

By: Rodriguez, et al.

S.B. No. 459

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the sale, storage, transportation, and disposal of  
3 scrap, unsafe, or used tires; providing a civil penalty; creating  
4 an offense.

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

6 SECTION 1. Title 6, Business & Commerce Code, is amended by  
7 adding Chapter 205 to read as follows:

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

10 Sec. 205.001. DEFINITIONS. In this chapter:

11 (1) "Scrap tire" and "used tire" have the meanings  
12 assigned to those terms by Section 361.1121, Health and Safety  
13 Code.

14 (2) "Unsafe tire" has the meaning assigned by Section  
15 547.201(c), Transportation Code.

16 Sec. 205.002. RETENTION AND DISPOSAL OF SCRAP OR UNSAFE  
17 TIRES. (a) Except as provided by Subsection (c), a retail seller  
18 shall prohibit a customer from retaining a scrap tire or an unsafe  
19 tire removed from the customer's vehicle during the purchase of a  
20 tire.

21 (b) A retail seller who takes possession of a scrap tire or  
22 unsafe tire from a customer during a transaction described by  
23 Subsection (a) shall dispose of the scrap tire or unsafe tire  
24 according to local and state laws, including Section 361.112(c),

1 Health and Safety Code.

2 (c) A retail seller is not required to prohibit a customer  
3 from retaining a scrap tire or unsafe tire removed from the  
4 customer's vehicle during the purchase of a tire if the customer  
5 certifies on a form prescribed by the Texas Commission on  
6 Environmental Quality that:

7 (1) the tire will be used in the customer's  
8 agricultural business; and

9 (2) the customer assumes liability for the tire.

10 (d) The Texas Commission on Environmental Quality shall  
11 develop the form described by Subsection (c) and shall make that  
12 form available on the commission's Internet website.

13 Sec. 205.003. TRANSPORTATION OF SCRAP, UNSAFE, OR USED  
14 TIRES. A retail seller of tires may contract for the transportation  
15 of scrap tires, unsafe tires, or used tires only with a scrap tire  
16 transporter or used tire transporter who:

17 (1) is registered as described by Section 361.1121(b),  
18 Health and Safety Code; and

19 (2) has filed evidence of financial assurance  
20 according to Section 361.1121(d), Health and Safety Code.

21 Sec. 205.004. CIVIL PENALTY. (a) A person who violates  
22 this chapter is subject to a civil penalty in an amount not less  
23 than \$500 for each violation. A separate penalty may be imposed for  
24 each day a violation occurs.

25 (b) The attorney general or the appropriate district or  
26 county attorney may bring an action against a person under this  
27 section in the name of the state in a district court in the county in

1 which:

2 (1) the person resides; or

3 (2) the person's principal place of business is  
4 located.

5 SECTION 2. The heading to Section 361.112, Health and  
6 Safety Code, is amended to read as follows:

7 Sec. 361.112. STORAGE [~~TRANSPORTATION~~] AND DISPOSAL OF  
8 USED OR SCRAP TIRES.

9 SECTION 3. Section 361.112, Health and Safety Code, is  
10 amended by adding Subsection (n) to read as follows:

11 (n) A scrap tire generator or used tire generator, including  
12 a tire dealer, junkyard, or fleet operator, who stores scrap tires  
13 or used tires outdoors on its business premises shall store the  
14 scrap tires or used tires in a manner that may be made secure by  
15 locking.

16 SECTION 4. Subchapter C, Chapter 361, Health and Safety  
17 Code, is amended by adding Section 361.1121 to read as follows:

18 Sec. 361.1121. SCRAP AND USED TIRE TRANSPORTERS. (a) In  
19 this section:

20 (1) "Scrap tire" means a tire that can no longer be  
21 used for its original intended purpose.

22 (2) "Scrap tire transporter" means a person who  
23 collects scrap tires from another person for the purpose of removal  
24 to a scrap tire processor, end user, or disposal facility.

25 (3) "Used tire" means a tire that:

26 (A) has been used as a tire on a vehicle;

27 (B) has tire tread at least one-sixteenth inch

1 deep; and

2 (C) can still be used for its original intended  
3 purpose.

4 (4) "Used tire transporter" means a person who  
5 collects used tires from another person for the purpose of removal  
6 to a scrap tire processor, end user, or disposal facility.

7 (b) A scrap tire transporter or used tire transporter shall  
8 register with the commission unless the scrap tire transporter or  
9 used tire transporter is:

10 (1) a retreader who transports retreadable casings; or

11 (2) a person who transports scrap tires or used tires  
12 that are intended for use in that person's agricultural business  
13 and who does not transport at one time a number of scrap tires or  
14 used tires that exceeds a number determined by commission rule.

15 (c) A scrap tire transporter or used tire transporter who is  
16 required to register with the commission shall:

17 (1) obtain a surety bond from a surety company  
18 authorized to transact business in this state;

19 (2) establish a trust account; or

20 (3) obtain an irrevocable letter of credit.

21 (d) The bond, trust account, or irrevocable letter of credit  
22 described by Subsection (c) must be:

23 (1) filed with the commission;

24 (2) in an amount of \$100,000 or more; and

25 (3) in favor of this state.

26 (e) Money that the commission receives from a bond, trust  
27 account, or letter of credit obtained to meet the requirements of

1 Subsection (c) may be used for the cleanup of abandoned tire storage  
2 sites.

3 (f) The commission shall require a scrap tire transporter or  
4 used tire transporter to maintain records and use a manifest or  
5 other appropriate system to assure that tires are transported to a  
6 storage site that is registered or to a site or facility authorized  
7 by the commission.

8 SECTION 5. Section 547.201, Transportation Code, is amended  
9 by adding Subsections (c), (d), (e), and (f) to read as follows:

10 (c) A person may not sell at retail an unsafe tire. In this  
11 subsection, "unsafe tire" means a passenger or light truck tire  
12 that:

13 (1) has tire tread less than one-sixteenth inch deep;

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

17 (3) has exposed tire cords or belting material as a  
18 result of damage to the tire;

19 (4) has a repair to the tire in the tread shoulder,  
20 sidewall, bead area, or belt edge area;

21 (5) has a puncture that has not been sealed or patched  
22 on the inside with a cured rubber stem or plug that extends through  
23 to the outside surface;

24 (6) does not clearly show the United States Department  
25 of Transportation tire identification number located on the  
26 sidewall of the tire;

27 (7) is subject to a manufacturer's safety recall;

1           (8) has a puncture larger than one-quarter inch; or  
2           (9) does not otherwise meet department safety  
3 standards under Section 547.101.

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

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

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

12           SECTION 6. Subsection (a), Section 7.303, Water Code, is  
13 amended to read as follows:

14           (a) This section applies to a license, certificate, or  
15 registration issued:

16                   (1) by the commission under:

17                           (A) Section 26.0301;

18                           (B) Chapter 37;

19                           (C) Section 361.0861, 361.092, [~~or~~] 361.112, or  
20 361.1121, Health and Safety Code;

21                           (D) Chapter 366, 371, or 401, Health and Safety  
22 Code; or

23                           (E) Chapter 1903, Occupations Code;

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

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

1           SECTION 7. Subsection (g), Section 361.112, Health and  
2 Safety Code, is repealed.

3           SECTION 8. This Act takes effect September 1, 2013.