

TIRE RECYCLING MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions related to tire recycling.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "crumb rubber";
- ▶ addresses waste tire transporters complying with this part; ~~Ŝ→~~ **and** ~~←Ŝ~~

~~Ŝ→ [→ adjusts rates of partial reimbursement; ~~Ĥ→~~ **and** ~~←Ĥ~~] ←Ŝ~~

~~Ĥ→ [→ addresses funding for management of certain landfill or abandoned waste tire piles; **and**] ←Ĥ~~

- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-803, as last amended by Laws of Utah 2015, Chapter 451

19-6-806, as last amended by Laws of Utah 2012, Chapter 360

~~Ŝ→ [→ **19-6-809**, as last amended by Laws of Utah 2012, Chapter 263] ←Ŝ~~

~~Ĥ→ [→ **19-6-811**, as last amended by Laws of Utah 2012, Chapter 360] ←Ĥ~~

H.B. 126



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

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

19-6-803. Definitions.

As used in this part:

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

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove [it] the tire pile.

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

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

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

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

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) "Board" means the Waste Management and Radiation Control Board created under Section **19-1-106**.

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

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

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

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

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to ~~[3/8]~~ 3/4 inch in diameter and

59 are 98% wire free by weight.

60 (8) "Director" means the director of the Division of Waste Management and Radiation
61 Control.

62 (9) "Disposal" means the deposit, dumping, or permanent placement of [any] waste tire
63 in or on [any] land or in [any] water in the state.

64 (10) "Dispose of" means to deposit, dump, or permanently place [any] waste tire in or
65 on [any] land or in [any] water in the state.

66 (11) "Division" means the Division of Waste Management and Radiation Control
67 created in Section 19-1-105.

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

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

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

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

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

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

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

80 (17) "New motor vehicle" means a motor vehicle [~~which~~] that has never been titled or
81 registered.

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

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

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

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

90 product; and

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

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

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

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

97 (b) "Storage" does not include:

98 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to
99 maintain covers at a construction site;

100 (ii) the storage for five or fewer days of waste tires or material derived from waste tires
101 that are to be recycled or applied to a beneficial use; or

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

103 (A) resold wholesale or retail; or

104 (B) recapped.

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

107 (b) "Store" does not include:

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

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

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

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

116 (27) (a) "Ultimate product" means a product that has as a component materials derived
117 from waste tires and that the director finds has a demonstrated market.

118 (b) "Ultimate product" includes pyrolized materials derived from:

119 (i) waste tires; or

120 (ii) chipped tires.

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

123 (28) "Waste tire" means:

124 (a) a tire that is no longer suitable for [its] the tire's original intended purpose because
125 of wear, damage, or defect; or

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

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

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

132 (b) "Waste tire transporter" includes [~~any~~] a person engaged in the business of
133 collecting, hauling, or transporting waste tires or who performs these functions for another
134 person, except as provided in Subsection (30)(c).

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

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

137 (A) that person's personal vehicles;

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

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

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

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

145 (iii) a recycler of waste tires;

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

147 or

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

149 Section 2. Section **19-6-806** is amended to read:

150 **19-6-806. Registration of waste tire transporters and recyclers.**

151 (1) (a) The director shall register [~~each~~] an applicant for registration to act as a waste

152 tire transporter if the applicant meets the requirements of this section.

153 (b) An applicant for registration as a waste tire transporter shall:

154 (i) submit an application in a form prescribed by the director;

155 (ii) pay a fee as determined by the board under Section 63J-1-504;

156 (iii) provide the name and business address of the operator;

157 (iv) provide proof of liability insurance or other form of financial responsibility in an
158 amount determined by board rule, but not more than \$300,000, for any liability the waste tire
159 transporter may incur in transporting waste tires; and

160 (v) meet requirements established by board rule.

161 (c) The holder of a registration under this section shall advise the director in writing of
162 ~~[any changes]~~ a change in application information provided to the director within 20 days of
163 the change.

164 (d) A waste tire transporter may only deliver tires to a recycler in accordance with this
165 part or rules made under this part. If the director has reason to believe a waste tire transporter
166 has disposed of tires other than as allowed under this part, the director shall conduct an
167 investigation and, after complying with the procedural requirements of Title 63G, Chapter 4,
168 Administrative Procedures Act, may revoke the registration.

169 (2) (a) The director shall register ~~[each]~~ an applicant for registration to act as a waste
170 tire recycler if the applicant meets the requirements of this section.

171 (b) An applicant for registration as a waste tire recycler shall:

172 (i) submit an application in a form prescribed by the director;

173 (ii) pay a fee as determined by the board under Section 63J-1-504;

174 (iii) provide the name and business address of the operator of the recycling business;

175 (iv) provide proof of liability insurance or other form of financial responsibility in an
176 amount determined by board rule, but not more than \$300,000, for any liability the waste tire
177 recycler may incur in storing and recycling waste tires;

178 (v) engage in activities as described under the definition of recycler in Section
179 19-6-803; and

180 (vi) meet requirements established by board rule.

