

- 30 **19-6-803**, as last amended by Laws of Utah 2008, Chapter 382
- 31 **19-6-804**, as last amended by Laws of Utah 2002, Chapter 256
- 32 **19-6-807**, as last amended by Laws of Utah 2005, Chapter 148
- 33 **19-6-809**, as last amended by Laws of Utah 2008, Chapter 66
- 34 **19-6-821**, as last amended by Laws of Utah 2008, Chapter 382

35 REPEALS AND REENACTS:

- 36 **19-6-822**, as renumbered and amended by Laws of Utah 2000, Chapter 51

37 REPEALS:

- 38 **19-6-824**, as last amended by Laws of Utah 2005, Chapter 148



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

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

42 **19-6-803. Definitions.**

43 As used in this part:

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

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

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

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

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

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

- 58 (i) in the construction of fences; or
- 59 (ii) as fill, other than low-density, light-weight aggregate fill.
- 60 (3) "Board" means the Solid and Hazardous Waste Control Board created under
- 61 Section 19-1-106.
- 62 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.
- 63 (5) "Commission" means the Utah State Tax Commission.
- 64 (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need,
- 65 rather than for resale.
- 66 (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be
- 67 rented or leased.
- 68 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
- 69 reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98%
- 70 wire free by weight.
- 71 (8) "Disposal" means the deposit, dumping, or permanent placement of any waste tire
- 72 in or on any land or in any water in the state.
- 73 (9) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on
- 74 any land or in any water in the state.
- 75 (10) "Division" means the Division of Solid and Hazardous Waste created in Section
- 76 19-1-105, within the Department of Environmental Quality.
- 77 (11) "Executive secretary" means the executive secretary of the Solid and Hazardous
- 78 Waste Control Board created in Section 19-1-106.
- 79 (12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.
- 80 (13) "Landfill waste tire pile" means a waste tire pile:
- 81 (a) located within the permitted boundary of a landfill operated by a governmental
- 82 entity; and
- 83 (b) consisting solely of waste tires brought to a landfill for disposal and diverted from
- 84 the landfill waste stream to the waste tire pile.
- 85 (14) "Local health department" means the local health department, as defined in

86 Section 26A-1-102, with jurisdiction over the recycler.

87 (15) "Materials derived from waste tires" means tire sections, tire chips, tire
88 shreadings, rubber, steel, fabric, or other similar materials derived from waste tires.

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

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

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

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

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

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

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

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

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

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

108 (b) "Storage" does not include:

109 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to
110 maintain covers at a construction site; ~~[or]~~

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

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

114 (A) resold wholesale or retail; or

115 (B) recapped.

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

118 (b) "Store" does not include:

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

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

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

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

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

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

130 (i) waste tires; or

131 (ii) chipped tires.

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

134 (28) "Waste tire" means:

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

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

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

140 (30) (a) "Waste tire transporter" means a person or entity engaged in picking up or
141 transporting at one time more than 10 whole waste tires, or the equivalent amount of material

142 derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

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

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

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

148 (A) that person's personal vehicles;

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

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

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

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

156 (iii) a recycler of waste tires;

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

158 or

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

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

161 **19-6-804. Restrictions on disposal and transfer of tires -- Penalties.**

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

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

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

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

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

178 (4) A tire retailer may only transfer ownership of a waste tire described in Subsection
179 19-6-803(28)(b) to:

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

181 (b) a waste tire transporter that:

182 (i) is registered in accordance with Section 19-6-806; and

183 (ii) agrees to transport the tire to:

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

185 (B) a recycler.

186 [~~4~~] (5) (a) An individual, including a waste tire transporter, violating this section is
187 subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or
188 per passenger tire equivalent disposed of in violation of this section. A warning notice may be
189 issued prior to taking further enforcement action under this Subsection [~~4~~] (5).

190 (b) A civil proceeding to enforce this section and collect penalties under this section
191 may be brought in the district court where the violation occurred by the board, the local health
192 department, or the county attorney having jurisdiction over the location where the tires were
193 disposed in violation of this section.

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

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

196 **19-6-807. Special revenue fund -- Creation -- Deposits.**

197 (1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling

198 Fund."

199 (2) The fund shall consist of:

200 (a) the proceeds of the fee imposed under Section 19-6-805; and

201 (b) penalties collected under this part~~;~~ and].

202 ~~[(c) assets transferred to and loan repayments deposited in the fund pursuant to Section~~
203 ~~19-6-824.]~~

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

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

207 (b) payment of administrative costs of local health departments as provided in Section
208 19-6-817~~;~~].

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

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

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

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

218 **19-6-809. Partial reimbursement.**

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

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

224 (ii) is used within the state for:

225 (A) energy recovery or production;

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

254 (c) \$20 as partial reimbursement for each ton of chipped tires used for a beneficial use.

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

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

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

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

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

269 (B) generated by a private person who:

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

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

272 (ii) generated in the state; and

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

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

276 **19-6-821. Violations -- Civil proceedings and penalties -- Orders.**

277 (1) A person who violates any provision of this part or any order, permit, plan
278 approval, or rule issued or adopted under this part is subject to a civil penalty of not more than
279 \$10,000 per day for each day of violation as determined in a civil hearing under Title 63G,
280 Chapter 4, Administrative Procedures Act, except:

281 (a) any violation of Subsection 19-6-804(1) [~~or~~], (3), or (4) [~~regarding landfills~~], is

282 subject to the penalty under Subsection 19-6-804[~~(4)~~](5) rather than the penalties under this
283 section; and

284 (b) any violation of Subsection 19-6-808(1), (2), or (3) regarding payment of the
285 recycling fee by the tire retailer is subject to penalties as provided in Subsection 19-6-808(4)
286 rather than the penalties under this section.

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

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

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

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

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

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

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

305 **19-6-822. Criminal penalties.**

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

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

309 (2) Subsection 19-6-809(1)©;

- 310 (3) Subsection 19-6-809(4);
- 311 (4) Subsection 19-6-810(1)(c);
- 312 (5) Subsection 19-6-810(2)(d);
- 313 (6) Subsection 19-6-811(3)(b);
- 314 (7) Subsection 19-6-811(6);
- 315 (8) Subsection 19-6-812(2); or
- 316 (9) Subsection 19-6-813(1).

317 Section 7. **Repealer.**

318 This bill repeals:

319 Section **19-6-824, Transfer of assets and liabilities from Waste Tire Recycling**
320 **Industrial Assistance Loan Fund to restricted special revenue fund -- Administration of**
321 **outstanding loans.**