

By: Deshotel

H.B. No. 3347

A BILL TO BE ENTITLED

AN ACT

relating to the waste tire recycling program; providing for civil penalties and injunctive relief.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter P, Chapter 361, Health and Safety Code, is amended to read as follows:

SUBCHAPTER P. WASTE TIRE RECYCLING PROGRAM

Sec. 361.471. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Water Commission or its successor agencies.

(2) "Fund" means the waste tire recycling fund.

(3) "Green tire" means the casing form of a tire that has not been cured and/or does not have a tread or marking of any kind.

(4) "Manufacturer reject tire" means a tire rendered defective in the manufacturing process whether determined defective prior to or after consumer purchase.

(5) ~~(2)~~ "Mobile tire shredder" means equipment mounted on wheels or skid-mounted and hauled from place to place to split, shred, or quarter used or scrap tires.

(6) ~~(3)~~ "Scrap tire" has the meaning assigned by Section 361.112.

(7) ~~(4)~~ "Waste tire facility" means a facility registered ~~[permitted]~~ by the commission ~~[department]~~ under

1 Section 361.112 at which scrap tires are collected or deposited and  
2 shredded to facilitate the future extraction of useful materials  
3 for recycling, reuse, or energy recovery.

4 (8) [~~(5)~~] "Waste tire processor" means:

5 (A) a waste tire facility; or

6 (B) a mobile tire shredder that splits, shreds,  
7 or quarters tires and deposits the split, shredded, or quartered  
8 tires for eventual recycling, reuse, or energy recovery at:

9 (i) a waste tire storage facility  
10 registered by the commission [~~department~~] under Section 361.112; or

11 (ii) a waste tire facility.

12 (9) [~~(6)~~] "Waste tire transporter" means a person who  
13 collects and transports used or scrap tires or scrap tire pieces for  
14 storage or disposal.

15 (10) [~~(7)~~] "Weighed tire" means a unit of weight for  
16 shredded scrap tires that is equal to 18.7 pounds.

17 Sec. 361.4711. POTENTIALLY RESPONSIBLE PARTY. For purposes  
18 of this subchapter, the commission shall employ the following three  
19 criteria to determine whether a person is a potentially responsible  
20 party:

21 (1) the person must be the property owner of record,  
22 the site operator, or the depositor of the scrap tires on the site;

23 (2) the person must have benefitted financially from  
24 the disposition of the scrap tires on the site; and

25 (3) the person must be financially capable of funding  
26 total or partial site cleanup, based on the actual costs of cleanup  
27 as determined by the commission.

1           Sec. 361.472. WASTE TIRE RECYCLING FEES. (a)(1) A  
2 wholesale or retail tire dealer who sells or offers to sell new  
3 tires not for resale shall collect at the time and place of sale a  
4 waste tire recycling fee [~~of \$2~~] for each new [~~automobile, van, bus,~~  
5 ~~truck, trailer, semitrailer, truck tractor and semitrailer~~  
6 ~~combination, or recreational vehicle~~] tire sold as follows:

7                   (A) \$2 for each tire with [~~that has~~] a rim  
8 diameter equal to or greater than 12 inches but less than 17.5 [~~26~~]  
9 inches; and

10                   (B) \$3.50 for each tire, except motorcycle tires,  
11 with a rim diameter equal to or greater than 17.5 inches but less  
12 than 25 inches.

13                   (2) The sale of a tire as original equipment in the  
14 manufacture of new vehicles is a sale for resale.

15                   (3) No fee shall be assessed for bicycle tires.

16           (b) [~~A dealer required to collect a fee under this section~~  
17 ~~may retain 2-1/2 cents from each fee the dealer collects. A dealer~~  
18 ~~shall account for amounts retained under this subsection in the~~  
19 ~~manner prescribed by the comptroller.~~

20           [~~(c)~~] A dealer required to collect a fee under this section:

21                   (1) shall list as a separate item on an invoice a fee  
22 due under this section; and

23                   (2) except as provided by Subsection (c) [~~(d)~~], on or  
24 before the 20th day of the month following the end of each calendar  
25 month and on a form and in the manner prescribed by the comptroller,  
26 shall file a report with and shall remit to the comptroller the  
27 amount of fees collected during the preceding calendar month.

1           (c) [~~(d)~~] A person required to collect a fee under this  
2 section who collects less than \$50 for a calendar month or less than  
3 \$150 for a calendar quarter is not required to file a monthly report  
4 but shall file a quarterly report with and make a quarterly  
5 remittance to the comptroller. The quarterly report and remittance  
6 shall include fees collected during the preceding calendar quarter.  
7 The report and remittance are due not later than the 20th day of the  
8 month following the end of the calendar quarter.

