

1-1 By: Rodríguez, et al. S.B. No. 570
 1-2 (In the Senate - Filed January 20, 2017; February 8, 2017,
 1-3 read first time and referred to Committee on Natural Resources &
 1-4 Economic Development; March 23, 2017, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 7,
 1-6 Nays 3; March 23, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10				
1-11		X		
1-12	X			
1-13			X	
1-14	X			
1-15		X		
1-16	X			
1-17	X			
1-18	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 570 By: Rodríguez

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the regulation of the retention, storage,
 1-24 transportation, disposal, processing, and reuse of used or scrap
 1-25 tires; providing a civil penalty; creating a criminal offense.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. The heading to Section 361.112, Health and
 1-28 Safety Code, is amended to read as follows:

1-29 Sec. 361.112. STORAGE [~~TRANSPORTATION,~~] AND DISPOSAL OF
 1-30 USED OR SCRAP TIRES; CERTAIN REUSE OF SCRAP TIRES.

1-31 SECTION 2. Section 361.112, Health and Safety Code, is
 1-32 amended by adding Subsections (n) and (o) to read as follows:

1-33 (n) A used or scrap tire generator, including a tire dealer,
 1-34 junkyard, or fleet operator, who stores used or scrap tires
 1-35 outdoors on its business premises shall store the used or scrap
 1-36 tires in a locked, secured, or contained manner that protects the
 1-37 tires from theft.

1-38 (o) The commission shall adopt rules to require a person who
 1-39 uses more than 1,000 used or scrap tires in a construction project
 1-40 to obtain approval from the commission before the use of the tires
 1-41 in the project. In evaluating a project for approval under rules
 1-42 adopted under this section, the commission shall consider potential
 1-43 effects on human health and the environment.

1-44 SECTION 3. Subchapter C, Chapter 361, Health and Safety
 1-45 Code, is amended by adding Sections 361.1121 and 361.1122 to read as
 1-46 follows:

1-47 Sec. 361.1121. USED OR SCRAP TIRE GENERATORS. (a) In this
 1-48 section:

1-49 (1) "Generator" means a fleet operator, an automotive
 1-50 dismantler, a tire recapper or retreader, or a retailer,
 1-51 wholesaler, or manufacturer of whole new or used tires. The term
 1-52 does not include a scrap tire energy recovery facility or a scrap
 1-53 tire recycling facility.

1-54 (2) "Retailer" means a person who is engaged in the
 1-55 business of selling or otherwise placing tires in the stream of
 1-56 commerce for use on a vehicle, trailer, or piece of equipment.

1-57 (3) "Scrap tire" has the meaning assigned by Section
 1-58 361.112. The term does not include a tire:

1-59 (A) in or on a vehicle, including a vehicle that
 1-60 has been crushed; or

2-1 (B) that is mounted on a metal wheel that is
2-2 intended to be recycled.

2-3 (4) "Used tire" means a tire that:
2-4 (A) has been used as a tire on a vehicle, trailer,
2-5 or piece of equipment;
2-6 (B) has tire tread at least one-sixteenth inch
2-7 deep;
2-8 (C) can still be used for its original intended
2-9 purpose; and

2-10 (D) meets the visual and tread depth requirements
2-11 for used tires established by the Department of Public Safety.

2-12 (b) A customer may not retain a scrap tire removed from the
2-13 customer's vehicle during the purchase of a tire from a retailer.

2-14 (c) A retailer who takes possession of a scrap tire from a
2-15 customer during a transaction described by Subsection (b) shall
2-16 store or dispose of the scrap tire according to local and state
2-17 laws, including Section 361.112.

2-18 (d) A customer may retain a used tire removed from the
2-19 customer's vehicle during the purchase of a tire.

2-20 (e) A retailer shall post a sign in a location readily
2-21 visible to the customer that specifies the requirements for the
2-22 disposal of scrap and used tires.

2-23 (f) The commission shall develop the language and
2-24 specifications for the sign described by Subsection (e) and make
2-25 the language and specifications available on the commission's
2-26 Internet website.

