

1 **WASTE TIRE AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Neal B. Hendrickson**

5 Senate Sponsor: Gene Davis

6

LONG TITLE

7 **General Description:**

8 This bill amends provisions of the Waste Tire Recycling Act relating to the transfer of
9 ownership of waste tires and the partial reimbursement of recyclers.
10

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies ~~§~~ → [the definition of "waste tire";] definitions; ← ~~§~~

14 ▶ prohibits a tire retailer from transferring ownership of a waste tire to anyone other
15 than ~~it~~ → ;

15a ◦ ← ~~it~~ a waste tire transporter ~~it~~ → that agrees to transport the tire to a tire retailer that
15b sells the tire wholesale or retail or a recycler; ← ~~it~~ or

15c ~~it~~ → ◦ ← ~~it~~ a person who purchases it for the person's own use;

16 ▶ prohibits a recycler from receiving partial reimbursement for baling whole waste
17 tires or materials derived from waste tires that are larger than shredded tires;

18 ▶ deletes references to the Waste Tire Recycling Industrial Assistance Loan Program
19 and the Waste Tire Recycling Industrial Assistance Loan Fund; and

20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **19-6-803**, as last amended by Laws of Utah 2008, Chapter 382

H.B. 72



28 19-6-804, as last amended by Laws of Utah 2002, Chapter 256

29 19-6-807, as last amended by Laws of Utah 2005, Chapter 148

30 19-6-809, as last amended by Laws of Utah 2008, Chapter 66

31 19-6-821, as last amended by Laws of Utah 2008, Chapter 382

32 REPEALS AND REENACTS:

33 19-6-822, as renumbered and amended by Laws of Utah 2000, Chapter 51

34 REPEALS:

35 19-6-824, as last amended by Laws of Utah 2005, Chapter 148



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section 19-6-803 is amended to read:

39 **19-6-803. Definitions.**

40 As used in this part:

41 (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local
42 department of health has not been able to:

- 43 (a) locate the persons responsible for the tire pile; or
- 44 (b) cause the persons responsible for the tire pile to remove it.

45 (2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling,
46 storage, or disposal, but that serves as a replacement for another product or material for specific
47 purposes.

48 (b) "Beneficial use" includes the use of chipped tires:

- 49 (i) as daily landfill cover;
- 50 (ii) for civil engineering purposes;
- 51 (iii) as low-density, light-weight aggregate fill; or
- 52 (iv) for septic or drain field construction.

53 (c) "Beneficial use" does not include the use of waste tires or material derived from
54 waste tires:

- 55 (i) in the construction of fences; or
- 56 (ii) as fill, other than low-density, light-weight aggregate fill.

57 (3) "Board" means the Solid and Hazardous Waste Control Board created under
58 Section 19-1-106.

59 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

60 (5) "Commission" means the Utah State Tax Commission.

61 (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need,
62 rather than for resale.

63 (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be
64 rented or leased.

65 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
66 reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98%
67 wire free by weight.

68 (8) "Disposal" means the deposit, dumping, or permanent placement of any waste tire
69 in or on any land or in any water in the state.

70 (9) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on
71 any land or in any water in the state.

72 (10) "Division" means the Division of Solid and Hazardous Waste created in Section
73 19-1-105, within the Department of Environmental Quality.

74 (11) "Executive secretary" means the executive secretary of the Solid and Hazardous
75 Waste Control Board created in Section 19-1-106.

76 (12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

77 (13) "Landfill waste tire pile" means a waste tire pile:

78 (a) located within the permitted boundary of a landfill operated by a governmental
79 entity; and

80 (b) consisting solely of waste tires brought to a landfill for disposal and diverted from
81 the landfill waste stream to the waste tire pile.

82 (14) "Local health department" means the local health department, as defined in
83 Section 26A-1-102, with jurisdiction over the recycler.

84 (15) "Materials derived from waste tires" means tire sections, tire chips, tire
85 shreds, rubber, steel, fabric, or other similar materials derived from waste tires.

86 (16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so
87 the waste tires may be effectively disposed of by burial, such as in a landfill.

88 (17) "New motor vehicle" means a motor vehicle which has never been titled or
89 registered.

90 (18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25
91 pounds of whole tires or material derived from waste tires is equal to one waste tire.

92 (19) "Proceeds of the fee" means the money collected by the commission from
93 payment of the recycling fee including interest and penalties on delinquent payments.