181 (c) The holder of a registration under this section shall advise the director in writing of
182 ~~[any changes]~~ a change in application information provided to the director within 20 days of

183 the change.

184 (d) If the director has reason to believe a waste tire recycler has falsified any
185 information provided in an application for partial reimbursement under this section, the
186 director shall, after complying with the procedural requirements of Title 63G, Chapter 4,
187 Administrative Procedures Act, revoke the registration.

188 (3) The board shall establish a uniform fee for registration [~~which~~] that shall be
189 imposed by [~~any~~] a unit of local government or local health department that requires a
190 registration fee as part of the registration of waste tire transporters or waste tire recyclers.

191 ~~§→ [Section 3. Section 19-6-809 is amended to read:~~

192 ~~———— 19-6-809. Partial reimbursement.~~

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

197 ~~———— (i) meets the requirements of Subsections (3) and (4); and~~

198 ~~———— (ii) is used within the state for:~~

199 ~~———— (A) energy recovery or production;~~

200 ~~———— (B) the creation of an ultimate product;~~

201 ~~———— (C) the production of crumb rubber, if a contract exists for the sale of the crumb rubber~~
202 ~~for use, either within or outside the state, as a component in an ultimate product;~~

203 ~~———— (D) the production of a chipped tire, if:~~

204 ~~———— (I) the chipped tire is beneficially used, either within or outside the state; and~~

205 ~~———— (H) a contract exists for the sale of the chipped tire; or~~

206 ~~———— (E) a use defined in rule as recycling.~~

207 ~~———— (b) A recycler is not eligible to receive partial reimbursement for transportation or~~
208 ~~processing costs related to the creation of an ultimate product if:~~

209 ~~———— (i) the recycler used crumb rubber as a component of the ultimate product; and~~

210 ~~———— (ii) the recycler, or another recycler, previously received under this section partial~~
211 ~~reimbursement for transportation or processing costs related to the production of the crumb~~
212 ~~rubber.~~

213 ~~———— (c) A recycler who qualifies under this section for partial reimbursement may waive the~~

214 ~~Reimbursement and request in writing that the reimbursement be paid to a person who:~~
 215 ~~—— (i) delivers a waste tire or material derived from a waste tire to the recycler; or~~
 216 ~~—— (ii) processes the waste tire before the recycler receives the waste tire or a material~~
 217 ~~derived from the waste tire for recycling.~~
 218 ~~—— (d) A recycler is not eligible to receive partial reimbursement for transportation or~~
 219 ~~processing costs for baling:~~
 220 ~~—— (i) whole waste tires; or~~
 221 ~~—— (ii) materials derived from waste tires that are larger than shredded waste tires.~~
 222 ~~—— (2) Subject to the limitations in Section 19-6-816, a recycler is entitled to:~~
 223 ~~—— (a) \$65] \$80 as partial reimbursement for [each] a ton of waste tires or material~~
 224 ~~derived from waste tires converted to crumb rubber, if a contract exists for the sale of the~~
 225 ~~crumb rubber for use as a component in an ultimate product;~~
 226 ~~—— (b) \$50 as partial reimbursement for [each] a ton of waste tires or material derived~~
 227 ~~from waste tires recycled, other than as crumb rubber; and~~
 228 ~~—— (c) \$20 as partial reimbursement for [each] a ton of chipped tires used for a beneficial~~
 229 ~~use.~~
 230 ~~—— (3) (a) A recycler is eligible for a partial reimbursement if the recycler establishes, in~~
 231 ~~cooperation with a tire retailer or transporter, or both, a reasonable schedule to remove waste~~
 232 ~~tires in sufficient quantities to allow for economic transportation of waste tires located in a~~
 233 ~~municipality, as defined in Section 10-1-104, within the state.~~
 234 ~~—— (b) A recycler who is eligible for partial reimbursement under Subsection (3)(a) may~~
 235 ~~also receive partial reimbursement for recycling a tire received from a location within the state~~
 236 ~~other than those associated with a retail tire business, including a waste tire from a waste tire~~
 237 ~~pile or an abandoned waste tire pile, as provided by Section 19-6-810.~~
 238 ~~—— (4) A recycler who applies for partial reimbursement under Subsection (1) shall~~
 239 ~~demonstrate to the local health department identified in Subsection (1)(a) that:~~
 240 ~~—— (a) the waste tire or material derived from a waste tire that qualifies for the~~
 241 ~~reimbursement was:~~
 242 ~~—— (i) (A) removed and transported by a registered waste tire transporter, a recycler, or a~~
 243 ~~tire retailer; or~~
 244 ~~—— (B) generated by a private person who:~~

