

## **BILL ANALYSIS**

Senate Research Center  
84R1674 EES-F

S.B. 1242  
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Transportation  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Illegal tire disposal has been a rampant problem in Texas for years— more than 25 million tires are discarded each year in Texas, roughly one tire for every person residing in the state.

If not transported and disposed of properly, these tires can lead to dangerous outcomes including costly, environmentally hazardous tire piles. Additionally, used and scrap tires often find their way into illegal tire dumps. These tire piles lead to increases in vector-borne diseases like West Nile and dengue fever and intensify the possibility of fire, which in turn pollutes the air.

Illegal dumping is often a result of unlicensed scavengers culling and stealing used tires from generators then dumping their rejects. These tires are transported illegally and dumped, costing the state millions of dollars in cleanup.

As proposed, S.B. 1242 amends current law relating to the sale, storage, transportation, and disposal of scrap or used tires, provides a civil penalty, and creates a criminal offense.

[**Note:** While statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 3 (Section 361.1122, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 361.112, Health and Safety Code, to read as follows:

Sec. 361.112. STORAGE AND DISPOSAL OF USED OR SCRAP TIRES.

SECTION 2. Amends Section 361.112, Health and Safety Code, by adding Subsection (n), as follows:

(n) Requires a scrap tire generator or used tire generator, including a tire dealer, junkyard, or fleet operator, who stores scrap tires or used tires outdoors on its business premises to store the scrap tires or used tires in a secure manner that locks the tires during nonbusiness hours.

SECTION 3. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Sections 361.1121 and 361.1122, as follows:

Sec. 361.1121. SALE AND TRANSPORTATION OF SCRAP OR USED TIRES. (a) Defines "scrap tire" and "used tire" in this section.

(b) Prohibits a customer from retaining a scrap tire removed from the customer's vehicle during the purchase of a tire from a retail seller.

(c) Requires a retail seller who takes possession of a scrap tire from a customer during a transaction described by Subsection (b) to dispose of the scrap tire according to local and state laws, including Section 361.112(c) (prohibiting a person from disposing of used or scrap tires in a facility that is not permitted by the Texas Natural Resource Conservation Commission (TNRCC) for that purpose).

(d) Provides that a customer may only retain a used tire removed from the customer's vehicle during the purchase of a tire if the customer certifies on a form prescribed by TNRCC that:

(1) the customer assumes liability for the disposal of the tire; and

(2) the retail seller maintains in a manner accessible to local law enforcement agencies and TNRCC a record of the customer's retention of the used tire until at least the third anniversary of the date the tire was removed.

(e) Requires TNRCC to develop the form described by Subsection (d) and make that form available on TNRCC's Internet website.

(f) Authorizes a retail seller of tires to contract for the transportation of scrap tires or used tires only with a scrap tire transporter or used tire transporter who:

(1) is registered as described by Section 361.1122(b); and

(2) has filed evidence of financial assurance according to Section 361.1122(e).

(g) Provides that a person who violates this section is subject to a civil penalty in an amount not less than \$1,000 for each violation. Provides that a separate penalty may be imposed for each day a violation occurs and for each tire to which the violation applies.

(h) Provides that a person commits an offense if that person recklessly violates this section. Provides that, for an individual, an offense under this subsection is punishable by a fine of not less than \$1,000 or more than \$50,000, confinement for a period not to exceed one year, or both fine and confinement, as provided by this subsection. Provides that, for a person other than an individual, this subsection is punishable by a fine of not less than \$1,000 or more than \$100,000.

(i) Provides that a person commits an offense if that person intentionally or knowingly violates this section. Provides that, for an individual, an offense under this subsection is punishable by a fine of not less than \$1,000 or more than \$100,000, confinement for a period not to exceed two years, or both fine and confinement, as provided by this subsection. Provides that, for a person other than an individual, this subsection is punishable by a fine of not less than \$1,000 or more than \$250,000.

(j) Authorizes the attorney general or the appropriate district or county attorney to bring an action against a person under this section in the name of the state in a district court in the county in which:

(1) the person resides; or

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

Sec. 361.1122. SCRAP AND USED TIRE TRANSPORTERS. (a) Defines "scrap tire," "used tire," "scrap tire transporter," and "used tire transporter" in this section.