9           (d) A person seeking registration for a fixed or mobile  
10 processing facility or for a storage facility shall pay a fee of  
11 \$500 for each new, renewed, or amended registration application.

12           (e) An invoice or other record required by this section or  
13 rules of the comptroller must be maintained for at least four years  
14 after the date on which the invoice or record is prepared and be  
15 open for inspection by the comptroller at all reasonable times.

16           (f) The comptroller shall adopt rules necessary for the  
17 administration, collection, reporting, and payment of the fees  
18 payable or collected under this section.

19           (g) A waste tire recycling fee is imposed on the storage,  
20 use, or other consumption in this state of a new tire at the same  
21 rate as provided by Subsection (a), except when purchased for the  
22 purpose of resale.

23           (h) A person storing, using, or consuming a new tire in this  
24 state is liable for the waste tire recycling fee as defined in this  
25 section and is responsible for reporting and paying the fee to the  
26 comptroller in the same manner as a person required to collect this  
27 fee, as provided in Subsections (b)(2) and (c).

1        (i) A person storing, using, or consuming a new tire in this  
2 state is not further liable for the waste tire recycling fee imposed  
3 by Subsection (a) if the person pays the fee to a wholesaler or  
4 retailer engaged in business in this state or another person  
5 authorized by the comptroller to collect the fee and receives from  
6 the wholesaler, retailer, or other person a purchaser's receipt.

7        Sec. 361.473. ENFORCEMENT; PENALTIES. (a) A person who  
8 does not file a report as provided by Section 361.472 or who  
9 possesses a fee collected or payable under that section and who does  
10 not remit the fee to the comptroller at the time and in the manner  
11 required by that section and rules of the comptroller shall pay a  
12 penalty of five percent of the amount of the fee due and payable. If  
13 the person does not file the report or pay the fee before the 30th  
14 day after the date on which the fee or report is due, the person  
15 shall pay a penalty of an additional five percent of the amount of  
16 the fee due and payable.

17        (b) Chapters 101 and 111 through 113, Tax Code, and Sections  
18 153.006 and 153.007, Tax Code, apply to the administration,  
19 payment, collection, and enforcement of fees under this section in  
20 the same manner that those chapters and sections apply to the  
21 administration, payment, collection, and enforcement of taxes  
22 under Title 2, Tax Code.

23        (c) The comptroller may add a penalty of 75 percent of the  
24 amount of the fee, penalty, and interest due if failure to file the  
25 report or pay the fee when it comes due is attributable to fraud or  
26 an intent to evade the application of this section or a rule made  
27 under this section or Chapter 111, Tax Code.

1           Sec. 361.474. DISPOSITION OF FEES AND PENALTIES. Fees and  
2 penalties collected under this subchapter shall be deposited in the  
3 state treasury to the credit of the waste tire recycling fund.

4           Sec. 361.475. WASTE TIRE RECYCLING FUND. (a) The waste  
5 tire recycling fund is a special account in the general revenue  
6 fund.

7           (b) The commission [~~department~~] shall administer the fund.

8           (c) The fund consists of fees and penalties collected under  
9 this subchapter, interest on money in the fund, and money from  
10 gifts, grants, or any other source intended to be used for the  
11 purposes of this subchapter.

12           (d) The fund may be used only to pay:

13               (1) waste tire processors that meet the requirements  
14 for payment under Section 361.477 and rules adopted under that  
15 section;

16               (2) the commission's [~~department's~~] reasonable and  
17 necessary administrative costs of performing its duties under this  
18 subchapter in an amount not to exceed six percent of the money  
19 annually accruing to the fund; however, the registration fees  
20 received under Section 361.472(d) shall be allocated to the  
21 commission for its reasonable and necessary costs associated with  
22 reviewing and issuing fixed and mobile processing applications and  
23 storage site applications; and

24               (3) the comptroller's reasonable and necessary  
25 administrative costs of performing the comptroller's duties under  
26 this subchapter in an amount not to exceed two percent of the money  
27 annually accruing to the fund.

1       (e) The fund may not be used to reimburse shredding of:

2           (1) innertubes;

3           (2) scrap rubber products;

4           (3) green tires;

5           (4) industrial solid waste, excluding waste tires;

6           (5) oversized tires, as defined by commission rule,  
7 except those oversized tires collected from priority enforcement  
8 list sites; or

9           (6) manufacturer reject tires.