245 ~~⊖~~ (I) is not a waste tire transporter as defined in Section ~~19-6-803~~; and
 246 (H) brings the waste tire to the recycler; and
 247 (ii) generated in the state; and
 248 (b) if the tire is from a waste tire pile or abandoned waste tire pile, the recycler
 249 complied with the requirements of Section ~~19-6-810~~.] ←~~Ŝ~~
 250 ~~Ĥ~~→ [Section 4. Section 19-6-811 is amended to read:
 251 ~~19-6-811. Funding for management of certain landfill or abandoned waste tire~~
 252 ~~piles -- Limitations:~~
 253 (1) (a) A county or municipality may apply to the director for payment from the fund
 254 for costs of a waste tire transporter or recycler to remove waste tires from an abandoned waste
 255 tire pile or a landfill waste tire pile operated by a state or local governmental entity and deliver
 256 the waste tires to a recycler.
 257 (b) The director may authorize a maximum reimbursement of:
 258 (i) ~~100%~~ of a waste tire transporter's or recycler's costs allowed under Subsection (2) to
 259 remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the
 260 waste tires to a recycler, if no waste tires have been added to the abandoned waste tire pile or
 261 landfill waste tire pile on or after July 1, 2001; or
 262 (ii) ~~[60%]~~ 100% of a waste tire transporter's or recycler's costs allowed under
 263 Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire
 264 pile and deliver the waste tires to a recycler, if waste tires have been added to the abandoned
 265 waste tire pile or landfill waste tire pile on or after July 1, 2001.
 266 (c) The director may deny an application for payment of waste tire pile removal and
 267 delivery costs, if the director determines that payment of the costs will result in there not being
 268 sufficient money in the fund to pay expected reimbursements for recycling or beneficial use
 269 under Section ~~19-6-809~~ during the next quarter.
 270 (2) (a) The maximum number of miles for which the director may reimburse for
 271 transportation costs incurred by a waste tire transporter under this section is the number of
 272 miles, one way, between the location of the waste tire pile and the State Capitol Building, in
 273 Salt Lake City, Utah, or to the recycler, whichever is less.
 274 (b) This maximum number of miles available for reimbursement applies regardless of
 275 the location of the recycler to which the waste tires are transported under this section.] ←~~Ĥ~~

276 ~~H→ [(c) The director shall, upon request, advise any person preparing a bid under this~~
277 ~~section of the maximum number of miles available for reimbursement under this Subsection~~
278 ~~(2):~~

279 ~~—— (d) The cost under this Subsection (2) shall be calculated based on the cost to transport~~
280 ~~one ton of waste tires one mile.~~

281 ~~—— (3) (a) The county or municipality shall through a competitive bidding process make a~~
282 ~~good faith attempt to obtain a bid for the removal of the landfill or abandoned waste tire pile~~
283 ~~and transport to a recycler.~~

284 ~~—— (b) The county or municipality shall submit to the director:~~

285 ~~—— (i) (A) (I) a statement from the local health department stating the landfill waste tire~~
286 ~~pile is operated by a state or local governmental entity and consists solely of waste tires~~
287 ~~diverted from the landfill waste stream;~~

288 ~~—— (H) a description of the size and location of the landfill waste tire pile; and~~

289 ~~—— (HH) landfill records showing the origin of the waste tires; or~~

290 ~~—— (B) a statement from the local health department that the waste tire pile is abandoned;~~
291 ~~and~~

292 ~~—— (ii) (A) the bid selected by the county or municipality; or~~

293 ~~—— (B) if no bids were received, a statement to that fact.~~

294 ~~—— (4) (a) If a bid is submitted, the director shall determine if the bid is reasonable, taking~~
295 ~~into consideration:~~

296 ~~—— (i) the location and size of the landfill or abandoned waste tire pile;~~

297 ~~—— (ii) the number and size of any other landfill or abandoned waste tire piles in the area;~~
298 ~~and~~

299 ~~—— (iii) the current market for waste tires of the type in the landfill or abandoned waste tire~~
300 ~~pile.~~

301 ~~—— (b) The director shall advise the county or municipality within 30 days of receipt of the~~
302 ~~bid whether or not the bid is determined to be reasonable.~~

303 ~~—— (5) (a) If the bid is found to be reasonable, the county or municipality may proceed to~~
304 ~~have the landfill or abandoned waste tire pile removed pursuant to the bid.~~

305 ~~—— (b) The county or municipality shall advise the director that the landfill or abandoned~~
306 ~~waste tire pile has been removed.] ←H~~

307 ~~Ĥ→ [(6) The recycler or waste tire transporter that removed the landfill or abandoned waste~~
308 ~~tires pursuant to the bid shall submit to the director a copy of the manifest, which shall state:~~
309 ~~—— (a) the number or tons of waste tires transported;~~
310 ~~—— (b) the location from which they were removed;~~
311 ~~—— (c) the recycler to which the waste tires were delivered; and~~
312 ~~—— (d) the amount charged by the transporter or recycler.~~
313 ~~—— (7) Upon receipt of the information required under Subsection (6), and determination~~
314 ~~that the information is complete, the director shall, within 30 days after receipt authorize the~~
315 ~~Division of Finance to reimburse the waste tire transporter or recycler the amount established~~
316 ~~under this section.] ←Ĥ~~