94 (20) "Recycler" means a person who:

95 (a) annually uses, or can reasonably be expected within the next year to use, a
96 minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in
97 the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate
98 product; and

99 (b) is registered as a recycler in accordance with Section 19-6-806.

100 (21) "Recycling fee" means the fee provided for in Section 19-6-805.

101 (22) "Shredded waste tires" means waste tires or material derived from waste tires that
102 has been reduced to a six inch square or smaller.

103 (23) (a) "Storage" means the placement of waste tires in a manner that does not
104 constitute disposal of the waste tires.

105 (b) "Storage" does not include:

106 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to
107 maintain covers at a construction site; ~~§→ [or] ←§~~

108 (ii) the storage for five or fewer days of waste tires or material derived from waste tires
109 that are to be recycled or applied to a beneficial use ~~§→ [-] ; or~~

109a **(iii) the storage of a waste tire before the tire is:**

109b **(A) resold wholesale or retail; or**

109c **(B) recapped.** ~~←§~~

110 (24) (a) "Store" means to place waste tires in a manner that does not constitute disposal
111 of the waste tires.

112 (b) "Store" does not include:

113 (i) to use waste tires as ballast to maintain covers on agricultural materials or to
114 maintain covers at a construction site; or

115 (ii) to store for five or fewer days waste tires or material derived from waste tires that
116 are to be recycled or applied to a beneficial use.

117 (25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a
118 vehicle in which a person or property is or may be transported or drawn upon a highway.

119 (26) "Tire retailer" means any person engaged in the business of selling new tires either
120 as replacement tires or as part of a new vehicle sale.

121 (27) (a) "Ultimate product" means a product that has as a component materials derived
122 from waste tires and that the executive secretary finds has a demonstrated market.

123 (b) "Ultimate product" includes pyrolyzed materials derived from:

124 (i) waste tires; or

125 (ii) chipped tires.

126 (c) "Ultimate product" does not include a product regarding which a waste tire remains
127 after the product is disposed of or disassembled.

128 (28) "Waste tire" means:

129 (a) a tire that is no longer suitable for its original intended purpose because of wear,
130 damage, or defect[-]; or

131 (b) a tire that a tire retailer removes from a vehicle for replacement with a new or used
132 tire.

133 (29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

134 (30) (a) "Waste tire transporter" means a person or entity engaged in picking up or
135 transporting at one time more than 10 whole waste tires, or the equivalent amount of material
136 derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

137 (b) "Waste tire transporter" includes any person engaged in the business of collecting,
138 hauling, or transporting waste tires or who performs these functions for another person, except
139 as provided in Subsection (30)(c).

140 (c) "Waste tire transporter" does not include:

141 (i) a person transporting waste tires generated solely by:

142 (A) that person's personal vehicles;

143 (B) a commercial vehicle fleet owned or operated by that person or that person's
144 employer;

145 (C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or
146 operated by that person or that person's employer; or

147 (D) a retail tire business owned or operated by that person or that person's employer;

148 (ii) a solid waste collector operating under a license issued by a unit of local
149 government as defined in Section 63M-5-103, or a local health department;

150 (iii) a recycler of waste tires;

151 (iv) a person transporting tires by rail as a common carrier subject to federal regulation;

152 or

153 (v) a person transporting processed or chipped tires.

154 Section 2. Section **19-6-804** is amended to read:

155 **19-6-804. Restrictions on disposal and transfer of tires -- Penalties.**

156 (1) (a) [~~After January 1, 1994, an~~] An individual, including a waste tire transporter,
157 may not dispose of more than four whole tires at one time in a landfill or any other location in
158 the state authorized by the executive secretary to receive waste tires, except for purposes
159 authorized by board rule.

160 (b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter
161 greater than 24.5 inches.

162 (c) No person, including a waste tire transporter, may dispose of waste tires or store
163 waste tires in any manner not allowed under this part or rules made under this part.

164 (2) The operator of the landfill or other authorized location shall direct that the waste
165 tires be disposed in a designated area to facilitate retrieval if a market becomes available for the
166 disposed waste tires or material derived from waste tires.

167 (3) An individual, including a waste tire transporter, may dispose of shredded waste
168 tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement,
169 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement
170 under Section 19-6-812, but the landfill shall dispose of the material in accordance with
171 Section 19-6-812.

