

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 459
By: Rodríguez et al.
Transportation
4/3/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Used tire disposal has been a rampant problem for years in Texas. More than 24 million tires are discarded each year in Texas, roughly one tire for every person residing in the state. These tires have proven to be more than a nuisance for Texans, leading to dangerous and environmentally hazardous tire piles and unsafe tires being sold back for use on the road.

Tire piles lead to increases in vector-borne diseases like West Nile and dengue fever and they intensify the possibility of fire, which in turn pollutes the air. In addition, unsafe tires are sold as "used" tires, leading to blowouts and accidents along Texas roadways.

Often tires are transported illegally and dumped, costing the state millions of dollars in cleanup. This issue has become so serious that for several years it has been recognized by all 10 of the United States and Mexican states that make up the Border Governors Conference.

C.S.S.B. 459 amends current law relating to the sale, storage, transportation, and disposal of scrap, unsafe, or used tires; provides a civil penalty; and creates an offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 4 (Section 361.1121, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Business & Commerce Code, by adding Chapter 205, as follows:

CHAPTER 205. SALE AND TRANSPORTATION OF SCRAP, UNSAFE, OR USED TIRES

Sec. 205.001. DEFINITIONS. Defines, in this chapter, "scrap tire," "used tire," and "unsafe tire."

Sec. 205.002. RETENTION AND DISPOSAL OF SCRAP OR UNSAFE TIRES.
(a) Requires a retail seller, except as provided by Subsection (c), to prohibit a customer from retaining a scrap tire or an unsafe tire removed from the customer's vehicle during the purchase of a tire.

(b) Requires a retail seller who takes possession of a scrap tire or unsafe tire from a customer during a transaction described by Subsection (a) to dispose of the scrap tire or unsafe tire according to local and state laws, including Section 361.112(c) (relating to prohibition of the disposal of used or scrap tires), Health and Safety Code.

(c) Provides that a retail seller is not required to prohibit a customer from retaining a scrap tire or unsafe tire removed from the customer's vehicle during the purchase of a tire if the customer certifies on a form prescribed by the Texas Commission on Environmental Quality (TCEQ) that the tire will be used in the customer's agricultural business and the customer assumes liability for the tire.

(d) Requires TCEQ to develop the form described by Subsection (c) and to make that form available on TCEQ's Internet website.

Sec. 205.003. TRANSPORTATION OF SCRAP, UNSAFE, OR USED TIRES. Authorizes a retail seller of tires to contract for the transportation of scrap tires, unsafe tires, or used tires only with a scrap tire transporter or used tire transporter who is registered as described by Section 361.1121(b), Health and Safety Code, and has filed evidence of financial assurance according to Section 361.1121(d), Health and Safety Code.

Sec. 205.004. CIVIL PENALTY. (a) Provides that a person who violates this chapter is subject to a civil penalty in an amount not less than \$500 for each violation. Authorizes a separate penalty to be imposed for each day a violation occurs.

(b) Authorizes the attorney general or the appropriate district or county attorney to bring an action against a person under this section in the name of the state in a district court in the county in which the person resides or the person's principal place of business is located.

SECTION 2. Amends the heading to Section 361.112, Health and Safety Code, to read as follows:

Sec. 361.112. STORAGE AND DISPOSAL OF USED OR SCRAP TIRES.

SECTION 3. Amends Section 361.112, Health and Safety Code, by adding Subsection (n) to require a scrap tire generator or used tire generator, including a tire dealer, junkyard, or fleet operator, who stores scrap tires or used tires outdoors on its business premises to store the scrap tires or used tires in a manner that may be made secure by locking.

SECTION 4. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.1121. as follows:

Sec. 361.1121. SCRAP AND USED TIRE TRANSPORTERS. (a) Defines in this section, "scrap tire," "scrap tire transporter," "used tire," and "used tire transporter."

(b) Requires a scrap tire transporter or used tire transporter to register with TCEQ unless the scrap tire transporter or used tire transporter is a retreader who transports retreadable casings, or a person who transports scrap tires or used tires that are intended for use in that person's agricultural business and who does not transport at one time a number of scrap tires or used tires that exceeds a number determined by TCEQ rule.

(c) Requires a scrap tire transporter or used tire transporter who is required to register with TCEQ to obtain a surety bond from a surety company authorized to transact business in this state, establish a trust account, or obtain an irrevocable letter of credit.

(d) Requires that the bond, trust account, or irrevocable letter of credit described by Subsection (c) be filed with TCEQ, in an amount of \$100,000 or more, and in favor of this state.

(e) Authorizes money that TCEQ receives from a bond, trust account, or letter of credit obtained to meet the requirements of Subsection (c) to be used for the cleanup of abandoned tire storage sites.

(f) Requires TCEQ to require a scrap tire transporter or used tire transporter to maintain records and use a manifest or other appropriate system to assure that those tires are transported to a storage site that is registered or to a site or facility authorized by TCEQ.

SECTION 5. Amends Section 547.201, Transportation Code, by adding Subsections (c), (d), (e), and (f), as follows:

(c) Prohibits a person from selling at retail an unsafe tire. Defines, in this subsection, "unsafe tire."

(d) Provides that Subsection (c) does not apply to a mounted tire sold with a used vehicle.

(e) Provides that a person commits an offense under Subsection (c) for the sale of an unsafe tire described by Subsection (c)(7) (relating to an unsafe tire subject to a manufacturer's safety recall) only if the seller of the tire knew or had reason to know that the tire was subject to a manufacturer's safety recall at the time of the sale.

(f) Provides that a person who violates Subsection (c) commits an offense. Provides that an offense under this subsection is a Class A misdemeanor.

SECTION 6. Amends Section 7.303(a), Water Code, as follows:

(a) Provides that this section applies to a license, certificate, or registration issued:

(1) by TCEQ under:

(A) Section 26.0301 (Wastewater Operations Company Registration and Operator License);

(B) Chapter 37 (Occupational Licensing and Registration);

(C) Section 361.0861 (Separate Recycling or Recovery Permit Not Required), 361.092 (Registration for Extracting Materials from Certain Solid Waste Facilities), 361.112 (Storage, Transportation, and Disposal of Used or Scrap Tires), or 361.1121, Health and Safety Code;

(D) Chapter 366 (On-Site Sewage Disposal System), 371 (Used Oil Collection, Management, and Recycling) or 401 (Radioactive Materials and Other Sources of Radiation), Health and Safety Code; or

(E) Chapter 1903 (Irrigators), Occupations Code;

(2) by a county under Subchapter E, Chapter 361, Health and Safety Code; or

(3) under a rule adopted under any of those provisions.

SECTION 7. Repealer: Section 361.112(g) (relating to a requirement by TCEQ to maintain records for the disposal of used or scrap tires), Health and Safety Code.

SECTION 8. Effective date: September 1, 2013.