

1-1 By: Rodríguez, et al. S.B. No. 1242
 1-2 (In the Senate - Filed March 11, 2015; March 17, 2015, read
 1-3 first time and referred to Committee on Transportation;
 1-4 April 30, 2015, reported favorably by the following vote: Yeas 5,
 1-5 Nays 3; April 30, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8		X		
1-9			X	
1-10				X
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the sale, storage, transportation, and disposal of
 1-20 scrap or used tires; providing a civil penalty; creating a criminal
 1-21 offense.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The heading to Section 361.112, Health and
 1-24 Safety Code, is amended to read as follows:

1-25 Sec. 361.112. STORAGE [~~-, TRANSPORTATION,~~] AND DISPOSAL OF
 1-26 USED OR SCRAP TIRES.

1-27 SECTION 2. Section 361.112, Health and Safety Code, is
 1-28 amended by adding Subsection (n) to read as follows:

1-29 (n) A scrap tire generator or used tire generator, including
 1-30 a tire dealer, junkyard, or fleet operator, who stores scrap tires
 1-31 or used tires outdoors on its business premises shall store the
 1-32 scrap tires or used tires in a secure manner that locks the tires
 1-33 during nonbusiness hours.

1-34 SECTION 3. Subchapter C, Chapter 361, Health and Safety
 1-35 Code, is amended by adding Sections 361.1121 and 361.1122 to read as
 1-36 follows:

1-37 Sec. 361.1121. SALE AND TRANSPORTATION OF SCRAP OR USED
 1-38 TIRES. (a) In this section:

1-39 (1) "Scrap tire" means a tire that can no longer be
 1-40 used for its original intended purpose.

1-41 (2) "Used tire" means a tire that:

1-42 (A) has been used as a tire on a vehicle;

1-43 (B) has tire tread at least one-sixteenth inch
 1-44 deep;

1-45 (C) can still be used for its original intended
 1-46 purpose; and

1-47 (D) has been inspected visually, has had its
 1-48 tread measured with a tread depth gauge calibrated in 32nds of an
 1-49 inch if it does not have tread wear indicators, and meets the visual
 1-50 and tread depth requirements for used tires established by the
 1-51 Department of Public Safety.

1-52 (b) A customer may not retain a scrap tire removed from the
 1-53 customer's vehicle during the purchase of a tire from a retail
 1-54 seller.

1-55 (c) A retail seller who takes possession of a scrap tire
 1-56 from a customer during a transaction described by Subsection (b)
 1-57 shall dispose of the scrap tire according to local and state laws,
 1-58 including Section 361.112(c).

1-59 (d) A customer may only retain a used tire removed from the
 1-60 customer's vehicle during the purchase of a tire if the customer
 1-61 certifies on a form prescribed by the commission that:

2-1 (1) the customer assumes liability for the disposal of
2-2 the tire; and

2-3 (2) the retail seller maintains in a manner accessible
2-4 to local law enforcement agencies and the commission a record of the
2-5 customer's retention of the used tire until at least the third
2-6 anniversary of the date the tire was removed.

2-7 (e) The commission shall develop the form described by
2-8 Subsection (d) and make that form available on the commission's
2-9 Internet website.

2-10 (f) A retail seller of tires may contract for the
2-11 transportation of scrap tires or used tires only with a scrap tire
2-12 transporter or used tire transporter who:

2-13 (1) is registered as described by Section 361.1122(b);
2-14 and

2-15 (2) has filed evidence of financial assurance
2-16 according to Section 361.1122(e).

2-17 (g) A person who violates this section is subject to a civil
2-18 penalty in an amount not less than \$1,000 for each violation. A
2-19 separate penalty may be imposed for each day a violation occurs and
2-20 for each tire to which the violation applies.

2-21 (h) A person commits an offense if that person recklessly
2-22 violates this section. For an individual, an offense under this
2-23 subsection is punishable by a fine of not less than \$1,000 or more
2-24 than \$50,000, confinement for a period not to exceed one year, or
2-25 both fine and confinement, as provided by this subsection. For a
2-26 person other than an individual, this subsection is punishable by a
2-27 fine of not less than \$1,000 or more than \$100,000.

2-28 (i) A person commits an offense if that person intentionally
2-29 or knowingly violates this section. For an individual, an offense
2-30 under this subsection is punishable by a fine of not less than
2-31 \$1,000 or more than \$100,000, confinement for a period not to exceed
2-32 two years, or both fine and confinement, as provided by this
2-33 subsection. For a person other than an individual, this subsection
2-34 is punishable by a fine of not less than \$1,000 or more than
2-35 \$250,000.

2-36 (j) The attorney general or the appropriate district or
2-37 county attorney may bring an action against a person under this
2-38 section in the name of the state in a district court in the county in
2-39 which:

2-40 (1) the person resides; or

2-41 (2) the person's principal place of business is
2-42 located.

2-43 Sec. 361.1122. SCRAP AND USED TIRE TRANSPORTERS. (a) In
2-44 this section:

2-45 (1) "Scrap tire" and "used tire" have the meanings
2-46 assigned by Section 361.1121.