(b) Requires a scrap tire transporter or used tire transporter, except as provided by Subsection (c), to register with TNRCC.

(c) Provides that the following persons are not required to register under this section:

(1) a person who ships used or defective tires back to the manufacturer or the manufacturer's representative for adjustment, provided that the person retains, until the third anniversary of the shipment date, written records of the shipments indicating the date of shipment, the destination, and the number of tires in each shipment and makes those records available to TNRCC on request;

(2) an on-site sewage facility installer who is registered with TNRCC and who transports used or scrap tires or tire pieces for construction of an on-site sewage disposal system, provided that the installer complies with TNRCC's manifest and recordkeeping requirements;

(3) a retreader who hauls tires from customers for the purpose of retreading the tires or who returns tires to customers after retreading or recapping, provided that the retreader does not haul tires to an authorized facility for used or scrap tire collection;

(4) a person who owns or operates a truck for municipal solid waste collection or commercial route collection and handles incidental loads of used or scrap tires or tire pieces as part of normal household or commercial collection activities;

(5) a municipality, county, or other governmental entity that owns or operates a transport vehicle used to transport used or scrap tires to an authorized facility or to a facility used by a governmental entity to collect used or scrap tires, provided that each load of used or scrap tires is manifested as required by TNRCC; and

(6) a person exempt from registration requirements under TNRCC rules.

(d) Requires a scrap tire transporter or used tire transporter who is required to register with TNRCC to:

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

(2) establish a trust account; or

(3) obtain an irrevocable letter of credit.

(e) Requires the bond, trust account, or irrevocable letter of credit described by Subsection (d) to be:

(1) filed with TNRCC;

(2) in an amount of \$25,000 or more; and

(3) in favor of this state.

(f) Requires that money that TNRCC receives from a bond, trust account, or letter of credit obtained to meet the requirements of Subsection (d) be used for the cleanup of abandoned tire storage sites.

(g) Requires TNRCC to require a scrap tire transporter or used tire transporter to maintain records and use a manifest or other appropriate system to assure that those tires are transported to a storage site that is registered or to a site or facility authorized by TNRCC. Requires TNRCC to require a scrap tire transporter or used tire transporter to submit to TNRCC in an electronic format an annual report on the records maintained by the transporter under this subsection.

(h) Provides that a registration issued under this section expires on the first anniversary of the date of issuance and is required to be renewed annually. Provides that, if a scrap tire transporter or used tire transporter fails to submit an annual report under Subsection (g), the transporter is not eligible to renew the transporter's registration.

(i) Requires TNRCC to issue a registration insignia to each registered scrap tire transporter and used tire transporter. Requires the transporter to display the insignia on each vehicle used to transport tires under the registration. Provides that the insignia expires on the first anniversary of the date of issuance. Authorizes TNRCC to adopt rules for issuing duplicate and multiple insignia.

(j) Authorizes a county by order to require a scrap tire transporter or used tire transporter to register with the county. Requires that registration requirements adopted under this subsection be compatible with and not less stringent than rules adopted by TNRCC under this section.

SECTION 4. Amends Section 7.303(a), Water Code, to provide that this section applies to a license, certificate, or registration issued by TNRCC under certain chapters and sections, including Section 361.0861 (Separate Recycling or Recovery Permit Not Required), 361.092 (Registration for Extracting Materials From Certain Solid Waste Facilities), 361.112 (Storage, Transportation, and Disposal of Used or Scrap Tires), or 361.1122, Health and Safety Code; by a county under Subchapter E (Powers and Duties of Local Governments), Chapter 361, Health and Safety Code; or under a rule adopted under any of those provisions.

SECTION 5. Repealer: Section 361.112(g) (requiring TNRCC to require a person who transports used or scrap tires for storage or disposal to maintain records and use a manifest or other appropriate system to assure that those tires are transported to a storage site that is registered or to a disposal facility that is permitted under this section for that purpose), Health and Safety Code.

SECTION 6. Effective date: September 1, 2015.