

By: Raymond

H.B. No. 3795

A BILL TO BE ENTITLED

AN ACT

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

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

6 SECTION 1. The heading to Section 361.112, Health and
7 Safety Code, is amended to read as follows:

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

10 SECTION 2. Section 361.112, Health and Safety Code, is
11 amended by adding Subsection (n) to read as follows:

12 (n) A scrap tire generator or used tire generator, including
13 a tire dealer, junkyard, or fleet operator, who stores scrap tires
14 or used tires outdoors on its business premises shall store the
15 scrap tires or used tires in a secure manner that locks the tires
16 during nonbusiness hours.

17 SECTION 3. Subchapter C, Chapter 361, Health and Safety
18 Code, is amended by adding Sections 361.1121 and 361.1122 to read as
19 follows:

20 Sec. 361.1121. SALE AND TRANSPORTATION OF SCRAP OR USED
21 TIRES. (a) In this section:

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

24 (2) "Used tire" means a tire that:

1 (A) has been used as a tire on a vehicle;
2 (B) has tire tread at least one-sixteenth inch
3 deep;
4 (C) can still be used for its original intended
5 purpose; and
6 (D) has been inspected visually, has had its
7 tread measured with a tread depth gauge calibrated in 32nds of an
8 inch if it does not have tread wear indicators, and meets the visual
9 and tread depth requirements for used tires established by the
10 Department of Public Safety.

11 (b) A customer may not retain a scrap tire removed from the
12 customer's vehicle during the purchase of a tire from a retail
13 seller.

14 (c) A retail seller who takes possession of a scrap tire
15 from a customer during a transaction described by Subsection (b)
16 shall dispose of the scrap tire according to local and state laws,
17 including Section 361.112(c).

18 (d) A customer may only retain a used tire removed from the
19 customer's vehicle during the purchase of a tire if the customer
20 certifies on a form prescribed by the commission that:

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

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

27 (e) The commission shall develop the form described by

1 Subsection (d) and make that form available on the commission's
2 Internet website.

3 (f) A retail seller of tires may contract for the
4 transportation of scrap tires or used tires only with a scrap tire
5 transporter or used tire transporter who:

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

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

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

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

21 (i) A person commits an offense if that person intentionally
22 or knowingly violates this section. For an individual, an offense
23 under this subsection is punishable by a fine of not less than
24 \$1,000 or more than \$100,000, confinement for a period not to exceed
25 two years, or both fine and confinement, as provided by this
26 subsection. For a person other than an individual, this subsection
27 is punishable by a fine of not less than \$1,000 or more than

1 \$250,000.

2 (j) The attorney general or the appropriate district or
3 county attorney may bring an action against a person under this
4 section in the name of the state in a district court in the county in
5 which:

6 (1) the person resides; or

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

9 Sec. 361.1122. SCRAP AND USED TIRE TRANSPORTERS. (a) In
10 this section:

11 (1) "Scrap tire" and "used tire" have the meanings
12 assigned by Section 361.1121.

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

16 (3) "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) Except as provided by Subsection (c), a scrap tire
20 transporter or used tire transporter shall register with the
21 commission.

22 (c) The following persons are not required to register under
23 this section:

24 (1) a person who ships used or defective tires back to
25 the manufacturer or the manufacturer's representative for
26 adjustment, provided that the person retains, until the third
27 anniversary of the shipment date, written records of the shipments

1 indicating the date of shipment, the destination, and the number of
2 tires in each shipment and makes those records available to the
3 commission on request;

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

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

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

18 (5) a municipality, county, or other governmental
19 entity that owns or operates a transport vehicle used to transport
20 used or scrap tires to an authorized facility or to a facility used
21 by a governmental entity to collect used or scrap tires, provided
22 that each load of used or scrap tires is manifested as required by
23 the commission; and

24 (6) a person exempt from registration requirements
25 under commission rules.

26 (d) A scrap tire transporter or used tire transporter who is
27 required to register with the commission shall:

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

3 (2) establish a trust account; or

4 (3) obtain an irrevocable letter of credit.

5 (e) The bond, trust account, or irrevocable letter of credit
6 described by Subsection (d) must be:

7 (1) filed with the commission;

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

9 (3) in favor of this state.

10 (f) Money that the commission receives from a bond, trust
11 account, or letter of credit obtained to meet the requirements of
12 Subsection (d) must be used for the cleanup of abandoned tire
13 storage sites.

14 (g) The commission shall require a scrap tire transporter or
15 used tire transporter to maintain records and use a manifest or
16 other appropriate system to assure that those tires are transported
17 to a storage site that is registered or to a site or facility
18 authorized by the commission. The commission shall require a scrap
19 tire transporter or used tire transporter to submit to the
20 commission in an electronic format an annual report on the records
21 maintained by the transporter under this subsection.

22 (h) A registration issued under this section expires on the
23 first anniversary of the date of issuance and must be renewed
24 annually. If a scrap tire transporter or used tire transporter
25 fails to submit an annual report under Subsection (g), the
26 transporter is not eligible to renew the transporter's
27 registration.

1 (i) The commission shall issue a registration insignia to
2 each registered scrap tire transporter and used tire transporter.
3 The transporter shall display the insignia on each vehicle used to
4 transport tires under the registration. The insignia expires on
5 the first anniversary of the date of issuance. The commission may
6 adopt rules for issuing duplicate and multiple insignia.

7 (j) A county by order may require a scrap tire transporter
8 or used tire transporter to register with the county. Registration
9 requirements adopted under this subsection must be compatible with
10 and not less stringent than rules adopted by the commission under
11 this section.

12 SECTION 4. Section 7.303(a), Water Code, is amended to read
13 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
20 361.1122, 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 5. Section [361.112\(g\)](#), Health and Safety Code, is
2 repealed.

3 SECTION 6. This Act takes effect September 1, 2015.