

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

State of Arkansas *As Engrossed: S3/29/23 H4/5/23 H4/6/23*
94th General Assembly **A Bill**
Regular Session, 2023

SENATE BILL 508

By: Senators J. Payton, *Irvin*
By: Representative *Gonzales*

For An Act To Be Entitled

AN ACT TO AMEND THE USED TIRE RECYCLING AND
ACCOUNTABILITY ACT; TO AMEND THE USED TIRE PROGRAMS;
TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE USED TIRE RECYCLING AND
ACCOUNTABILITY ACT; TO AMEND THE USED
TIRE PROGRAMS; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. Arkansas Code § 8-9-404(a)(6)(A), concerning the collection of rim removal fees under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(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. and the business closure procedures under § 26-18-1001 et seq.

SECTION 2. Arkansas Code § 8-9-404(c)(2), concerning the payment of import fees under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(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., the business closure



procedures under § 26-18-1001 et seq., and any rules promulgated by the department.

SECTION 3. Arkansas Code § 8-9-404(d)(6)(A), concerning the collection of commercial generator fees under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(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. and the business closure procedures under § 26-18-1001 et seq.

SECTION 4. Arkansas Code § 8-9-405(e)(1), concerning quarterly disbursements from the Used Tire Recycling Fund, is amended to read as follows:

(e)(1) Quarterly disbursements from the fund shall be paid each quarter from all ~~available~~ moneys ~~collected and~~ available for disbursement in that quarter.

SECTION 5. Arkansas Code § 8-9-408, concerning accountability requirements and business plans for used tire programs, is amended to add an additional subsection to read as follows:

(f) A business plan or revised business plan that results in a business plan rate increase is subject to review by Legislative Council.

SECTION 6. Arkansas Code § 8-9-410 is amended to read as follows:

~~8-9-410. Consolidation of used~~ 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~~ (a)(1) In order to address efficiency in tire processing, including without limitation transportation, there is created four (4) used tire programs in the state.

(2) The four (4) used tire programs created under subdivision (a)(1) of this section are composed as follows:

(A) Used Tire Program 1 consists of the following counties: Benton, Carroll, Boone, Marion, Baxter, Washington, Madison, Newton, Searcy, Crawford, Franklin, Johnson, Pope, Van Buren, Sebastian, Logan, Conway, Scott, Yell, and Perry;

(B) Used Tire Program 2 consists of the following counties: Fulton, Sharp, Randolph, Clay, IZard, Lawrence, Greene, Stone, Independence, Jackson, Craighead, Mississippi, Cleburne, Faulkner, White, Poinsett, Woodruff, Cross, Pulaski, and Crittenden;

(C) Used Tire Program 3 consists of the following counties: Polk, Montgomery, Sevier, Howard, Pike, Clark, Little River, Hempstead, Nevada, Miller, Lafayette, Saline, Dallas, Ouachita, Union, Garland, Hot Spring, and Columbia; and

(D) Used Tire Program 4 consists of the following counties: Grant, Jefferson, Arkansas, Phillips, Cleveland, Lincoln, Desha, Calhoun, Bradley, Drew, Ashley, Lonoke, Prairie, Monroe, St. Francis, Lee, and Chicot.

(b)(1) Each new used tire program is governed by a tire accountability board that is composed of eleven (11) members:

(A) Five (5) county judges, elected by the county judges of the used tire program;

(B) Two (2) county judges, appointed from the two (2) most populous counties in the used tire program according to the most recent federal census; and

(C) Four (4) mayors, elected by the mayors of all of the cities in the used tire program.

(2) Each member of the tire accountability board shall serve for a term of three (3) years.

(3) The members of the tire accountability board shall draw lots for staggered terms at the first organizational meeting.

(4) A vacancy on the tire accountability board shall be filled

through the process described in the bylaws of the tire accountability board.

(c)(1) A tire accountability board shall:

(A) Elect a chair and a vice-chair at an organizational meeting;

(B) Develop bylaws to govern the tire accountability board, including without limitation rules related to the replacement of members of the tire accountability board in the event of a vacancy; and

(C) Submit a business plan to the Division of Environmental Quality for approval on or before September 1, 2023.

(2) The division shall approve or seek additional information regarding the business plan submitted under subdivision (c)(1)(C) of this section within sixty (60) days.

(d) The tire accountability board in each of the used tire programs enter into an interlocal agreement to determine the highest level of efficiency regarding tire processing in the respective used tire program.

(e) Arkansas Legislative Audit shall audit the four (4) used tire program on the following schedule:

(1) Used Tire Program 1 and Used Tire Program 3 every odd-numbered year; and

(2) Used Tire Program 2 and Used Tire Program 4 every even-numbered year.

SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE.

(a) Upon the effective date of this act, reimbursements from the Used Tire Recycling Fund shall be made by the Division of Environmental Quality in accordance with a business plan previously approved by the division until a new business plan is approved by the division.

(b) A current tire district shall not enter into a new contract or extend an existing contract unless approved by the new used tire programs created under this act.

(c)(1) The County Judges Association of Arkansas and the Arkansas Municipal League shall assist the used tire programs by facilitating an election for the tire accountability board required under Section 6 of this act.

(2) The County Judges Association of Arkansas and the Arkansas Municipal League shall facilitate the first election process within thirty

(30) days of the effective date of this act.

(3)(A) The County Judges Association of Arkansas and the Arkansas Municipal League shall report the outcome of the tire accountability board member elections of each used tire programs to the Arkansas Pollution Control and Ecology Commission.

(B) The tire accountability board shall hold an organizational meeting within thirty (30) days of the notification to the commission required under subdivision (c)(3)(A) of this section.

SECTION 8. Arkansas Code § 8-9-414, concerning the powers and duties of the Arkansas Pollution Control and Ecology Commission under the Used Tire Recycling and Accountability Act, is amended to add an additional subsection to read as follows:

(f) The commission shall waive the imposition of any permit fee imposed under this subchapter on any used tire program created by § 8-9-410.

SECTION 9. Effective date.

Sections 1 through 3 of this act are effective on and after October 1, 2023.

SECTION 10. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State of Arkansas is responsible for the appropriate disposal of waste tires and for protecting the public health and our shared environment; that discarded, uncollected, and unprocessed waste tires are breeding habitats for disease-carrying vectors and pose toxic-fume fire hazards; that it is more appropriate to process waste tires rather than continue to exhaust our landfills and monofills; that the tire processing capacity within the State of Arkansas is at capacity and is not sufficient to address our waste tire responsibility; that transportation of the waste tires to neighboring states is too costly to pursue; and that without increasing the capacity for processing tires within the State of Arkansas, a public health and safety emergency exists. Therefore, an emergency is declared to exist, and Sections 4 through 8 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Payton