10       (f) The commission may classify special authorization  
11 tires, as defined by commission rule, as priority enforcement list  
12 tires.

13       (g) The fund shall maintain a balance of not less than  
14 \$500,000.

15       (h) If the commission has reason to believe that the fund  
16 balance will fall below \$500,000, the commission may:

17           (1) suspend the requirement to reimburse priority  
18 enforcement list tires shredded in excess of the minimum percentage  
19 identified in Section 361.477(b)(2)(B); or

20           (2) limit the number of waste tires for which a  
21 processor will be reimbursed.

22       (i) The revenues obtained from the waste tire recycling fees  
23 shall be deposited into the waste tire recycling fund which is a  
24 special account in the general revenue fund and may only be used to  
25 pay for those activities and costs identified in Subsection (d).

26       Sec. 361.476. PRIORITY ENFORCEMENT LIST. The commission  
27 [department] shall identify scrap [unauthorized] tire dumps that

1 present an existing or potential threat to public health and safety  
2 or to the environment and shall prepare an enforcement list of those  
3 dumps, giving priority to dumps for which a responsible party  
4 cannot be located.

5       Sec. 361.477. PAYMENTS TO WASTE TIRE PROCESSORS. (a)(1)  
6 The commission [~~department~~] each month shall pay a waste tire  
7 processor that shreds scrap tires and meets the requirements of  
8 this section and rules adopted under this section an amount equal to  
9 85 cents for each weighed tire shredded by the processor during the  
10 preceding calendar month.

11       (2) Should the total number of whole used or scrap  
12 tires or scrap tire pieces contained in illegal waste tire sites as  
13 identified on the priority enforcement list fall below 500,000  
14 tires, Subdivision (4) shall be implemented. The 500,000 tire limit  
15 does not include those tires contained in sites under commission  
16 enforcement or attorney general action.

17       (3) Should the number of whole used or scrap tires or  
18 scrap tire pieces contained in illegal waste tire sites as  
19 identified on the priority enforcement list exceed 500,000 tires  
20 for greater than 30 consecutive days, the priority enforcement list  
21 requirements contained in Subsection (b)(2)(B) shall become  
22 effective.

23       (4) The commission may pay more than 85 cents per  
24 weighed tire to processors with whom the commission has contracted  
25 to remove and shred scrap tires and scrap tire pieces from priority  
26 enforcement list sites. The commission may contract with processors  
27 on a regional or site-specific basis. The contracts shall be



1 procured through a competitive bid process conducted in accordance  
2 with the provisions of the State Purchasing and General Services  
3 Act (Article 601b, Vernon's Texas Civil Statutes) applicable to  
4 contracts for services. The commission may elect not to enter into  
5 contracts pursuant to this subdivision. The contracts, if any, may  
6 be for the removal and shredding of tires only from priority  
7 enforcement list sites. The provisions of this subdivision become  
8 effective only when Subdivision (2) is implemented.

9 (b) A waste tire processor that desires to receive payment  
10 under this section for tires shredded by the processor during a  
11 calendar month must:

12 (1) apply to the commission [~~department~~] in accordance  
13 with forms prescribed by the commission [~~department~~];

14 (2) demonstrate as required by rules adopted under  
15 this section that:

16 (A) all tires for which payment is sought have  
17 been shredded to a particle size not larger than nine square inches;  
18 [~~and~~]

19 (B) not less than 15 [~~25~~] percent and not more  
20 than 30 percent of those tires were collected from scrap tire sites  
21 [~~dumps~~] listed on the commission's [~~department's~~] priority  
22 enforcement list; and

23 (C) not less than 25 percent of those tires were  
24 collected from tire generators;

25 (3) on and after January 1, 1995, prior to  
26 reimbursement demonstrate to the commission that shredded scrap  
27 tire pieces for which reimbursement is sought were delivered to a

1 person that either recycles or reuses the shredded scrap tires or  
2 utilizes the shredded scrap tires for energy recovery;

3 (4) provide any other information the commission  
4 ~~[department]~~ determines is needed to accomplish the purposes of  
5 this subchapter; ~~and~~

6 (5) ~~[(4)]~~ demonstrate that energy recovery activities  
7 in the State of Texas are in compliance with applicable air emission  
8 control rules and standards as adopted by the Texas Air Control  
9 Board; and

10 (6) provide financial assurance deemed adequate by the  
11 commission, which assurance shall correspond to the payment  
12 appropriate for the number of scrap tires the processor anticipates  
13 shredding or the waste tire storage site owner or operator  
14 anticipates accepting for storage in the next calendar month.

