

1 **WASTE TIRE RECYCLING AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: Todd D. Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to waste tire recycling.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies definition provisions;
- 13 ▶ changes the process and limitations on the funding for management of certain
- 14 landfill or abandoned waste tire piles;
- 15 ▶ addresses criminal penalties; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **19-6-803**, as last amended by Laws of Utah 2020, Chapter 27

24 **19-6-811**, as last amended by Laws of Utah 2019, Chapter 70

25 **19-6-822**, as repealed and reenacted by Laws of Utah 2012, Chapter 263

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

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

29 **19-6-803. Definitions.**

30 As used in this part:

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

- 33 (a) locate the persons responsible for the tire pile; or
- 34 (b) cause the persons responsible for the tire pile to remove the tire pile.

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

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

- 39 (i) as daily landfill cover;
- 40 (ii) for civil engineering purposes;
- 41 (iii) as low-density, light-weight aggregate fill; or
- 42 (iv) for septic or drain field construction.

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

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

47 (3) "Board" means the Waste Management and Radiation Control Board created under
48 Section [19-1-106](#).

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

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

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

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

55 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
56 reduced in size such that the particles are less than or equal to 3/4 inch in diameter and are 98%
57 wire free by weight.

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

60 (9) "Disposal" means the deposit, dumping, or permanent placement of waste tire in or
61 on land or in water in the state.

62 (10) "Dispose of" means to deposit, dump, or permanently place waste tire in or on
63 land or in water in the state.

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

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

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

68 (a) located within the permitted boundary of a landfill or transfer station operated by a
69 governmental entity; and

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

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

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

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

78 (17) "New motor vehicle" means a motor vehicle that has never been titled or
79 registered.

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

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

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

85 (a) annually uses, or can reasonably be expected within the next year to use, a

86 minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in
87 the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate
88 product; and

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

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

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

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

95 (b) "Storage" does not include:

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

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

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

101 (A) resold wholesale or retail; or

102 (B) recapped.

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

105 (b) "Store" does not include:

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

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

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

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

114 (27) "Transfer station" is defined by rule made by the board in accordance with Title
115 63G, Chapter 3, Utah Administrative Rulemaking Act.

116 ~~[(27)]~~ (28) (a) "Ultimate product" means a product that has as a component materials
117 derived from waste tires and that the director finds has a demonstrated market.

118 (b) "Ultimate product" includes pyrolyzed 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)]~~ (29) "Waste tire" means:

124 (a) a tire that is no longer suitable for the tire's original intended purpose because of
125 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)]~~ (30) "Waste tire pile" means a pile of 200 or more waste tires at one location.

129 ~~[(30)]~~ (31) (a) "Waste tire transporter" means a person 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 a person engaged in the business of collecting,
133 hauling, or transporting waste tires or who performs these functions for another person, except
134 as provided in Subsection ~~[(30)]~~ (31)(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 19-6-811 is amended to read:

150 **19-6-811. Funding for management of certain waste tire piles -- Limitations.**

151 (1) (a) A county or municipality may apply to the director for payment from the fund
152 for costs of a waste tire transporter or recycler to remove waste tires from an abandoned waste
153 tire pile [~~or a landfill waste tire pile operated by a state or local governmental entity~~] located
154 within that county or municipality and deliver the waste tires to a recycler.

155 (b) (i) Subject to Subsection (1)(b)(iii), an operator of a state or local government
156 landfill or of a transfer station may apply to the director for payment from the fund for costs to
157 remove waste tires from a waste tire pile located at that landfill or transfer station and deliver
158 the waste tires to a recycler.

159 (ii) If the removal and delivery of waste tires is to be conducted by a registered
160 third-party waste tire transporter or recycler, the operator of a state or local government landfill
161 or transfer station is subject to the competitive bidding process of Subsections (3) through (5).

162 (iii) For a state or local government landfill or a transfer station located in a county of
163 the first or second class, the division:

164 (A) shall reimburse under Subsection (1)(b)(i) an operator of the state or local
165 government landfill or of a transfer station in the order that the operator submits a completed
166 request for reimbursement under Subsection (1)(b)(i); and

167 (B) may not reimburse an operator of a state or local government landfill or a transfer
168 station located in a county of the first or second class if, at the time the operator submits the
169 operator's request for reimbursement, the aggregate of the reimbursements to state or local

170 government landfills or transfer stations located in a county of the first or second class made
171 under Subsection (1)(b)(i) in a fiscal year equals \$80,000.

172 (iv) Subsection (1)(b)(iii) does not apply to a state or local government landfill or
173 transfer station that is located in a county of the third through sixth class.

174 ~~[(b)] (c) (i)~~ The director may authorize ~~[a maximum]~~ reimbursement of ~~[(i) subject to~~
175 ~~Subsection (1)(d), 100% of]~~ a waste tire transporter's or recycler's costs, subject to Subsections
176 (1)(e) and (f) and as allowed under Subsection (2), to remove waste tires from an abandoned
177 waste tire pile located in a municipality or county or a state or local government landfill waste
178 tire pile and deliver the waste tires to a recycler~~[-if:].~~

179 ~~[(A) waste tires have been added to the abandoned waste tire pile or landfill waste tire~~
180 ~~pile on or after July 1, 2001; and]~~

181 ~~[(B) the county is a county of the third, fourth, fifth, or sixth class, or the municipality~~
182 ~~is located in a county of the third, fourth, fifth, or sixth class;]~~

