

By: Rodríguez, et al.

S.B. No. 570

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the retention, storage, transportation, disposal, processing, and reuse of used or scrap tires; providing a civil penalty; creating a criminal offense.

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

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

Sec. 361.112. STORAGE [~~, TRANSPORTATION,~~] AND DISPOSAL OF USED OR SCRAP TIRES; CERTAIN REUSE OF SCRAP TIRES.

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

(n) A used or scrap tire generator, including a tire dealer, junkyard, or fleet operator, who stores used or scrap tires outdoors on its business premises shall store the used or scrap tires in a locked, secured, or contained manner that protects the tires from theft.

(o) The commission shall adopt rules to require a person who uses more than 1,000 used or scrap tires in a construction project to obtain approval from the commission before the use of the tires in the project. In evaluating a project for approval under rules adopted under this section, the commission shall consider potential effects on human health and the environment.

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

1 follows:

2 Sec. 361.1121. USED OR SCRAP TIRE GENERATORS. (a) In this  
3 section:

4 (1) "Generator" means a fleet operator, an automotive  
5 dismantler, a tire recapper or retreader, or a retailer,  
6 wholesaler, or manufacturer of whole new or used tires. The term  
7 does not include a scrap tire energy recovery facility or a scrap  
8 tire recycling facility.

9 (2) "Retailer" means a person who is engaged in the  
10 business of selling or otherwise placing tires in the stream of  
11 commerce for use on a vehicle, trailer, or piece of equipment.

12 (3) "Scrap tire" has the meaning assigned by Section  
13 361.112. The term does not include a tire:

14 (A) in or on a vehicle that:

15 (i) has been crushed; or

16 (ii) is being transported to a registered  
17 metal recycling entity or a licensed used automotive parts  
18 recycler; or

19 (B) that is mounted on a metal wheel that is  
20 intended to be recycled.

21 (4) "Used tire" means a tire that:

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

24 (B) has tire tread at least one-sixteenth inch  
25 deep;

26 (C) can still be used for its original intended  
27 purpose; and

1           (D) meets the visual and tread depth requirements  
2 for used tires established by the Department of Public Safety.

3           (b) A customer may retain a scrap or used tire removed from  
4 the customer's vehicle during the purchase of a tire. A retailer  
5 whose customer retains a scrap tire shall keep a record of the  
6 return in accordance with commission rules at least until the third  
7 anniversary of the date the customer returned the tire.

8           (c) A retailer who takes possession of a scrap tire from a  
9 customer during a transaction described by Subsection (b) shall  
10 store or dispose of the scrap tire according to local and state  
11 laws, including Section 361.112.

12           (d) A retailer shall post a sign in a location readily  
13 visible to the customer that specifies the requirements for the  
14 disposal of scrap and used tires.

15           (e) The commission shall develop the language and  
16 specifications for the sign described by Subsection (d) and make  
17 the language and specifications available on the commission's  
18 Internet website.

19           (f) A generator may contract for the transportation of used  
20 or scrap tires only with a transporter who:

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

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

25           (g) A generator who contracts for the transportation of used  
26 or scrap tires with a transporter the generator knows to be  
27 unregistered is:

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

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

7           (h) Notwithstanding Sections 7.102 and 7.103, Water Code,  
8 the amount of a civil penalty for a violation of this section may  
9 not be less than \$1,000 a day for each violation. A separate  
10 penalty may be imposed for each day a violation occurs.

11           Sec. 361.1122. USED OR SCRAP TIRE TRANSPORTERS AND CERTAIN  
12 TIRE PROCESSORS; MANIFEST REQUIREMENT. (a) In this section:

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

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

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

20           (1) a transporter; or

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

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

25           (1) a person who ships used or defective tires back to  
26 the manufacturer or the manufacturer's representative for  
27 adjustment, provided that the person retains, until the third

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

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

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

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

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

25 (6) a generator, as that term is defined in Section  
26 361.1121, transporting the generator's used or scrap tires:

27 (A) between business locations owned or

1 controlled by the generator; or

2 (B) to a facility authorized by the commission to  
3 receive used or scrap tires;

4 (7) a person transporting five or fewer used or scrap  
5 tires; and

6 (8) a person exempt from registration requirements  
7 under commission rules.

