan rate, 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) Quarterly disbursements from the fund shall be paid each quarter from all available moneys collected and available for disbursement in that quarter.~~

~~(2) If there are insufficient moneys available in a quarter to make reimbursements for all submitted requests under subsection (f) of this section, the division shall calculate the total remaining funding available 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.~~

~~(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 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.~~

~~(g) At the request of a used tire program that needs operational assistance or guidance on compliance with this subchapter, the division shall provide to the used tire program operational assistance or guidance on compliance with this subchapter.~~

~~(h) The division shall:~~

~~(1) Develop market opportunities for beneficial use of used tire material; and~~

~~(2) Educate the public on the Used Tire Recycling and Accountability Program.~~

~~8-9-407. Electronic uniform used tire manifest system.~~

~~(a) The following entities shall use the electronic uniform used tire manifest system to accurately report all information related to the collection, transportation, distribution, and recycling or disposal of recyclable tires, waste tires, and used tires culled for resale:~~

~~(1) Used tire programs;~~

~~(2) Tire generators;~~

~~(3) Tire collection centers;~~

~~(4) Any person who:~~

~~(A) Removes a tire from the used tire program after it is collected; or~~

~~(B) Imports a tire under § 8-9-404(c); and~~

~~(5) Commercial generators.~~

~~(b) If any of the persons or entities listed in subsection (a) of this section cannot use the electronic uniform used tire manifest system, the person or entity may submit to the used tire program an equivalent paper version which shall be entered into the electronic uniform used tire manifest system.~~

~~8-9-408. Accountability requirements for used tire programs—Business plans.~~

~~(a) On or before December 31, 2017, a used tire program that receives funding under this subchapter shall provide the Arkansas Department of Environmental Quality, now the Division of Environmental Quality, with a business plan that establishes its current operating plan and a proposed operating plan for calendar year 2018 and approved by its board.~~

~~(b) The minimum required information for the business plan is:~~

~~(1) Current operation information to include:~~

~~(A) An explanation of debt and debt repayment obligations, including scheduled payments;~~

~~(B) A description of equipment used, including type, year~~

~~manufactured, debt obligations related to the equipment, and whether it is leased or owned;~~

~~(C) An explanation of contract obligations including the amount, length, and scope of the contract;~~

~~(D) A description of how tires are managed, to include without limitation collection, transportation, and disposal or recycling;~~

~~(E) An explanation of costs, including the cost of tire collection centers, other collection facilities, trailers, transfer stations, processing, mileage, fuel, and personnel; and~~

~~(F) The number of tires currently on any property owned, leased, or otherwise controlled by each regional solid waste management district included in the used tire program; and~~

~~(2) Proposed operation costs for calendar year 2018, to include:~~

~~(A) A description of how tires will be managed, to include without limitation collection, storage, transportation, and disposal or recycling;~~

~~(B) Estimated cost of utilities, personnel, equipment, fees, leases, facilities, and any other costs related to the primary operation of the used tire program;~~

~~(C) The capital improvement and maintenance plan with estimated expenditures and costs;~~

~~(D) The estimated transportation cost including mileage, fuel, equipment, personnel, utilities, insurance, bonds, and fees;~~

~~(E) The locations of all tire collection centers; and~~

~~(F) The types of tires managed, to include recyclable tires, waste tires, and used tires culled for resale.~~

~~(c) A used tire program shall submit a revised business plan if there is a substantial change in the used tire program operations or if the division requests a revised business plan.~~

~~(d) A business plan or revised business plan submitted under this subchapter is effective after approval by the division or its designee.~~

~~(e)(1) The approved business plan or approved revised business plan shall include the approved business plan rates for each used tire program.~~

~~(2)(A) The division shall cooperate with the used tire programs and other entities to develop each used tire program's approved business plan rates for recyclable tires and waste tires.~~

~~(B) The approved business plan rates shall also use the size of a tire, including without limitation small tires, large tires, and extra large tires, as a factor for determining the approved business plan rates.~~