2-27 (g) A generator may contract for the transportation of used
2-28 or scrap tires only with a transporter who:

2-29 (1) is registered as described by Section 361.1122(b);
2-30 and

2-31 (2) has filed evidence of financial assurance
2-32 according to Sections 361.1122(d) and (e).

2-33 (h) A generator who contracts for the transportation of used
2-34 or scrap tires with a transporter the generator knows to be
2-35 unregistered is:

2-36 (1) jointly and severally liable for any civil penalty
2-37 imposed on the transporter under Subchapter D, Chapter 7, Water
2-38 Code, for the illegal disposal of the tires; and

2-39 (2) criminally responsible, under Chapter 7, Penal
2-40 Code, for an offense involving the tires under Section 365.012 of
2-41 this code committed by the transporter.

2-42 (i) Notwithstanding Sections 7.102 and 7.103, Water Code,
2-43 the amount of a civil penalty for a violation of this section may
2-44 not be less than \$1,000 a day for each violation. A separate
2-45 penalty may be imposed for each day a violation occurs.

2-46 Sec. 361.1122. USED OR SCRAP TIRE TRANSPORTERS AND CERTAIN
2-47 TIRE PROCESSORS. (a) In this section:

2-48 (1) "Scrap tire" and "used tire" have the meanings
2-49 assigned by Section 361.1121.

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

2-53 (b) Except as provided by Subsection (c), a person shall
2-54 register annually with the commission if the person is:

2-55 (1) a transporter; or
2-56 (2) a tire processor that is not required to register
2-57 as a storage site under Section 361.112.

2-58 (c) The following persons are not required to register under
2-59 this section:

2-60 (1) a person who ships used or defective tires back to
2-61 the manufacturer or the manufacturer's representative for
2-62 adjustment, provided that the person retains, until the third
2-63 anniversary of the shipment date, written records of the shipments
2-64 indicating the date of shipment, the destination, and the number of
2-65 tires in each shipment and makes those records available to the
2-66 commission on request;

2-67 (2) an on-site sewage facility installer who is
2-68 registered with the commission and who transports used or scrap
2-69 tires or tire pieces for construction of an on-site sewage disposal

3-1 system, provided that the installer complies with the commission's
3-2 manifest and recordkeeping requirements;
3-3 (3) a retreader who hauls tires from customers for the
3-4 purpose of retreading the tires or who returns tires to customers
3-5 after retreading or recapping, provided that the retreader does not
3-6 haul tires to an authorized facility for used or scrap tire
3-7 collection;
3-8 (4) a person who owns or operates a truck for municipal
3-9 solid waste collection or commercial route collection and handles
3-10 incidental loads of used or scrap tires or tire pieces as part of
3-11 normal household or commercial collection activities;
3-12 (5) a municipality, county, or other governmental
3-13 entity that owns or operates a transport vehicle used to transport
3-14 used or scrap tires to an authorized facility or to a facility used
3-15 by a governmental entity to collect used or scrap tires, provided
3-16 that each load of used or scrap tires is manifested as required by
3-17 the commission;
3-18 (6) a generator, as that term is defined in Section
3-19 361.1121, transporting the generator's used or scrap tires:
3-20 (A) between business locations owned or
3-21 controlled by the generator; or
3-22 (B) to a facility authorized by the commission to
3-23 receive used or scrap tires;
3-24 (7) a person transporting five or fewer used or scrap
3-25 tires; and
3-26 (8) a person exempt from registration requirements
3-27 under commission rules.
3-28 (d) A transporter or tire processor who is required to
3-29 register with the commission shall provide financial assurance by
3-30 filing with the commission:
3-31 (1) a surety bond obtained from a surety company
3-32 authorized to transact business in this state;
3-33 (2) evidence of an established trust account; or
3-34 (3) an irrevocable letter of credit.
3-35 (e) The bond, trust account, or irrevocable letter of credit
3-36 described by Subsection (d) must be in favor of the state and:
3-37 (1) for a transporter, in an amount of \$25,000 or more;
3-38 and
3-39 (2) for a tire processor, in an amount adequate to
3-40 ensure proper cleanup and closure of the site.
3-41 (f) Money that the commission receives from a bond, trust
3-42 account, or irrevocable letter of credit obtained by a transporter
3-43 to meet the requirements of Subsections (d) and (e) must be used for
3-44 the cleanup of unauthorized tire sites where the transporter has
3-45 delivered tires.
3-46 (g) The commission shall require a transporter and a
3-47 generator who transports used or scrap tires to maintain records
3-48 and use a manifest or other appropriate system to assure that tires
3-49 are transported to a storage site that is registered or to a site or
3-50 facility authorized by the commission.
3-51 (h) The commission shall require a transporter to submit to
3-52 the commission in an electronic format an annual report on the
3-53 records maintained by the transporter under this subsection. A
3-54 transporter who fails to submit an annual report under this
3-55 subsection is not eligible to renew the transporter's registration.
3-56 (i) The commission shall annually issue a registration
3-57 insignia to each transporter. The transporter shall display the
3-58 insignia on each vehicle used to transport tires under the
3-59 registration. The insignia expires annually on a date specified by
3-60 the commission. The commission may adopt rules for issuing
3-61 duplicate and multiple insignia.
3-62 SECTION 4. Subchapter E, Chapter 7, Water Code, is amended
3-63 by adding Sections 7.1855 and 7.1856 to read as follows:
3-64 Sec. 7.1855. RECKLESS VIOLATIONS RELATING TO USED OR SCRAP
3-65 TIRES. (a) A person commits an offense if the person recklessly
3-66 violates:
3-67 (1) Section 361.112, 361.1121, or 361.1122, Health and
3-68 Safety Code; or
3-69 (2) a rule adopted under or the terms of an order,

