

By: Quintanilla, Aliseda

H.B. No. 405

Substitute the following for H.B. No. 405:

By: Chisum

C.S.H.B. No. 405

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the storage, transportation, and disposal of tires;
3 providing criminal penalties.

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

5 SECTION 1. Section 361.1125(a)(1), Health and Safety Code,
6 is amended to read as follows:

7 (1) "Scrap tire" has the meaning assigned by Section
8 361.471 [~~361.112~~].

9 SECTION 2. Chapter 361, Health and Safety Code, is amended
10 by adding Subchapter P to read as follows:

11 SUBCHAPTER P. STORAGE, TRANSPORTATION, AND DISPOSAL OF USED
12 OR SCRAP TIRES

13 Sec. 361.471. DEFINITIONS. In this subchapter:

14 (1) "Commission" means the Texas Commission on
15 Environmental Quality.

16 (2) "Generator" means:

17 (A) a fleet operator;

18 (B) an automotive dismantler; or

19 (C) a new or used tire retailer, wholesaler,
20 manufacturer, recapper, or retreader.

21 (3) "Reusable tire" means a used tire that:

22 (A) can be used for its original intended
23 purpose;

24 (B) has tire tread not less than one-sixteenth

1 inch deep;

2 (C) does not have chunking, bumps, knots, or
3 bulges evidencing cord, ply, or tread separation from the casing or
4 other adjacent material; and

5 (D) does not have exposed tire cords or belting
6 material as a result of damage to the tire.

7 (4) "Scrap tire" means:

8 (A) a used tire that a generator has rendered
9 unusable; or

10 (B) a tire that can no longer be used for its
11 original intended purpose because it has:

12 (i) tire tread less than one-sixteenth inch
13 deep;

14 (ii) chunking, bumps, knots, or bulges
15 evidencing cord, ply, or tread separation from the casing or other
16 adjacent material; or

17 (iii) exposed tire cords or belting
18 material as a result of damage to the tire.

19 (5) "Transporter" means:

20 (A) a person who transports used or scrap tires
21 for compensation; or

22 (B) a generator who transports used or scrap
23 tires.

24 Sec. 361.472. RULES. The commission by rule shall adopt
25 application forms and procedures for the registration and
26 permitting processes authorized under this subchapter.

27 Sec. 361.473. STORAGE OF USED OR SCRAP TIRES; REGISTRATION

1 REQUIRED. (a) A person may not store more than 500 used or scrap
2 tires for any period on any publicly or privately owned property
3 unless the person registers the storage site with the commission.

4 This section does not apply to:

5 (1) the storage, protection, or production of
6 agricultural commodities; or

7 (2) the temporary storage of used or scrap tires for
8 eventual recycling, reuse, or energy recovery if the storage is
9 approved by the commission.

10 (b) The commission may register a site to store more than
11 500 used or scrap tires.

12 Sec. 361.474. STORAGE OF USED OR SCRAP TIRES; SHREDDING,
13 SPLITTING, OR QUARTERING REQUIRED. (a) A person may not store
14 more than 500 used or scrap tires unless the tires are shredded,
15 split, or quartered as provided by commission rule. The commission
16 may grant an exception to this requirement if the commission finds
17 that circumstances warrant the exception.

18 (b) The prohibition provided by Subsection (a) does not
19 apply to:

20 (1) a registered waste tire energy recovery facility
21 or a waste tire energy recovery facility storage site; or

22 (2) a person who, for eventual recycling, reuse, or
23 energy recovery, temporarily stores used or scrap tires:

24 (A) in a designated recycling collection area at
25 a landfill permitted by the commission or licensed by a county or by
26 a political subdivision exercising the authority granted by Section
27 361.165; or

1 (B) at another location approved by the
2 commission for the temporary storage of used or scrap tires.

3 Sec. 361.475. STORAGE OF TIRES IN CERTAIN LOCATIONS. The
4 commission may adopt rules to regulate the storage of used, scrap,
5 or shredded tires that are stored at a marine dock, rail yard, or
6 trucking facility for more than 30 days.

7 Sec. 361.476. TRANSPORTATION OF USED OR SCRAP TIRES;
8 REGISTRATION REQUIRED. (a) Except as provided by commission rule,
9 a transporter may not transport used or scrap tires unless the
10 transporter registers with the commission.

11 (b) A generator may register as a transporter.

12 (c) A transporter may not transport reusable tires together
13 with scrap tires unless the reusable and scrap tires are collected
14 from a generator and transported directly to a tire processor, as
15 defined by commission rule.

16 (d) The commission by rule may exempt from the requirements
17 of this section a type of transporter if the commission finds that
18 circumstances support the exemption.

19 Sec. 361.477. TRANSPORTATION OF USED OR SCRAP TIRES;
20 MANIFEST AND ACCEPTABLE DESTINATIONS. (a) A transporter who
21 transports used or scrap tires for storage or disposal shall
22 maintain records and use a manifest or other appropriate
23 documentation system as provided by commission rule to ensure that
24 those tires are transported to:

25 (1) a storage site that is registered under Section
26 361.473;

27 (2) a disposal facility that is permitted under

1 Section 361.479 for that purpose;

2 (3) if the tire is a reusable tire, a used tire dealer
3 or other generator; or

4 (4) another location allowed by commission rule
5 adopted under Section 361.478.

6 (b) A transporter who transports used or scrap tires for
7 storage or disposal shall file with the commission the manifest or
8 other appropriate documentation system used as required by this
9 section.