~~8-9-409. Performance and efficiency evaluations.~~

~~(a) The Division of Environmental Quality shall develop a system to evaluate and report the performance and efficiency of used tire programs and the Used Tire Recycling and Accountability Program.~~

~~(b) The evaluation and reporting system shall use the following performance indicators for each used tire program:~~

~~(1) The number of:~~

~~(A) Recyclable tires;~~

~~(B) Waste tires disposed in a landfill; and~~

~~(C) Waste tires disposed in a monofill;~~

~~(2) The number of reported waste tire sites located in the regional solid waste management districts that are included in the used tire program;~~

~~(3) Electronic uniform used tire manifest system compliance;~~

~~(4) Administrative expenses;~~

~~(5) Transportation expenses;~~

~~(6) Building, warehouse, and other facilities expenses;~~

~~(7) Revenue sources and the amount of revenue received from each source;~~

~~(8) The number, location, and type of tire collection centers;~~

~~(9) Any identified operational issues;~~

~~(10) The number of enforcement actions against the used tire program; and~~

~~(11) Any other performance indicators that are determined to be useful to evaluate performance and efficiency.~~

~~(c) The evaluations under this section shall be completed on a biennial basis for each used tire program.~~

~~8-9-410. Consolidation of used tire programs.~~

~~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.~~

8-9-411. Tire transporters – Licenses.

(a) A tire transporter shall meet the following requirements to perform or be compensated for any duties under this subchapter ~~related to the administration and operation of a used tire program:~~

(1) Obtain for each vehicle a license;

(2) Obtain for each vehicle a tire transporter number provided by the Division of Environmental Quality ~~used for the electronic uniform used tire manifest system;~~

(3) Provide proof that each vehicle has passed an annual safety inspection;

(4) Provide proof of financial responsibility for each vehicle and authorized driver;

(5) Provide a bond in the amount of ten thousand dollars (\$10,000);

~~(6) Establish that each authorized driver has completed training for the electronic uniform used tire manifest system; and~~

~~(7)~~(6) Pay a fee of fifty dollars (\$50.00) for each vehicle that is licensed.

(b) For each tire transporter licensed under this section, the division shall assign a tire transporter number ~~and include the tire transporter information in the electronic uniform used tire manifest system.~~

(c)(1) If a tire transporter is found to have not complied with this subchapter, the tire transporter's license shall be suspended for three (3) months.

(2) If the license of a tire transporter is suspended more than

one (1) time in three (3) years, the tire transporter's license shall be revoked and the tire transporter is ineligible for a tire transporter license for three (3) years.

~~8-9-412. Additional fees.~~

~~(a) A used tire program may charge an additional fee for the collection and recycling of extra large tires from sources other than registered tire retailers and for any tires in excess of the maximum under § 8-9-414(b)(7).~~

~~(b) If a used tire program charges an additional fee under this section, the fee shall be collected and retained by the used tire program for costs related to the processing of extra large tires.~~

SECTION 2. Arkansas Code § 8-9-414 and § 8-9-415 are amended to read as follows:

8-9-414. Powers and duties of the Arkansas Pollution Control and Ecology Commission.

(a) The Arkansas Pollution Control and Ecology Commission shall promulgate rules to carry out the intent and purposes of this subchapter.

(b) The rules shall:

(1)(A) Except as provided under subdivision (b)(1)(B) of this section, provide for the administration of permits for tire processing facilities, tire collection centers, commercial generators, and any other person or entity that collects, receives, processes, recycles, or disposes of used tires regulated under this subchapter with the maximum permit fee not to exceed two hundred fifty dollars (\$250) annually.

