

HB0126S01 compared with HB0126

~~{deleted text}~~ shows text that was in HB0126 but was deleted in HB0126S01.

Inserted text shows text that was not in HB0126 but was inserted into HB0126S01.

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Senator Scott D. Sandall proposes the following substitute bill:

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;~~{~~

~~—~~ ~~→~~ ~~adjusts rates of partial reimbursement;~~

~~—~~ ~~→~~ ~~addresses funding for management of certain landfill or abandoned waste tire piles;}~~

and

- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

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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

~~{ **19-6-809**, as last amended by Laws of Utah 2012, Chapter 263~~

~~— **19-6-811**, as last amended by Laws of Utah 2012, Chapter 360~~

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.

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(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 are 98% wire free by weight.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) "Recycler" means a person who:

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

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

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

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

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

(b) "Storage" does not include:

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

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

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

(A) resold wholesale or retail; or

(B) recapped.

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

(b) "Store" does not include:

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

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

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a

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vehicle in which a person or property is or may be transported or drawn upon a highway.

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

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

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

(i) waste tires; or

(ii) chipped tires.

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

(28) "Waste tire" means:

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

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

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

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

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

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

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

(A) that person's personal vehicles;

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

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

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

(ii) a solid waste collector operating under a license issued by a unit of local

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government as defined in Section 63M-5-103, or a local health department;

- (iii) a recycler of waste tires;
- (iv) a person transporting tires by rail as a common carrier subject to federal regulation;

or

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

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

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

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

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

- (i) submit an application in a form prescribed by the director;
- (ii) pay a fee as determined by the board under Section 63J-1-504;
- (iii) provide the name and business address of the operator;

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

- (v) meet requirements established by board rule.

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

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

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

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

- (i) submit an application in a form prescribed by the director;
- (ii) pay a fee as determined by the board under Section 63J-1-504;
- (iii) provide the name and business address of the operator of the recycling business;

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

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

(vi) meet requirements established by board rule.

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

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

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

~~{ Section 3. Section 19-6-809 is amended to read:~~

~~19-6-809. Partial reimbursement:~~

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

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

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

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

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

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

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

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

~~(II) a contract exists for the sale of the chipped tire; or~~

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- ~~—— (E) a use defined in rule as recycling.~~
- ~~—— (b) A recycler is not eligible to receive partial reimbursement for transportation or processing costs related to the creation of an ultimate product if:
 - ~~—— (i) the recycler used crumb rubber as a component of the ultimate product; and~~
 - ~~—— (ii) the recycler, or another recycler, previously received under this section partial reimbursement for transportation or processing costs related to the production of the crumb rubber.~~~~
- ~~—— (c) A recycler who qualifies under this section for partial reimbursement may waive the reimbursement and request in writing that the reimbursement be paid to a person who:
 - ~~—— (i) delivers a waste tire or material derived from a waste tire to the recycler; or~~
 - ~~—— (ii) processes the waste tire before the recycler receives the waste tire or a material derived from the waste tire for recycling.~~~~
- ~~—— (d) A recycler is not eligible to receive partial reimbursement for transportation or processing costs for baling:
 - ~~—— (i) whole waste tires; or~~
 - ~~—— (ii) materials derived from waste tires that are larger than shredded waste tires.~~~~
- ~~—— (2) Subject to the limitations in Section 19-6-816, a recycler is entitled to:
 - ~~—— (a) [\$65] \$80 as partial reimbursement for [each] a ton of waste tires or material derived from waste tires converted to crumb rubber, if a contract exists for the sale of the crumb rubber for use as a component in an ultimate product;~~
 - ~~—— (b) \$50 as partial reimbursement for [each] a ton of waste tires or material derived from waste tires recycled, other than as crumb rubber; and~~
 - ~~—— (c) \$20 as partial reimbursement for [each] a ton of chipped tires used for a beneficial use.~~~~
- ~~—— (3) (a) A recycler is eligible for a partial reimbursement if the recycler establishes, in cooperation with a tire retailer or transporter, or both, a reasonable schedule to remove waste tires in sufficient quantities to allow for economic transportation of waste tires located in a municipality, as defined in Section 10-1-104, within the state.
 - ~~—— (b) A recycler who is eligible for partial reimbursement under Subsection (3)(a) may also receive partial reimbursement for recycling a tire received from a location within the state other than those associated with a retail tire business, including a waste tire from a waste tire~~~~

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~~pile or an abandoned waste tire pile, as provided by Section 19-6-810:~~

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

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

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

~~—— (B) generated by a private person who:~~

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

~~—— (II) brings the waste tire to the recycler; and~~

~~—— (ii) generated in the state; and~~

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

~~—— Section 4. Section 19-6-811 is amended to read:~~

~~—— 19-6-811. Funding for management of certain landfill or abandoned waste tire piles -- Limitations.~~

~~—— (1) (a) A county or municipality may apply to the director for payment from the fund for costs of a waste tire transporter or recycler to remove waste tires from an abandoned waste tire pile or a landfill waste tire pile operated by a state or local governmental entity and deliver the waste tires to a recycler.~~

~~—— (b) The director may authorize a maximum reimbursement of:~~

~~—— (i) 100% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if no waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001; or~~

~~—— (ii) [60%] 100% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001.~~

~~—— (c) The director may deny an application for payment of waste tire pile removal and delivery costs, if the director determines that payment of the costs will result in there not being~~

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~~sufficient money in the fund to pay expected reimbursements for recycling or beneficial use under Section 19-6-809 during the next quarter:~~

~~—— (2) (a) The maximum number of miles for which the director may reimburse for transportation costs incurred by a waste tire transporter under this section is the number of miles, one way, between the location of the waste tire pile and the State Capitol Building, in Salt Lake City, Utah, or to the recycler, whichever is less:~~

~~—— (b) This maximum number of miles available for reimbursement applies regardless of the location of the recycler to which the waste tires are transported under this section:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~and~~

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

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

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

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

~~—— (6) The recycler or waste tire transporter that removed the landfill or abandoned waste tires pursuant to the bid shall submit to the director a copy of the manifest, which shall state:~~

~~—— (a) the number or tons of waste tires transported;~~

~~—— (b) the location from which they were removed;~~

~~—— (c) the recycler to which the waste tires were delivered; and~~

~~—— (d) the amount charged by the transporter or recycler.~~

~~—— (7) Upon receipt of the information required under Subsection (6), and determination that the information is complete, the director shall, within 30 days after receipt authorize the Division of Finance to reimburse the waste tire transporter or recycler the amount established under this section.~~

~~‡~~