

By: Quintanilla

H.B. No. 405

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

Sec. 361.471. DEFINITIONS. In this subchapter:

(1) "Commercial tire" means a tire used on a vehicle
with a gross vehicle weight rating of 10,000 pounds or more.

(2) "Commission" means the Texas Commission on
Environmental Quality.

(3) "Generator" means:

(A) a fleet operator;

(B) an automotive dismantler; or

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

(4) "Passenger tire" means a tire used on a vehicle
with a gross vehicle weight rating of less than 10,000 pounds. The

1 term includes tires used on motorcycles and all-terrain vehicles.

2 (5) "Reusable tire" means a used tire that:

3 (A) can be used for its original intended
4 purpose;

5 (B) has tire tread not less than one-sixteenth
6 inch deep;

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

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

12 (6) "Scrap tire" means:

13 (A) a used tire that a generator has rendered
14 unusable; or

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

17 (i) tire tread less than one-sixteenth inch
18 deep;

19 (ii) chunking, bumps, knots, or bulges
20 evidencing cord, ply, or tread separation from the casing or other
21 adjacent material; or

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

24 Sec. 361.472. RULES. The commission by rule shall adopt
25 application forms and procedures for the registration, permitting,
26 and reimbursement 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 the storage, protection, or
5 production of agricultural commodities.

6 (b) The commission may register a site to store more than
7 500 used or scrap tires.

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

14 (b) The prohibition provided by Subsection (a) does not
15 apply to:

16 (1) a registered waste tire energy recovery facility
17 or a waste tire energy recovery facility storage site; or

18 (2) a person who, for eventual recycling, reuse, or
19 energy recovery, temporarily stores used or scrap tires in a
20 designated recycling collection area at a landfill permitted by the
21 commission or licensed by a county or by a political subdivision
22 exercising the authority granted by Section 361.165.

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

27 Sec. 361.476. TRANSPORTATION OF USED OR SCRAP TIRES;

1 REGISTRATION REQUIRED. (a) Except as provided by commission rule,
2 a person may not transport used or scrap tires unless the person
3 registers with the commission.

4 (b) A generator may register as a person who transports used
5 or scrap tires.

6 (c) A person may not transport reusable tires together with
7 scrap tires.

8 Sec. 361.477. TRANSPORTATION OF USED OR SCRAP TIRES;
9 MANIFEST AND ACCEPTABLE DESTINATIONS. (a) A person who transports
10 used or scrap tires for storage or disposal shall maintain records
11 and use a manifest or other appropriate system as provided by
12 commission rule to ensure that those tires are transported to:

13 (1) a storage site that is registered under Section
14 361.473;

15 (2) a disposal facility that is permitted under
16 Section 361.479 for that purpose;

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

19 (4) another location allowed by commission rule
20 adopted under Section 361.472.

21 (b) A person who transports used or scrap tires for storage
22 or disposal shall file with the commission the manifest or other
23 appropriate documentation used as required by this section.

24 Sec. 361.478. TRANSPORTATION OF USED OR SCRAP TIRES FOR
25 BENEFICIAL USE. The commission by rule shall authorize the
26 transportation of used or scrap tires to a facility that will reuse
27 the tires beneficially for purposes such as energy recovery,

1 tire-derived fuel, septic drain fields, rubber mulch, crumb rubber,
2 or reclamation projects.

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

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

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

11 (d) The notice and hearing procedures provided by
12 Subchapter C apply to a permit issued, amended, extended, or
13 renewed under this section.

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

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

24 (b) Subsection (a) does not prohibit a person from storing
25 used or scrap tires temporarily for eventual recycling, reuse, or
26 energy recovery in a designated recycling collection area at a
27 landfill:

1 (1) permitted by the commission; or

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

4 Sec. 361.481. DUTY TO REPORT IMPROPER DISPOSAL OF TIRES. A
5 political subdivision shall notify the commission when the
6 political subdivision becomes aware of used or scrap tires disposed
7 of at a location where the disposal is not authorized by permit.

8 Sec. 361.482. REIMBURSEMENT FOR PROPER DISPOSAL OR STORAGE.
9 For each scrap tire sent by a generator to a scrap tire storage site
10 or disposal facility:

11 (1) the generator shall compensate the site or
12 facility \$2.50 for each passenger tire and \$7.50 for each
13 commercial tire; and

14 (2) the comptroller shall, on application by the
15 generator, reimburse the generator \$3 for each passenger tire and
16 \$8.50 for each commercial tire.

17 Sec. 361.483. COLLECTION OF FEES. (a) A generator who
18 sells new or used tires shall collect at the time and place of sale a
19 fee of:

20 (1) \$4 for each passenger tire sold; and

21 (2) \$10 for each commercial tire sold.

22 (b) A generator shall submit the fees collected under
23 Subsection (a) to the comptroller for deposit to the credit of the
24 waste tire recycling account. Money generated by fees collected
25 under this section in the waste tire recycling account may be used
26 only for:

27 (1) reimbursement under Section 361.482;

1 (2) operational expenses of administering this
2 section or Section 361.482; and

3 (3) other incentive programs designed to recover used
4 or scrap tires left in open areas, if money remains in the account
5 after reimbursements and payment of administrative expenses under
6 Subdivisions (1) and (2), respectively.

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

9 Sec. 7.1851. VIOLATIONS RELATING TO STORAGE,
10 TRANSPORTATION, AND DISPOSAL OF USED OR SCRAP TIRES. (a) A person
11 commits an offense if the person:

12 (1) recklessly 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; or

21 (2) knowingly or intentionally violates:

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

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

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

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

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

27 (F) an order, permit, or exemption issued, or

1 rule adopted, under Subchapter P, Chapter 361, Health and Safety
2 Code.

3 (b) An offense under Subsection (a)(1) is a Class A
4 misdemeanor.

5 (c) An offense under Subsection (a)(2) is a state jail
6 felony.

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

9 (a) This section applies to a permit or exemption issued by
10 the commission under:

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

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

19 (a) This section applies to a license, certificate, or
20 registration issued:

- 21 (1) by the commission under:
 - 22 (A) Section 26.0301;
 - 23 (B) Chapter 37;
 - 24 (C) Section 361.0861 or[7] 361.092[~~7~~~~or~~
25 ~~361.112~~], Health and Safety Code;
 - 26 (D) Chapter 366, 371, or 401, Health and Safety
27 Code; [~~or~~]

1 (E) Chapter 1903, Occupations Code; or
2 (F) Subchapter P, Chapter 361, Health and Safety
3 Code;

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

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

8 SECTION 6. The following laws are repealed:

9 (1) Section 361.112, Health and Safety Code; and

10 (2) Section 7.304, Water Code.

11 SECTION 7. Not later than May 1, 2012, the Texas Commission
12 on Environmental Quality shall adopt rules as required by Section
13 361.472, Health and Safety Code, as added by this Act.

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