(B) The maximum permit fee under this subdivision (b)(1) shall not apply to tire transporters;

(2) Establish standards for tire processing facilities, tire collection centers, tire transporters, and beneficial use projects; and

~~(3) Establish procedures for administering reimbursements to used tire programs under § 8-9-405;~~

~~(4) Unless otherwise provided by law, authorize the final disposition of waste tires at a permitted solid waste disposal facility if the waste tires have been cut into sufficiently small parts for proper disposal and in compliance with this subchapter and all other applicable~~

provisions in this title.

~~(5) Establish procedures for administering the electronic uniform used tire manifest system;~~

~~(6) Establish accountability procedures for the sustainability of used tire programs operated under this subchapter; and~~

~~(7)(A) Establish the number of tires that each individual who is a resident of a regional solid waste management district may discard monthly without a fee.~~

~~(B) The maximum number of tires under this subdivision (b)(7) shall not be more than four (4) tires per month.~~

~~(c) The commission may:~~

~~(1) Develop an alternative tire transporter licensing program to be administered by used tire programs, regional solid waste management boards, or both;~~

~~(2) Promulgate rules that are necessary to administer the fees and reimbursement rates for services provided under this subchapter by the used tire programs; and~~

~~(3) Clarify and add definitions for sizes of tires using technical information and specifications.~~

~~(d)(1) The commission shall encourage the establishment of voluntary tire collection centers where used tires generated in Arkansas can be deposited.~~

~~(2) The voluntary tire collection centers shall include without limitation tire retailers, tire processing facilities, and solid waste disposal facilities.~~

~~(3) The voluntary tire collection centers shall not include the collection of tires generated by a tire manufacturer.~~

~~(e) The commission shall not prohibit the disposal of waste tires in landfills or monofills for three (3) years from August 1, 2017.~~

8-9-415. Permitting, licensing, inspections, procedures, enforcement, and penalties.

(a) A person who receives funding under this subchapter, tire Tire collection centers, ~~tire retailers~~, tire processing facilities, tire transporters, tire generators, ~~commercial generators~~, used tires regulated under this subchapter, and waste tire sites are subject to:

(1) All provisions in § 8-1-101 et seq., § 8-1-201 et seq., § 8-1-301 et seq., § 8-4-101 et seq., and § 8-4-201 et seq., concerning permits, licensing, inspections, and procedures;

(2) Sections 8-6-204 and 8-6-205, 8-6-207(a)(6), and 8-9-105 concerning penalties and enforcement; and

(3) All applicable rules promulgated by the Arkansas Pollution Control and Ecology Commission.

~~(b) A used tire program is subject to penalties and enforcement under this subchapter for noncompliance with this subchapter to include without limitation:~~

~~(1) Failure to use the electronic uniform used tire manifest system;~~

~~(2) Failure to submit accurate information to the electronic uniform used tire manifest system;~~

~~(3) Failure to submit an approved business plan on or before July 1, 2018;~~

~~(4) Failure to submit a revised business plan as required under § 8-9-408(c);~~

~~(5) Failure to submit an approved revised business plan within three (3) months after submission; or~~

~~(6) Failure to provide documentation or reports required to be filed with the Division of Environmental Quality under this subchapter.~~

~~(c)(1) If a used tire program fails to submit a business plan that is approved by the Arkansas Department of Environmental Quality or the division on or before July 1, 2018, the used tire program and all regional solid waste management boards included in the used tire program on July 1, 2018, are:~~

~~(A) Ineligible to receive funding under this subchapter and from the Used Tire Recycling Fund;~~

~~(B) Prohibited from administering and operating a used tire program; and~~

~~(C) Prohibited from imposing any fees to support the administration and operation of a used tire program.~~

~~(2)(A) The division may designate a qualified entity to perform the duties related to the operation and administration of a used tire program deemed ineligible under subdivision (c)(1) of this section.~~

~~(B) A qualified entity that is designated to perform the~~

~~duties related to the operation and administration of a used tire program under this subsection shall operate the used tire program in compliance with this subchapter.~~

~~(C) If the qualified entity performs the duties related to the operation and administration of the used tire program in compliance with this subchapter, the qualified entity is eligible to receive funding under this subchapter and from the fund.~~

~~(d) In addition to any other penalty provided by law, a tire processing facility permit or a tire collection center permit shall be suspended or revoked for noncompliance with this subchapter. (b)(1)(A) The Division of Environmental Quality may assess a fine of one hundred dollars (\$100) per tire on a waste tire site to be used in the remediation of the waste tire site.~~

(B) An environmental officer or law enforcement officer may issue a citation as provided under the Environmental Compliance Resource Act, § 8-6-2001 et seq., for a fine of one hundred dollars (\$100) per tire on a waste tire site.