15 (c) Implementation of Subsection (a)(2) eliminates the  
16 requirement for compliance with the provisions of Subsection  
17 (b)(2)(B) for the duration that Subsection (a)(2) is in effect.

18 (d) A waste tire processor that in any month exceeds the ~~[25~~  
19 ~~percent]~~ minimum requirement of Subsection (b)(2) shall receive a  
20 credit for the amount in excess of the requirement ~~[25 percent]~~ that  
21 may be used to meet the minimum requirement during a later month.  
22 The commission ~~[board of health]~~ by rule may prescribe the method of  
23 applying credits accrued under this subsection.

24 (e) ~~[(d)]~~ The commission ~~[board of health]~~ by rule shall  
25 adopt application and payment procedures and requirements to  
26 implement this section.

27 (f) ~~[(e)]~~ A waste tire processor shall not be authorized to

1 process or store scrap tires at those sites at which the processor  
 2 is processing or storing or intends to process or store the scrap  
 3 tires until the commission has determined that the processor is in  
 4 compliance with all applicable requirements [~~permitted Type VIII~~  
 5 ~~tire monofill approved under board of health rules may qualify as a~~  
 6 ~~waste tire processor and is eligible to receive payment under this~~  
 7 ~~section if the Type VIII tire monofill complies with all the~~  
 8 ~~provisions of this subchapter and rules of the board of health].~~

9 (g) Notwithstanding Subsection (b)(3), the commission may  
 10 reimburse for shredded scrap tires for which a processor has a  
 11 binding agreement to deliver the shredded tires to a person to  
 12 recycle, reuse, or utilize for energy recovery within 180 days from  
 13 the date of reimbursement.

14 Sec. 361.478. EVALUATION OF RECYCLING AND ENERGY RECOVERY  
 15 ACTIVITIES; CERTIFICATION FOR PAYMENT. (a) Beginning January  
 16 [~~June~~] 1, 1995, and every two [~~five~~] years after that date, the  
 17 commission [~~department~~] shall evaluate, according to standards  
 18 adopted by commission [~~board of health~~] rule, the recycling and  
 19 energy recovery activities of each waste tire processor that  
 20 received payment from the waste tire recycling fund [~~under Section~~  
 21 ~~361.477 during the preceding five years~~].

22 (b) After evaluation, the commission [~~department~~] shall  
 23 certify as eligible for payment under this subchapter [~~Section~~  
 24 ~~361.477~~] during the next two [~~five~~] years a waste tire processor  
 25 that has conducted or provided for recycling of or energy recovery  
 26 from tires for which the processor received payment during the  
 27 preceding period of operation [~~five years~~].

1 (c) A waste tire processor that receives payment under this  
2 subchapter [~~Section 361.477~~] during any two-year [~~five-year~~]  
3 period and that after evaluation is not certified by the commission  
4 [~~department~~] under Subsection (b) as eligible for payment under  
5 this subchapter [~~Section 361.477~~] may not receive payment under  
6 this subchapter [~~that section~~] for the next two [~~five~~] years.

7 (d) The commission [~~board of health~~] by rule may establish a  
8 procedure by which a waste tire processor can reestablish  
9 eligibility for payment under this subchapter [~~Section 361.477~~].

10 Sec. 361.479. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) A  
11 waste tire storage facility registered by the commission  
12 [~~department~~] under Section 361.112 or a waste tire facility that  
13 accepts shredded scrap tires for storage or for processing for  
14 recycling, reuse, or energy recovery shall submit to the commission  
15 [~~department~~] evidence of financial responsibility in an amount  
16 adequate to assure proper cleanup and [~~or~~] closure of the facility.

17 (b) A facility subject to Subsection (a) shall submit to the  
18 commission [~~department~~] an estimate of the total amount of shredded  
19 scrap tires or scrap tire pieces measured by weighed tire that the  
20 facility will store or process and the estimated cost, using that  
21 total amount, of cleaning up and [~~or~~] closing the facility.

22 (c) The commission [~~department~~] shall evaluate and may  
23 amend an estimate submitted under Subsection (b) and [~~by order~~]  
24 shall determine for each facility the amount for which evidence of  
25 financial responsibility is required.

