

By: Walle

H.B. No. 3744

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of the retention, storage,
3 transportation, and disposal of used or scrap tires; providing a
4 civil penalty; creating a criminal 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 used or scrap tire generator, including a tire dealer,
13 junkyard, or fleet operator, who stores used or scrap tires
14 outdoors on its business premises shall store the used or scrap
15 tires in a secure manner that locks the tires during nonbusiness
16 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. DISPOSITION OF TIRE REMOVED FROM VEHICLE
21 DURING PURCHASE OF TIRE. (a) In this section:

22 (1) "Scrap tire" has the meaning assigned by Section
23 [361.112](#).

24 (2) "Seller" means a person who is engaged in the

1 business of selling or otherwise placing tires in the stream of
2 commerce for use on a vehicle, trailer, or piece of equipment.

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

4 (A) has been used as a tire on a vehicle, trailer,
5 or piece of equipment;

6 (B) has tire tread at least one-sixteenth inch
7 deep;

8 (C) can still be used for its original intended
9 purpose; and

10 (D) has been inspected visually and meets the
11 visual and tread depth requirements for used tires established by
12 the Department of Public Safety.

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

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

19 (d) A customer may retain a used tire removed from the
20 customer's vehicle during the purchase of a tire only if the
21 customer certifies on a form prescribed by the commission that the
22 customer assumes liability for the disposal of the tire.

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

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

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

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

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

7 (2) has filed evidence of financial assurance
8 according to Sections 361.1122(d) and (e).

9 (h) A seller who contracts for the transportation of used or
10 scrap tires with a transporter the seller knows to be unregistered
11 is:

12 (1) jointly and severally liable for any civil penalty
13 imposed on the transporter under Subchapter D, Chapter 7, Water
14 Code, for the illegal disposal of the tires; and

15 (2) criminally responsible, under Chapter 7, Penal
16 Code, for an offense involving the tires under Section 365.012 of
17 this code committed by the transporter.

18 (i) Notwithstanding Sections 7.102 and 7.103, Water Code,
19 the amount of a civil penalty for a violation of this section may
20 not be less than \$1,000 a day for each violation. A separate
21 penalty may be imposed for each day a violation occurs.

22 (j) The attorney general or the appropriate district or
23 county attorney may bring an action against a person under this
24 section in the name of the state in a district court in the county in
25 which:

26 (1) the person resides; or

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

1 located.

2 Sec. 361.1122. USED OR SCRAP TIRE TRANSPORTERS AND CERTAIN
3 TIRE PROCESSORS. (a) In this section:

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

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

9 (b) Except as provided by Subsection (c), a person shall
10 register annually with the commission if the person is:

11 (1) a transporter; or

12 (2) a tire processor that is not required to register
13 as a storage site under Section 361.112.

14 (c) The following persons are not required to register under
15 this section:

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

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

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

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

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

16 (6) a person transporting five or fewer used or scrap
17 tires; and

18 (7) a person exempt from registration requirements
19 under commission rules.

20 (d) A transporter or tire processor who is required to
21 register with the commission shall provide financial assurance by
22 filing with the commission:

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

25 (2) evidence of an established trust account; or

26 (3) an irrevocable letter of credit.

27 (e) The bond, trust account, or irrevocable letter of credit

1 described by Subsection (d) must be in favor of the state and:

2 (1) for a transporter, in an amount of \$25,000 or more;

3 and

4 (2) for a tire processor, in an amount adequate to
5 ensure proper cleanup and closure of the site.

6 (f) Money that the commission receives from a bond, trust
7 account, or letter of credit obtained by a transporter to meet the
8 requirements of Subsections (d) and (e) must be used for the cleanup
9 of abandoned tire storage sites.

10 (g) The commission shall require a transporter to maintain
11 records and use a manifest or other appropriate system to assure
12 that tires are transported to a storage site that is registered or
13 to a site or facility authorized by the commission. The commission
14 shall require a transporter to submit to the commission in an
15 electronic format an annual report on the records maintained by the
16 transporter under this subsection.

17 (h) A transporter who fails to submit an annual report under
18 Subsection (g) is not eligible to renew the transporter's
19 registration.

20 (i) The commission shall annually issue a registration
21 insignia to each transporter. The transporter shall display the
22 insignia on each vehicle used to transport tires under the
23 registration. The insignia expires on the first anniversary of the
24 date of issuance. The commission may adopt rules for issuing
25 duplicate and multiple insignia.

26 (j) A county by order may require a transporter to register
27 with the county. Registration requirements adopted under this

1 subsection must be compatible with and not less stringent than
2 rules adopted by the commission under this section.

3 SECTION 4. Subchapter E, Chapter 7, Water Code, is amended
4 by adding Section 7.1855 to read as follows:

5 Sec. 7.1855. VIOLATIONS RELATING TO USED OR SCRAP TIRES.

6 (a) A person commits an offense if the person recklessly violates
7 Section 361.1121, Health and Safety Code. An offense under this
8 subsection is punishable for an individual under Section
9 7.187(a)(1)(B) or 7.187(a)(2)(D) or both. An offense under this
10 subsection is punishable for a person other than an individual
11 under Section 7.187(a)(1)(C).

12 (b) A person commits an offense if the person intentionally
13 or knowingly violates Section 361.1121, Health and Safety Code. An
14 offense under this subsection is punishable for an individual under
15 Section 7.187(a)(1)(C) or Section 7.187(a)(2)(E) or both. An
16 offense under this subsection is punishable for a person other than
17 an individual under Section 7.187(a)(1)(D).

18 SECTION 5. Section 7.303(a), Water Code, is amended to read
19 as follows:

20 (a) This section applies to a license, certificate, or
21 registration issued:

22 (1) by the commission under:

23 (A) Section 26.0301;

24 (B) Chapter 37;

25 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or
26 361.1122, Health and Safety Code;

27 (D) Chapter 366, 371, or 401, Health and Safety

1 Code; or

2 (E) Chapter 1903, Occupations Code;

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

5 (3) under a rule adopted under any of those
6 provisions.

7 SECTION 6. Sections 361.112(g) and (k), Health and Safety
8 Code, are repealed.

9 SECTION 7. Not later than March 1, 2018, the Texas
10 Commission on Environmental Quality shall adopt rules necessary to
11 implement the changes in law made by this Act.

12 SECTION 8. Notwithstanding Section 361.1122, Health and
13 Safety Code, as added by this Act, a person is not required to
14 register under that section until September 1, 2018.

15 SECTION 9. This Act takes effect September 1, 2017.