10 (c) The commission by rule may exempt from the requirements
11 of this section a type of transporter if the commission finds that
12 circumstances support the exemption.

13 Sec. 361.478. TRANSPORTATION OF USED OR SCRAP TIRES FOR
14 BENEFICIAL USE. The commission by rule shall authorize the
15 transportation of used or scrap tires to a facility that will reuse
16 the tires beneficially for purposes such as energy recovery,
17 tire-derived fuel, septic drain fields, rubber mulch, crumb rubber,
18 or reclamation projects.

19 Sec. 361.479. DISPOSAL AT PERMITTED SITE REQUIRED. (a) A
20 person may not dispose of used or scrap tires in a facility that is
21 not permitted by the commission for that purpose.

22 (b) The commission may issue a permit for a facility for the
23 disposal of used or scrap tires.

24 (c) The commission may amend, extend, transfer, or renew a
25 permit issued under this section as provided by this chapter and
26 commission rule.

27 (d) The notice and hearing procedures provided by

1 Subchapter C apply to a permit issued, amended, extended,
2 transferred, or renewed under this section.

3 (e) The commission may, for good cause, revoke or amend a
4 permit issued under this section for a reason concerning public
5 health, air or water pollution, land use, or a violation of this
6 section, as provided by Section 361.089.

7 Sec. 361.480. DISPOSAL OF USED OR SCRAP TIRES; SHREDDING,
8 SPLITTING, OR QUARTERING REQUIRED. (a) A person may not dispose of
9 any quantity of used or scrap tires unless the tires are shredded,
10 split, or quartered as provided by commission rule. The commission
11 may grant an exception to this requirement if the commission finds
12 that circumstances warrant the exception.

13 (b) Subsection (a) does not prohibit a person from storing
14 used or scrap tires temporarily for eventual recycling, reuse, or
15 energy recovery in a designated recycling collection area at a
16 landfill:

17 (1) permitted by the commission; or

18 (2) licensed by a county or by a political subdivision
19 exercising the authority granted by Section 361.165.

20 Sec. 361.481. DUTY TO REPORT IMPROPER DISPOSAL OF TIRES. A
21 political subdivision shall submit, at the time and in the form and
22 manner required by the commission, a report notifying the
23 commission of used or scrap tires disposed of at a location where
24 the disposal is not authorized by permit.

25 SECTION 3. Subchapter E, Chapter 7, Water Code, is amended
26 by adding Section 7.1851 to read as follows:

27 Sec. 7.1851. VIOLATIONS RELATING TO STORAGE,

1 TRANSPORTATION, AND DISPOSAL OF USED OR SCRAP TIRES. (a) A person
2 commits an offense if the person:

3 (1) recklessly violates:

4 (A) Section 361.473, Health and Safety Code;

5 (B) Section 361.474, Health and Safety Code;

6 (C) Section 361.476, Health and Safety Code;

7 (D) Section 361.479, Health and Safety Code;

8 (E) Section 361.480, Health and Safety Code; or

9 (F) an order, permit, or exemption issued, or
10 rule adopted, under Subchapter P, Chapter 361, Health and Safety
11 Code; or

12 (2) knowingly or intentionally violates:

13 (A) Section 361.473, Health and Safety Code;

14 (B) Section 361.474, Health and Safety Code;

15 (C) Section 361.476, Health and Safety Code;

16 (D) Section 361.479, Health and Safety Code;

17 (E) Section 361.480, Health and Safety Code; or

18 (F) an order, permit, or exemption issued, or
19 rule adopted, under Subchapter P, Chapter 361, Health and Safety
20 Code.

21 (b) An offense under Subsection (a)(1) is a Class A
22 misdemeanor.

23 (c) An offense under Subsection (a)(2) is a state jail
24 felony.

25 SECTION 4. Section 7.302(a), Water Code, is amended to read
26 as follows:

27 (a) This section applies to a permit or exemption issued by

1 the commission under:

- 2 (1) Chapter 26, 27, 28, or 31 of this code;
- 3 (2) Subchapter C, P, or R, Chapter 361, Health and
4 Safety Code;
- 5 (3) Subchapter D, Chapter 366, Health and Safety Code;
- 6 (4) Chapter 382, Health and Safety Code; or
- 7 (5) a rule adopted under any of those provisions.

8 SECTION 5. Section 7.303(a), Water Code, is amended to read
9 as follows:

10 (a) This section applies to a license, certificate, or
11 registration issued:

- 12 (1) by the commission under:
 - 13 (A) Section 26.0301;
 - 14 (B) Chapter 37;
 - 15 (C) Section 361.0861 or ~~7~~ 361.092 ~~[, — or~~
16 ~~361.112]~~, Health and Safety Code;
 - 17 (D) Chapter 366, 371, or 401, Health and Safety
18 Code; ~~[or]~~
 - 19 (E) Chapter 1903, Occupations Code; or
 - 20 (F) Subchapter P, Chapter 361, Health and Safety
21 Code;

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

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

26 SECTION 6. The following laws are repealed:

- 27 (1) Section 361.112, Health and Safety Code; and

1 (2) Section 7.304, Water Code.

2 SECTION 7. Not later than May 1, 2012, the Texas Commission
3 on Environmental Quality shall adopt rules as required by
4 Subchapter P, Chapter 361, Health and Safety Code, as added by this
5 Act.

6 SECTION 8. This Act takes effect September 1, 2011.