26 (d) Evidence of financial responsibility may be in the form  
27 of a performance bond or [~~or~~] a letter of credit from a recognized

1 financial institution[~~, a trust fund, or insurance~~] for a privately  
2 owned facility, or a resolution by the commissioners court or the  
3 city council, as appropriate, for a publicly owned facility. On or  
4 after September 1, 1993, persons requesting new processing  
5 registration shall not be allowed to provide evidence of financial  
6 responsibility through a trust agreement or insurance.

7       Sec. 361.480. TIRE COLLECTION FEE PROHIBITED. A waste tire  
8 transporter or mobile tire shredder may not charge a fee to a  
9 wholesale or retail dealer for collecting for delivery to a waste  
10 tire facility or for collecting and shredding [~~used or~~] scrap tires  
11 accepted for temporary storage by the dealer from purchasers of new  
12 tires.

13       Sec. 361.481. PROHIBITION ON OUT-OF-STATE TIRES. A waste  
14 tire processor may not claim payment under Section 361.477 for  
15 shredding out-of-state tires.

16       Sec. 361.482. PROHIBITION ON DISPOSAL OF SHREDDED TIRES IN  
17 LANDFILL. A waste tire processor may not dispose of shredded scrap  
18 tires in a landfill if the processor has received payment under  
19 Section 361.477 for the shredding of such tires.

20       Sec. 361.483. CIVIL PENALTY. (a) A person who violates any  
21 section of this subchapter [~~Section 361.481 or 361.482~~] is liable  
22 for an administrative [~~a civil~~] penalty of up to \$10,000 per day and  
23 corrective action for each violation and is liable for a civil  
24 penalty of up to \$25,000 and corrective action for each violation.

25       (b) The attorney general or the prosecuting attorney in the  
26 county in which the alleged violation occurs may bring suit to  
27 recover the civil penalty imposed under Subsection (a).

1           (c) The commission may bring suit to mandate the corrective  
2 action required or to recover administrative penalties imposed  
3 under Subsection (a).

4           (d) An administrative or civil [A] penalty collected under  
5 this section shall be deposited to the credit of the waste tire  
6 recycling fund.

7           Sec. 361.484. RULES. The commission [~~board of health~~] may  
8 adopt rules reasonably necessary to implement this subchapter.

9           Sec. 361.485. REPORT. Not later than February 1 of each  
10 odd-numbered year, the commission [~~department~~] shall report to the  
11 governor and the legislature on the administration of the program  
12 established under this subchapter and its effectiveness in cleaning  
13 up existing scrap tire dumps and in preventing new scrap tire dumps.

14           Sec. 361.486. RECYCLING EFFORTS. (a) On and after January  
15 1, 1995, all new, amended, and renewal processing registrations  
16 shall require the processor to identify those persons that will  
17 accept the processor's shredded scrap tire pieces either to recycle  
18 or reuse the shredded scrap tires or to utilize the shredded scrap  
19 tires for energy recovery. The commission shall reimburse for only  
20 those shredded tires which the commission determines are committed  
21 to a legitimate end user.

22           (b) The commission shall have the authority to review and  
23 approve or disapprove the use of the person identified by the  
24 processor to recycle or reuse the shredded scrap tires or utilize  
25 the shredded scrap tires for energy recovery unless that person has  
26 already been authorized by the state to use tire-derived fuel for  
27 energy recovery in which case that person is only required to

1 register pursuant to Subsection (e).

2 (c) The commission shall adopt a rule to define recycling  
3 for purposes of this subchapter.

4 (d) On January 1, 1994, and on a semiannual basis  
5 thereafter, registered processors and storage site owners and  
6 operators shall report their recycling, reuse, and energy recovery  
7 activities to the commission. The commission by rule shall  
8 prescribe the form and other requirements of the report.

9 (e) All persons that recycle or recover the energy from  
10 whole used or scrap tires or shredded tire pieces shall register  
11 with the commission in accordance with the rules and on the forms  
12 prescribed by the commission.

13 Sec. 361.487. REIMBURSEMENT RESTRICTIONS. (a) A processor  
14 seeking reimbursement under Section 361.477 shall process and store  
15 the scrap tires or scrap tire pieces within the state.

16 (b) Scrap tires and scrap tire pieces generated in Texas,  
17 removed from Texas, and subsequently reintroduced to Texas shall be  
18 defined as out-of-state scrap tires for the purposes of this  
19 subchapter.

20 (c) Scrap tires and scrap tire pieces which were shredded  
21 and reimbursed shall not be disposed of in a Type VIII-S tire  
22 monofill.