183 ~~[(ii) subject to Subsection (1)(d), 60% of a waste tire transporter's or recycler's costs~~
184 ~~allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or~~
185 ~~landfill waste tire pile and deliver the waste tires to a recycler, if:]~~

186 ~~[(A) waste tires have been added to the abandoned waste tire pile or landfill waste tire~~
187 ~~pile on or after July 1, 2001; and]~~

188 ~~[(B) the county is a county of the first or second class, or the municipality is in a~~
189 ~~county of the first or second class; or]~~

190 ~~[(iii) subject to Subsection (1)(d), 60% of waste tire transporter's or recycler's costs~~
191 ~~allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or~~
192 ~~landfill waste tire pile and deliver the waste tires to a recycler if the waste tires have been~~
193 ~~added to the abandoned waste tire pile and landfill waste tire pile on or after July 1, 2001, and~~
194 ~~the reimbursement is for:]~~

195 ~~[(A) an interlocal cooperative agency;]~~

196 ~~[(B) a special district; or]~~

197 ~~[(C) a waste transfer station.]~~

198 (ii) The cost of transporting waste tires from a transfer station to a landfill operated by
199 a governmental entity is not eligible for reimbursement.

200 ~~[(c)]~~ (d) The director may deny an application for payment of waste tire pile removal
201 and delivery costs, if the director determines that payment of the costs will result in there not
202 being sufficient money in the fund to pay expected reimbursements for recycling or beneficial
203 use under Section 19-6-809 during the next quarter.

204 ~~[(d)]~~ (e) ~~[In order to]~~ To be eligible for reimbursement under [Subsections (1)(a) and
205 ~~(b)]~~ Subsection (1)(b)(ii), a county or municipality shall receive a minimum of two eligible
206 bids for transportation or recycling, unless it is impossible to receive two eligible bids due to a
207 transporter or recycler:

- 208 (i) declining to offer a bid for the project; or
- 209 (ii) not being in compliance with state statute or rules made in accordance with Title
- 210 63G, Chapter 3, Utah Administrative Rulemaking Act.

211 (f) To be eligible for reimbursement under Subsection (1)(b), an operator of a state or
212 local government landfill or transfer station shall submit to the director:

- 213 (i) a statement:
 - 214 (A) confirming that the waste tires were received at the landfill or transfer station;
 - 215 (B) confirming that the landfill waste tire pile consists solely of waste tires diverted
 - 216 from the landfill or transfer station waste stream; and
 - 217 (C) describing the size and location of the landfill waste tire pile; and
 - 218 (ii) landfill or transfer station waste receipt records indicating the origin of the waste
 - 219 tires.

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

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

226 (c) The director shall, upon request, advise any person preparing a bid under this
227 section of the maximum number of miles available for reimbursement under this Subsection
228 (2).

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

231 (3) (a) ~~[The]~~ When waste tire piles are removed or transported by a third-party waste
232 tire transporter or recycler, the county or municipality shall through a competitive bidding
233 process make a good faith attempt to obtain a bid for the removal of the [landfill or] abandoned
234 waste tire pile and transport to a recycler.

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

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

239 ~~[(II) a description of the size and location of the landfill waste tire pile; and]~~

240 ~~[(III) landfill records showing the origin of the waste tires; or]~~

241 ~~[(B)]~~ (i) a statement from the local health department that the waste tire pile is
242 abandoned; and

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

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

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

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

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

249 and

250 (iii) the current market for waste tires of the type in the ~~[landfill or]~~ abandoned waste
251 tire pile.

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

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

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

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

- 261 (a) the number or tons of waste tires transported;
- 262 (b) the location from which they were removed;
- 263 (c) the recycler to which the waste tires were delivered; and
- 264 (d) the amount charged by the transporter or recycler.

265 (7) An operator of a state or local government landfill or transfer station shall submit to
266 the director a statement providing:

- 267 (a) the number or tons of waste tires removed from the landfill or transfer station;
- 268 (b) the location from which the waste tires were removed;
- 269 (c) the recycler to which the waste tires were delivered; and
- 270 (d) if applicable, the amount charged by a third-party waste tire transporter or recycler
271 to transport the waste tires to the recycler.

272 [~~(7)~~] (8) Upon receipt of the information required under Subsection (6) or (7), and
273 determination that the information is complete, the director shall, within 30 days after receipt
274 authorize the Division of Finance to reimburse the waste tire transporter or recycler the amount
275 established under this section.

276 (9) A person reimbursed under this section may not be reimbursed under Section
277 19-6-809, 19-6-812, or 19-6-813 for the same activities that underlay eligibility for
278 reimbursement under this section.

279 Section 3. Section **19-6-822** is amended to read:

280 **19-6-822. Criminal penalties.**

281 A person is guilty of a third degree felony if the person knowingly or intentionally

282 provides or submits false information under the following provisions:

- 283 (1) Subsection 19-6-809(1)(a);
- 284 (2) Subsection 19-6-809(1)(c);
- 285 (3) Subsection 19-6-809(4);
- 286 (4) Subsection 19-6-810(1)(c);
- 287 (5) Subsection 19-6-810(2)(d);
- 288 (6) Subsection 19-6-811(3)(b);
- 289 (7) Subsection 19-6-811(6);
- 290 (8) Subsection 19-6-811(7);
- 291 [~~8~~] (9) Subsection 19-6-812(2); or
- 292 [~~9~~] (10) Subsection 19-6-813(1).