4-1 permit, or exception granted or issued under Chapter 361, Health
4-2 and Safety Code, relating to used or scrap tires.

4-3 (b) An offense under this section is punishable for an
4-4 individual under Section 7.187(a)(1)(B) or 7.187(a)(2)(D) or both.

4-5 (c) An offense under this section is punishable for a person
4-6 other than an individual under Section 7.187(a)(1)(C).

4-7 Sec. 7.1856. INTENTIONAL OR KNOWING VIOLATIONS RELATING TO
4-8 USED OR SCRAP TIRES. (a) A person commits an offense if the person
4-9 intentionally or knowingly violates:

4-10 (1) Section 361.112, 361.1121, or 361.1122, Health and
4-11 Safety Code; or

4-12 (2) a rule adopted under or the terms of an order,
4-13 permit, or exception granted or issued under Chapter 361, Health
4-14 and Safety Code, relating to used or scrap tires.

4-15 (b) An offense under this section is punishable for an
4-16 individual under Section 7.187(a)(1)(C) or Section 7.187(a)(2)(E)
4-17 or both.

4-18 (c) An offense under this section is punishable for a person
4-19 other than an individual under Section 7.187(a)(1)(D).

4-20 SECTION 5. Section 7.303(a), Water Code, is amended to read
4-21 as follows:

4-22 (a) This section applies to a license, certificate, or
4-23 registration issued:

4-24 (1) by the commission under:

4-25 (A) Section 26.0301;

4-26 (B) Chapter 37;

4-27 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or
4-28 361.1122, Health and Safety Code;

4-29 (D) Chapter 366, 371, or 401, Health and Safety
4-30 Code; or

4-31 (E) Chapter 1903, Occupations Code;

4-32 (2) by a county under Subchapter E, Chapter 361,
4-33 Health and Safety Code; or

4-34 (3) under a rule adopted under any of those
4-35 provisions.

4-36 SECTION 6. Sections 361.112(g) and (k), Health and Safety
4-37 Code, are repealed.

4-38 SECTION 7. Not later than March 1, 2018, the Texas
4-39 Commission on Environmental Quality shall adopt rules necessary to
4-40 implement the changes in law made by this Act.

4-41 SECTION 8. Notwithstanding Section 361.1122, Health and
4-42 Safety Code, as added by this Act, a person is not required to
4-43 register under that section until September 1, 2018.

4-44 SECTION 9. This Act takes effect September 1, 2017.

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