172 (4) A tire retailer may only transfer ownership of a waste tire described in Subsection
173 19-6-803(28)(b) to:

174 (a) a person who purchases it for the person's own use and not for resale; or

175 (b) a waste tire transporter that ~~H→~~ :

175a (i) ~~←H~~ is registered in accordance with Section 19-6-806 ~~H→~~ [:] ; and

175b (ii) agrees to transport the tire to:

175c (A) a tire retailer that sells the tire wholesale or retail; or

175d (B) a recycler. ~~←H~~

176 [~~(4)~~] (5) (a) An individual, including a waste tire transporter, violating this section is
177 subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or
178 per passenger tire equivalent disposed of in violation of this section. A warning notice may be
179 issued prior to taking further enforcement action under this Subsection [~~(4)~~] (5).

180 (b) A civil proceeding to enforce this section and collect penalties under this section
181 may be brought in the district court where the violation occurred by the board, the local health
182 department, or the county attorney having jurisdiction over the location where the tires were

183 disposed in violation of this section.

184 (c) Penalties collected under this section shall be deposited in the fund.

185 Section 3. Section **19-6-807** is amended to read:

186 **19-6-807. Special revenue fund -- Creation -- Deposits.**

187 (1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling
188 Fund."

189 (2) The fund shall consist of:

190 (a) the proceeds of the fee imposed under Section 19-6-805; ~~Ĥ→~~ and ~~←Ĥ~~

191 (b) penalties collected under this part ~~Ĥ→~~ [~~and~~].

192 ~~(c) assets transferred to and loan repayments deposited in the fund pursuant to Section~~
193 ~~19-6-824.~~ ~~←Ĥ~~

194 (3) Money in the fund shall be used for:

195 (a) partial reimbursement of the costs of transporting, processing, recycling, or
196 disposing of waste tires as provided in this part; and

197 (b) payment of administrative costs of local health departments as provided in Section
198 19-6-817[;].

199 ~~[(c) payment of costs incurred by the Division of Finance in accounting for and~~
200 ~~tracking outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan~~
201 ~~Program; and]~~

202 ~~[(d) payment of costs incurred by the Governor's Office of Economic Development in~~
203 ~~collecting outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan~~
204 ~~Program.]~~

205 (4) The Legislature may appropriate money from the fund to pay for costs of the
206 Department of Environmental Quality in administering and enforcing this part.

207 Section 4. Section **19-6-809** is amended to read:

208 **19-6-809. Partial reimbursement.**

209 (1) (a) A recycler may submit an application under Section 19-6-813 to the local health
210 department having jurisdiction over the applicant's business address for partial reimbursement
211 for the cost of transporting and processing a waste tire or a material derived from a waste tire
212 that:

213 (i) meets the requirements of Subsections (3) and (4); and

- 214 (ii) is used within the state for:
- 215 (A) energy recovery or production;
- 216 (B) the creation of an ultimate product;
- 217 (C) the production of crumb rubber, if a contract exists for the sale of the crumb rubber
- 218 for use, either within or outside the state, as a component in an ultimate product;
- 219 (D) the production of a chipped tire, if:
- 220 (I) the chipped tire is beneficially used, either within or outside the state; and
- 221 (II) a contract exists for the sale of the chipped tire; or
- 222 (E) a use defined in rule as recycling.
- 223 (b) A recycler is not eligible to receive partial reimbursement for transportation or
- 224 processing costs related to the creation of an ultimate product if:
- 225 (i) the recycler used crumb rubber as a component of the ultimate product; and
- 226 (ii) the recycler, or another recycler, previously received under this section partial
- 227 reimbursement for transportation or processing costs related to the production of the crumb
- 228 rubber.
- 229 (c) A recycler who qualifies under this section for partial reimbursement may waive the
- 230 reimbursement and request in writing that the reimbursement be paid to a person who:
- 231 (i) delivers a waste tire or material derived from a waste tire to the recycler; or
- 232 (ii) processes the waste tire [~~prior to the recycler's receipt of~~] before the recycler
- 233 receives the waste tire or a material derived from the waste tire for recycling.
- 234 (d) A recycler is not eligible to receive partial reimbursement for transportation or
- 235 processing costs for baling:
- 236 (i) whole waste tires; or
- 237 (ii) materials derived from waste tires that are larger than shredded waste tires.
- 238 (2) Subject to the limitations in Section 19-6-816, a recycler is entitled to:
- 239 (a) \$65 as partial reimbursement for each ton of waste tires or material derived from
- 240 waste tires converted to crumb rubber, if a contract exists for the sale of the crumb rubber for
- 241 use as a component in an ultimate product;
- 242 (b) \$50 as partial reimbursement for each ton of waste tires or material derived from
- 243 waste tires recycled, other than as crumb rubber; and
- 244 (c) \$20 as partial reimbursement for each ton of chipped tires used for a beneficial use.