23 Sec. 361.488. GENERATOR CHARGE PROHIBITED. A scrap tire  
24 generator shall not receive remuneration in exchange for scrap  
25 tires.

26 Sec. 361.489. IMMEDIATE REMOVAL AND REMEDIAL ACTION BY THE  
27 COMMISSION. (a) If after investigation the commission finds that

1 there exists a situation caused by the illegal dumping of scrap  
2 tires that is causing or may cause imminent and substantial  
3 endangerment to the public health and safety or the environment and  
4 that the immediacy of the situation makes it prejudicial to the  
5 public interest to delay action until an administrative order can  
6 be issued to potentially responsible parties or until a judgment  
7 can be entered in an appeal of an administrative order, the  
8 commission may, with the funds available to the commission from the  
9 waste tire recycling fund, undertake immediate remediation of the  
10 site.

11 (b) If a person ordered to eliminate an imminent and  
12 substantial danger to the public health and safety or the  
13 environment has failed to do so within the time limits specified in  
14 the order or any extension of time approved by the commission, the  
15 commission may implement a remedial program for the site.

16 (c) The commission may recover against all responsible  
17 parties reasonable expenses for undertaking immediate removal  
18 under Subsection (a) or for implementing a remedial action order  
19 under Subsection (b).

20 (d) The commission shall file the cost recovery action no  
21 later than one year after immediate-removal or remedial-action  
22 measures are completed.

23 (e) Money collected in a cost recovery action shall be  
24 deposited to the credit of the waste tire recycling fund.

25 (f) The commission, in lieu of recovery costs incurred under  
26 this section, may file a lien against the property on which the site  
27 is located. The lien shall state the name of the owner of the



1 property, the amount owed, and the legal description of the  
2 property. The lien arises and attaches on the date the lien is filed  
3 in the real property records of the county in which the property is  
4 located. The lien is subordinate to the rights of prior bona fide  
5 purchasers and lienholders on the property.

6 Sec. 361.490. PRIORITY ENFORCEMENT LIST SITE ACCESS. (a)  
7 The members of the commission, employees and agents of the  
8 commission, and authorized processors and their subcontractors are  
9 entitled to enter any public or private property at any reasonable  
10 time for the purpose of inspecting, investigating, or remediating  
11 any conditions relating to illegal scrap-tire dumping. Notice of  
12 intent to enter private property for such purposes shall be given by  
13 the executive director by certified mail to the last known address  
14 indicated in the current county property records at least 10 days  
15 before commission members, commission employees and agents, or  
16 authorized processors and their subcontractors may enter the  
17 property. Commission members, commission employees and agents, and  
18 authorized processors and their subcontractors who, acting under  
19 this authority, enter private property shall observe the  
20 establishment's rules concerning safety, internal security, and  
21 fire protection and, if the property has management in residence,  
22 shall make a reasonable attempt to notify the management or the  
23 person in charge of their presence and shall exhibit credentials.

24 (b) Authorized processors and their subcontractors shall  
25 not be considered agents of the State of Texas and are solely  
26 responsible for their actions.

27 (c) Whenever it appears that a person has violated or is

1 violating or is threatening to violate any provision of this  
2 subchapter or any rule, permit, or order of the commission, the  
3 executive director may have a civil suit instituted in district  
4 court for injunctive relief to restrain the person from continuing  
5 the violation or threat of violation.

6 Sec. 361.491. NEW TIRE WHOLESALERS AND RETAILERS. Any  
7 person selling new tires as described in Section 361.472(a) shall  
8 accept from customers, without charge, used scrap tires of the type  
9 and in a quantity at least equal to the number of new tires  
10 purchased, if offered by customers.

11 Sec. 361.492. CONFIDENTIALITY. Information submitted to  
12 the commission pursuant to Section 361.477(b)(3) or (g) or any  
13 reports generated by the commission based on such information shall  
14 be deemed confidential by law as commercial or financial  
15 information.

16 Sec. 361.493. APPEAL. The commission shall establish a  
17 process by which a registered waste tire processor who is adversely  
18 affected by an agency decision affecting reimbursement may appeal  
19 that decision to the executive director or the commission.

20 SECTION 2. The importance of this legislation and the  
21 crowded condition of the calendars in both houses create an  
22 emergency and an imperative public necessity that the  
23 constitutional rule requiring bills to be read on three several  
24 days in each house be suspended, and this rule is hereby suspended,  
25 and that this Act take effect and be in force from and after its  
26 passage, and it is so enacted.