2-47 (2) "Scrap tire transporter" means a person who
2-48 collects scrap tires from another person for the purpose of removal
2-49 to a scrap tire processor, end user, or disposal facility.

2-50 (3) "Used tire transporter" means a person who
2-51 collects used tires from another person for the purpose of removal
2-52 to a scrap tire processor, end user, or disposal facility.

2-53 (b) Except as provided by Subsection (c), a scrap tire
2-54 transporter or used tire transporter shall register with the
2-55 commission.

2-56 (c) The following persons are not required to register under
2-57 this section:

2-58 (1) a person who ships used or defective tires back to
2-59 the manufacturer or the manufacturer's representative for
2-60 adjustment, provided that the person retains, until the third
2-61 anniversary of the shipment date, written records of the shipments
2-62 indicating the date of shipment, the destination, and the number of
2-63 tires in each shipment and makes those records available to the
2-64 commission on request;

2-65 (2) an on-site sewage facility installer who is
2-66 registered with the commission and who transports used or scrap
2-67 tires or tire pieces for construction of an on-site sewage disposal
2-68 system, provided that the installer complies with the commission's
2-69 manifest and recordkeeping requirements;

3-1 (3) a retreader who hauls tires from customers for the
3-2 purpose of retreading the tires or who returns tires to customers
3-3 after retreading or recapping, provided that the retreader does not
3-4 haul tires to an authorized facility for used or scrap tire
3-5 collection;

3-6 (4) a person who owns or operates a truck for municipal
3-7 solid waste collection or commercial route collection and handles
3-8 incidental loads of used or scrap tires or tire pieces as part of
3-9 normal household or commercial collection activities;

3-10 (5) a municipality, county, or other governmental
3-11 entity that owns or operates a transport vehicle used to transport
3-12 used or scrap tires to an authorized facility or to a facility used
3-13 by a governmental entity to collect used or scrap tires, provided
3-14 that each load of used or scrap tires is manifested as required by
3-15 the commission; and

3-16 (6) a person exempt from registration requirements
3-17 under commission rules.

3-18 (d) A scrap tire transporter or used tire transporter who is
3-19 required to register with the commission shall:

3-20 (1) obtain a surety bond from a surety company
3-21 authorized to transact business in this state;

3-22 (2) establish a trust account; or

3-23 (3) obtain an irrevocable letter of credit.

3-24 (e) The bond, trust account, or irrevocable letter of credit
3-25 described by Subsection (d) must be:

3-26 (1) filed with the commission;

3-27 (2) in an amount of \$25,000 or more; and

3-28 (3) in favor of this state.

3-29 (f) Money that the commission receives from a bond, trust
3-30 account, or letter of credit obtained to meet the requirements of
3-31 Subsection (d) must be used for the cleanup of abandoned tire
3-32 storage sites.

3-33 (g) The commission shall require a scrap tire transporter or
3-34 used tire transporter to maintain records and use a manifest or
3-35 other appropriate system to assure that those tires are transported
3-36 to a storage site that is registered or to a site or facility
3-37 authorized by the commission. The commission shall require a scrap
3-38 tire transporter or used tire transporter to submit to the
3-39 commission in an electronic format an annual report on the records
3-40 maintained by the transporter under this subsection.

3-41 (h) A registration issued under this section expires on the
3-42 first anniversary of the date of issuance and must be renewed
3-43 annually. If a scrap tire transporter or used tire transporter
3-44 fails to submit an annual report under Subsection (g), the
3-45 transporter is not eligible to renew the transporter's
3-46 registration.

3-47 (i) The commission shall issue a registration insignia to
3-48 each registered scrap tire transporter and used tire transporter.
3-49 The transporter shall display the insignia on each vehicle used to
3-50 transport tires under the registration. The insignia expires on
3-51 the first anniversary of the date of issuance. The commission may
3-52 adopt rules for issuing duplicate and multiple insignia.

3-53 (j) A county by order may require a scrap tire transporter
3-54 or used tire transporter to register with the county. Registration
3-55 requirements adopted under this subsection must be compatible with
3-56 and not less stringent than rules adopted by the commission under
3-57 this section.

3-58 SECTION 4. Section 7.303(a), Water Code, is amended to read
3-59 as follows:

3-60 (a) This section applies to a license, certificate, or
3-61 registration issued:

3-62 (1) by the commission under:

3-63 (A) Section 26.0301;

3-64 (B) Chapter 37;

3-65 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or
3-66 361.1122, Health and Safety Code;

3-67 (D) Chapter 366, 371, or 401, Health and Safety
3-68 Code; or

3-69 (E) Chapter 1903, Occupations Code;

4-1 (2) by a county under Subchapter E, Chapter 361,
4-2 Health and Safety Code; or
4-3 (3) under a rule adopted under any of those
4-4 provisions.

4-5 SECTION 5. Section 361.112(g), Health and Safety Code, is
4-6 repealed.

4-7 SECTION 6. This Act takes effect September 1, 2015.

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