(2) If the person responsible for the waste tire site volunteers to clean up the waste tire site at his or her own expense, then the division shall waive the fine upon:

(A) Submittal of receipts from a licensed tire processing facility; and

(B) An inspection of the waste tire site by the division for clean-up verification.

SECTION 3. Arkansas Code § 8-4-314(j)(5), concerning the duties of the Compliance Advisory Panel under the Marketing Recyclables Program of the Compliance Advisory Panel, is repealed:

~~(5) Advise and assist state and local officials in all areas of recyclables marketing, including without limitation the implementation, administration, and funding of the collection and recycling or collection and disposal of extra large tires as defined in § 8-9-402.~~

SECTION 4. Arkansas Code § 8-6-206(b)(1)(D), concerning the authorization for a person to file a verified complaint in circuit court under the Arkansas Solid Waste Management Act, is amended to read as follows:

(D) Any other environmental violation concerning the illegal dumping of solid waste in violation of this chapter or the ~~Used Tire Recycling and Accountability~~ Arkansas Commerce Tire Program Act, § 8-9-401 et seq.

SECTION 5. Arkansas Code § 8-6-207(a)(11), concerning the powers and duties of the Division of Environmental Quality under the Arkansas Solid Waste Management Act, is amended to read as follows:

(11) To make periodic inspections of all solid waste facilities or locations permitted under this subchapter or the ~~Used Tire Recycling and Accountability~~ Arkansas Commerce Tire Program Act, § 8-9-401 et seq., to ensure compliance with all requirements of this subchapter and the rules promulgated under this subchapter and to make a final inspection of closed or abandoned solid waste disposal sites to determine compliance with rules for proper closure and proper filling and drainage of the site;

SECTION 6. Arkansas Code § 8-6-2004 is amended to read as follows:
8-6-2004. Applicability.

This subchapter applies to violations of this chapter, violations of Chapter 6 of Arkansas Pollution Control and Ecology Commission Rule 18, and violations of the ~~Used Tire Recycling and Accountability~~ Arkansas Commerce Tire Program Act, § 8-9-401 et seq.

SECTION 7. Arkansas Code § 8-9-105(a), concerning penalties and enforcement provisions, is amended to read as follows:

(a) Any person who violates any provision of § 8-9-301 et seq. or the ~~Used Tire Recycling and Accountability~~ Arkansas Commerce Tire Program Act, § 8-9-401 et seq., or of any rule or order issued pursuant to this chapter, shall be subject to the same penalty and enforcement provisions as are contained in § 8-6-204.

SECTION 8. Arkansas Code § 8-9-202(4), concerning the powers and duties of the Division of Environmental Quality, is repealed:

~~(4) Implement, administer, and fund the collection and recycling or collection and disposal of extra large tires as defined in § 8-9-402 with the advice and assistance of the Compliance Advisory Panel.~~

SECTION 9. Arkansas Code § 19-5-1148 is amended to read as follows:

19-5-1148. ~~Used Tire Recycling~~ Tire Environmental Abatement Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "~~Used Tire Recycling~~ Tire Environmental Abatement Fund".

(b)(1) The Department of Finance and Administration shall deposit into the State Treasury ~~ninety three percent (93%)~~ of the moneys collected under § 8-9-404 to the credit of the ~~Used Tire Recycling Fund~~ fund.