8 (d) A transporter or tire processor who is required to  
9 register with the commission shall provide financial assurance by  
10 filing with the commission:

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

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

14 (3) an irrevocable letter of credit.

15 (e) The bond, trust account, or irrevocable letter of credit  
16 described by Subsection (d) must be in favor of the state and:

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

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

21 (f) Money that the commission receives from a bond, trust  
22 account, or irrevocable letter of credit obtained by a transporter  
23 to meet the requirements of Subsections (d) and (e) must be used for  
24 the cleanup of unauthorized tire sites where the transporter has  
25 delivered tires.

26 (g) The commission shall require a person who transports  
27 used or scrap tires to maintain records and use a manifest or other

1 appropriate system to assure that tires are transported to a  
2 storage site that is registered or to a site or facility authorized  
3 by the commission.

4 (h) The commission shall require a transporter to submit to  
5 the commission in an electronic format an annual report on the  
6 records maintained by the transporter under this subsection. A  
7 transporter who fails to submit an annual report under this  
8 subsection is not eligible to renew the transporter's registration.

9 (i) The commission shall annually issue a registration  
10 insignia to each transporter. The transporter shall display the  
11 insignia on each vehicle used to transport tires under the  
12 registration. The insignia expires annually on a date specified by  
13 the commission. The commission may adopt rules for issuing  
14 duplicate and multiple insignia.

15 SECTION 4. Subchapter E, Chapter 7, Water Code, is amended  
16 by adding Sections 7.1855 and 7.1856 to read as follows:

17 Sec. 7.1855. RECKLESS VIOLATIONS RELATING TO USED OR SCRAP  
18 TIRES. (a) A person commits an offense if the person recklessly  
19 violates:

20 (1) Section 361.112, 361.1121, or 361.1122, Health and  
21 Safety Code; or

22 (2) a rule adopted under or the terms of an order,  
23 permit, or exception granted or issued under Chapter 361, Health  
24 and Safety Code, relating to used or scrap tires.

25 (b) An offense under this section is punishable for an  
26 individual under Section 7.187(a)(1)(B) or 7.187(a)(2)(D) or both.

27 (c) An offense under this section is punishable for a person

1 other than an individual under Section 7.187(a)(1)(C).

2 Sec. 7.1856. INTENTIONAL OR KNOWING VIOLATIONS RELATING TO  
3 USED OR SCRAP TIRES. (a) A person commits an offense if the person  
4 intentionally or knowingly violates:

5 (1) Section 361.112, 361.1121, or 361.1122, Health and  
6 Safety Code; or

7 (2) a rule adopted under or the terms of an order,  
8 permit, or exception granted or issued under Chapter 361, Health  
9 and Safety Code, relating to used or scrap tires.

10 (b) An offense under this section is punishable for an  
11 individual under Section 7.187(a)(1)(C) or Section 7.187(a)(2)(E)  
12 or both.

13 (c) An offense under this section is punishable for a person  
14 other than an individual under Section 7.187(a)(1)(D).

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

17 (a) This section applies to a license, certificate, or  
18 registration issued:

19 (1) by the commission under:

20 (A) Section 26.0301;

21 (B) Chapter 37;

22 (C) Section 361.0861, 361.092, ~~[or]~~ 361.112, or  
23 361.1122, Health and Safety Code;

24 (D) Chapter 366, 371, or 401, Health and Safety  
25 Code; or

26 (E) Chapter 1903, Occupations Code;

27 (2) by a county under Subchapter E, Chapter 361,



1 Health and Safety Code; or

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

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

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

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

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