245 (3) (a) A recycler is eligible for a partial reimbursement if the recycler establishes, in
246 cooperation with a tire retailer or transporter, or both, a reasonable schedule to remove waste
247 tires in sufficient quantities to allow for economic transportation of waste tires located in a
248 municipality, as defined in Section 10-1-104, within the state.

249 (b) A recycler who is eligible for partial reimbursement under Subsection (3)(a) may
250 also receive partial reimbursement for recycling a tire received from a location within the state
251 other than those associated with a retail tire business, including a waste tire from a waste tire
252 pile or an abandoned waste tire pile, as provided by Section 19-6-810.

253 (4) A recycler who applies for partial reimbursement under Subsection (1) shall
254 demonstrate to the local health department identified in Subsection (1)(a) that:

255 (a) the waste tire or material derived from a waste tire that qualifies for the
256 reimbursement was:

257 (i) (A) removed and transported by a registered waste tire transporter, a recycler, or a
258 tire retailer; or

259 (B) generated by a private person who:

260 (I) is not a waste tire transporter as defined in Section 19-6-803; and

261 (II) brings the waste tire to the recycler; and

262 (ii) generated in the state; and

263 (b) if the tire is from a waste tire pile or abandoned waste tire pile, the recycler
264 complied with the requirements of Section 19-6-810.

265 Section 5. Section **19-6-821** is amended to read:

266 **19-6-821. Violations -- Civil proceedings and penalties -- Orders.**

267 (1) A person who violates any provision of this part or any order, permit, plan
268 approval, or rule issued or adopted under this part is subject to a civil penalty of not more than
269 \$10,000 per day for each day of violation as determined in a civil hearing under Title 63G,
270 Chapter 4, Administrative Procedures Act, except:

271 (a) any violation of Subsection 19-6-804(1) [~~or~~], (3), or (4) [~~regarding landfills~~]; is
272 subject to the penalty under Subsection 19-6-804[~~(4)~~](5) rather than the penalties under this
273 section; and

274 (b) any violation of Subsection 19-6-808(1), (2), or (3) regarding payment of the
275 recycling fee by the tire retailer is subject to penalties as provided in Subsection 19-6-808(4)

276 rather than the penalties under this section.

277 (2) The board may bring an action in the name of the state to restrain a person from
278 continuing a violation of this part and to require the person to perform necessary remediation
279 regarding a violation of this part.

280 (3) When the executive secretary finds a situation exists in violation of this part that
281 presents an immediate threat to the public health or welfare, the executive secretary may issue
282 an emergency order under Title 63G, Chapter 4, Administrative Procedures Act.

283 (4) The executive secretary may revoke the registration of a waste tire recycler or
284 transporter who violates any provision of this part or any order, plan approval, permit, or rule
285 issued or adopted under this part.

286 (5) The executive secretary may revoke the tire storage permit for a storage facility that
287 is in violation of any provision of this part or any order, plan approval, permit, or rule issued or
288 adopted under this part.

289 (6) If a person has been convicted of violating a provision of this part prior to a finding
290 by the executive secretary of a violation of the same provision in an administrative hearing, the
291 executive secretary may not assess a civil monetary penalty under this section for the same
292 offense for which the conviction was obtained.

293 (7) All penalties collected under this section shall be deposited in the fund.

294 Section 6. Section **19-6-822** is repealed and reenacted to read:

295 **19-6-822. Criminal penalties.**

296 A person is guilty of a third degree felony if the person knowingly or intentionally
297 provides or submits false information under the following provisions:

298 (1) Subsection 19-6-809(1)(a);

299 (2) Subsection 19-6-809(1)(c);

300 (3) Subsection 19-6-809(4);

301 (4) Subsection 19-6-810(1)(c);

302 (5) Subsection 19-6-810(2)(d);

303 (6) Subsection 19-6-811(3)(b);

304 (7) Subsection 19-6-811(6);

305 (8) Subsection 19-6-812(2); or

306 (9) Subsection 19-6-813(1).

307 Section 7. **Repealer.**
308 This bill repeals:
309 Section **19-6-824, Transfer of assets and liabilities from Waste Tire Recycling**
310 **Industrial Assistance Loan Fund to restricted special revenue fund -- Administration of**
311 **outstanding loans.**

Legislative Review Note
as of 1-18-12 9:31 AM

Office of Legislative Research and General Counsel