(2) The ~~Used Tire Recycling Fund~~ fund shall consist of:

(A) Penalties assessed and collected under the ~~Used Tire Recycling and Accountability~~ Arkansas Commerce Tire Program Act, § 8-9-401 et seq.;

(B) Interest, earnings, and any other revenues as may be authorized by law;

(C) Any United States Government moneys designated for deposit into the ~~Used Tire Recycling Fund~~ fund;

(D) Any gift or donation to the ~~Used Tire Recycling Fund~~ fund; and

(E) Those special revenues specified in § 8-9-404 and § 19-6-301(165).

~~(3) The Used Tire Recycling Fund shall not include:~~

~~(A) Five percent (5%) of the rim removal fee retained for administrative costs by tire retailers under § 8-9-404(a)(5)(B) and commercial generators under § 8-9-404(d)(5)(B);~~

~~(B) The percentage of net special revenue deducted and deposited to the credit of the Special Revenue Fund Account of the State Apportionment Fund under § 19-5-203; or~~

~~(C) Seven percent (7%) deducted from the proceeds of fees imposed under § 8-9-404 and deposited into the Division of Environmental Quality Fee Trust Fund under § 8-9-404(b)(1)(B), § 8-9-404(c)(3)(A)(ii), and § 8-9-404(d)(7)(B).~~

(c)(1) ~~At least ninety percent (90%)~~ One hundred percent (100%) of the moneys available in the ~~Used Tire Recycling Fund~~ fund each fiscal year shall be used by the Division of Environmental Quality ~~to provide reimbursements to used tire programs, to administer the Used Tire Recycling and Accountability~~

~~Program, and to perform other duties under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq for:~~

~~(1) Administrative costs; and~~

~~(2) Waste tire abatement and legal fees in recovery and remediation actions.~~

~~(2) The Director of the Division of Environmental Quality may use not more than ten percent (10%) of the moneys available in the Used Tire Recycling Fund each fiscal year:~~

~~(A) For waste tire site abatement aid;~~

~~(B) For the development, implementation, and maintenance of the electronic uniform used tire manifest system; and~~

~~(C) To provide market and economic stimulus incentives.~~

SECTION 10. Arkansas Code § 19-6-301(104), concerning enumerated special revenues collected as Division of Environmental Quality fees, is amended to read as follows:

(104) All Division of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of ~~new tire waste~~ waste tire environmental fees, § 8-9-404;

SECTION 11. Arkansas Code § 19-6-301(165), concerning enumerated special revenues collected as rim removal and import fees, is amended to read as follows:

(165) That portion of ~~rim removal~~ tire environmental fees and ~~import fees~~, § 8-9-404;

SECTION 12. DO NOT CODIFY. TEMPORARY LANGUAGE.

(a) All moneys remaining in the Used Tire Recycling Fund at 11:59 p.m. on June 30, 2023, shall be used to pay the used tire programs for activities conducted under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq., for the months of April 2023, May 2023, and June 2023.

(b) Any funds remaining after the payments required under subsection (a) of this section shall remain in the Tire Environmental Abatement Fund to be used for the previous purposes under § 19-5-1148 as of June 30, 2023.

(c) Any funds collected on and after July 1, 2023, that are deposited into the Tire Environmental Abatement Fund shall be used for the purposes

under § 19-5-1148 as of July 1, 2023.

SECTION 13. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there is an urgent need to amend the Used Tire Recycling and Accountability Program within the state to better serve Arkansans; that the changes to the Used Tire Recycling and Accountability Program necessitates changes to the current used tire funding system that needs to begin in the new fiscal year for a workable transition to the new system; that the Used Tire Recycling Fund will no longer receive or distribute funding; and that this act is necessary because failure to amend the Used Tire Recycling and Accountability Program and the Used Tire Recycling Fund by the start of the fiscal year could deprive Arkansans with a way to safely manage used tires and waste tires throughout the state and create a hazard to public peace, health, and safety. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2023.

/s/L. Fite