

By: Rodriguez, et al.  
(Isaac, Raymond)

S.B. No. 459

Substitute the following for S.B. No. 459:

By: Isaac

C.S.S.B. No. 459

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the sale, installation, storage, transportation, and  
3 disposal of scrap, unsafe, or used tires; providing a civil  
4 penalty; creating 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 customer may  
18 not retain a scrap tire or an unsafe tire removed from the  
19 customer's vehicle during the purchase of a tire from a retail  
20 seller.

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 customer may retain a scrap tire or unsafe tire  
3 removed from the customer's vehicle during the purchase of a tire if  
4 the customer certifies on a form prescribed by the Texas Commission  
5 on Environmental Quality that the customer assumes liability for  
6 the disposal of the tire.

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

10 (e) This section does not apply to an entity that purchases  
11 scrap or salvage vehicles for the purpose of recycling.

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

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

18 (2) has filed evidence of financial assurance  
19 according to Section 361.085(m), Health and Safety Code.

20 Sec. 205.004. CIVIL PENALTY. (a) A person who violates  
21 this chapter is subject to a civil penalty in an amount determined  
22 by the Texas Commission on Environmental Quality not to exceed \$500  
23 for each violation. A separate penalty may be imposed for each day  
24 a violation occurs. The commission by rule shall adopt criteria for  
25 determining the amount of a civil penalty under this subsection.

26 (b) The attorney general or the appropriate district or  
27 county attorney may bring an action against a person under this

1 section in the name of the state in a district court in the county in  
2 which:

3 (1) the person resides; or

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

6 SECTION 2. Section 361.085, Health and Safety Code, is  
7 amended by adding Subsection (m) to read as follows:

8 (m) A scrap tire transporter or used tire transporter, as  
9 those terms are defined by Section 361.1121(a), who is required to  
10 register with the commission shall provide financial assurance as  
11 determined by the commission in an amount appropriate for the  
12 quantity of tires transported. Money that the commission receives  
13 from financial assurance obtained to meet the requirements of this  
14 subsection may be used for the cleanup of abandoned tire storage  
15 sites.

16 SECTION 3. The heading to Section 361.112, Health and  
17 Safety Code, is amended to read as follows:

18 Sec. 361.112. STORAGE [~~, TRANSPORTATION,~~] AND DISPOSAL OF  
19 USED OR SCRAP TIRES.

20 SECTION 4. Section 361.112, Health and Safety Code, is  
21 amended by adding Subsection (n) to read as follows:

22 (n) A scrap tire generator or used tire generator, including  
23 a tire dealer, junkyard, or fleet operator, who stores scrap tires  
24 or used tires outdoors on its business premises shall store the  
25 scrap tires or used tires in a manner that may be made secure by  
26 locking. This subsection does not apply to the Texas Department of  
27 Transportation.

1 SECTION 5. Subchapter C, Chapter 361, Health and Safety  
2 Code, is amended by adding Section 361.1121 to read as follows:

3 Sec. 361.1121. SCRAP AND USED TIRE TRANSPORTERS. (a) In  
4 this section:

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

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

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

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

12 (B) has tire tread at least one-sixteenth inch  
13 deep; and

14 (C) can still be used for its original intended  
15 purpose.

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

19 (b) A scrap tire transporter or used tire transporter shall  
20 register with the commission unless the scrap tire transporter or  
21 used tire transporter is:

22 (1) a retreader who transports retreadable casings;

23 (2) a person who transports scrap tires or used tires  
24 that are intended for use in that person's agricultural business  
25 and who does not transport at one time a number of scrap tires or  
26 used tires that exceeds a number determined by commission rule;

27 (3) a person who transports scrap tires to the

1 manufacturer or the manufacturer's representative for adjustment,  
2 provided that the generator of the tires complies with the  
3 recordkeeping and manifest requirements under Subsection (c);

4 (4) a person who:

5 (A) is registered with the commission as an  
6 on-site sewage disposal system installer;

7 (B) transports used or scrap tires or tire pieces  
8 for the construction of an on-site sewage disposal system; and

9 (C) complies with the recordkeeping and manifest  
10 requirements under Subsection (c);

11 (5) a person engaged in the collection of incidental  
12 amounts of scrap tires, used tires, or tire pieces during the course  
13 of household or commercial waste collection for a municipal solid  
14 waste facility or a commercial landfill;

15 (6) a person engaged on behalf of a political  
16 subdivision in the transport of scrap or used tires to another site,  
17 provided that the person complies with the recordkeeping and  
18 manifest requirements under Subsection (c);

19 (7) a tire retailer who transports the retailer's own  
20 tires in the ordinary course of business as a tire retailer,  
21 including the transportation of tires between places of business  
22 owned by the retailer; or

23 (8) a person who transports scrap tires or used tires  
24 that are intended for recycling.

25 (c) The commission shall require a scrap tire transporter or  
26 used tire transporter to maintain records and use a manifest or  
27 other appropriate system to assure that those tires are transported

1 to a storage site that is registered or to a site or facility  
2 authorized by the commission.

3 SECTION 6. Section 547.201, Transportation Code, is amended  
4 by adding Subsections (c), (d), (e), (f), and (g) to read as  
5 follows:

6 (c) A person may not sell and install an unsafe tire. In this  
7 subsection, "unsafe tire" means a passenger car or light truck tire  
8 for which a visual or tactile inspection of the tire exterior and  
9 inner liner indicates that the tire:

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

11 (2) has chunking, bumps, knots, or bulges evidencing  
12 cord, ply, or tread separation from the casing or other adjacent  
13 material;

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

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

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

21 (6) does not clearly show the United States Department  
22 of Transportation tire identification number located on the  
23 sidewall of the tire;

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

25 (8) has a puncture larger than one-quarter inch; or

26 (9) does not otherwise meet department safety  
27 standards under Section 547.101.

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

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

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

10       (g) This section does not limit any liability.

11       SECTION 7. Section 7.303(a), Water Code, is amended to read  
12 as follows:

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

15               (1) by the commission under:

16                       (A) Section 26.0301;

17                       (B) Chapter 37;

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

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

22                       (E) Chapter 1903, Occupations Code;

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

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

27       SECTION 8. Section 361.112(g), Health and Safety Code, is

1 repealed.

2           SECTION 9. A person is not required to comply with the  
3 requirements of Section 361.085(m), Health and Safety Code, as  
4 added by this Act, before the 180th day after the date that the  
5 rules adopted by the Texas Commission on Environmental Quality to  
6 implement that section take effect, or as otherwise required by the  
7 commission.

8           SECTION 10. This Act takes effect September 1, 2013.