

**SHB 2085** - S COMM AMD

By Committee on Water, Energy & Environment

ADOPTED 04/13/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that discarded tires  
4 in unauthorized dump sites pose a health and safety risk to the public.  
5 Many of these tire piles have been in existence for a significant  
6 amount of time and are a continuing challenge to state and local  
7 officials responsible for cleaning up unauthorized dump sites and  
8 preventing further accumulation of waste tires. Therefore it is the  
9 intent of the legislature to document the extent of the problem, create  
10 and fund an effective program to eliminate unauthorized tire piles, and  
11 minimize potential future problems and costs.

12 **Sec. 2.** RCW 70.95.510 and 1989 c 431 s 92 are each amended to read  
13 as follows:

14 (1) There is levied a one dollar per tire fee on the retail sale of  
15 new replacement vehicle tires for a period of five years, beginning  
16 ((October 1, 1989)) July 1, 2005. The fee imposed in this section  
17 shall be paid by the buyer to the seller, and each seller shall collect  
18 from the buyer the full amount of the fee. The fee collected from the  
19 buyer by the seller less the ten percent amount retained by the seller  
20 as provided in RCW 70.95.535(1) shall be paid to the department of  
21 revenue in accordance with RCW 82.32.045.

22 (2) The department of revenue shall incorporate into the agency's  
23 regular audit cycle a reconciliation of the number of tires sold and  
24 the amount of revenue collected by the businesses selling new  
25 replacement vehicle tires at retail. The department of revenue shall  
26 collect on the business excise tax return from the businesses selling  
27 new replacement vehicle tires at retail:

28 (a) The number of tires sold; and

29 (b) The fee levied in this section.

1       (3) All other applicable provisions of chapter 82.32 RCW have full  
2 force and application with respect to the fee imposed under this  
3 section. The department of revenue shall administer this section.

4       (4) For the purposes of this section, "new replacement vehicle  
5 tires" means tires that are newly manufactured for vehicle purposes and  
6 does not include retreaded vehicle tires.

7       NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW  
8 to read as follows:

9       The waste tire removal account is created in the state treasury.  
10 All receipts from tire fees imposed under RCW 70.95.510 must be  
11 deposited in the account. Moneys in the account may be spent only  
12 after appropriation. Expenditures from the account may be used for the  
13 cleanup of unauthorized waste tire piles and measures that prevent  
14 future accumulation of unauthorized waste tire piles.

15       NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW  
16 to read as follows:

17       (1) The fee required by this chapter, to be collected by the  
18 seller, shall be deemed to be held in trust by the seller until paid to  
19 the department of revenue, and any seller who appropriates or converts  
20 the fee collected to his or her own use or to any use other than the  
21 payment of the fee to the extent that the money required to be  
22 collected is not available for payment on the due date as prescribed in  
23 this chapter is guilty of a gross misdemeanor.

24       (2) In case any seller fails to collect the fee imposed in this  
25 chapter or, having collected the fee, fails to pay it to the department  
26 of revenue in the manner prescribed by this chapter, whether such  
27 failure is the result of his or her own acts or the result of acts or  
28 conditions beyond his or her control, he or she shall, nevertheless, be  
29 personally liable to the state for the amount of the fee.

30       (3) The amount of the fee, until paid by the buyer to the seller or  
31 to the department of revenue, shall constitute a debt from the buyer to  
32 the seller and any seller who fails or refuses to collect the fee as  
33 required with intent to violate the provisions of this chapter or to  
34 gain some advantage or benefit, either direct or indirect, and any  
35 buyer who refuses to pay any fee due under this chapter is guilty of a  
36 misdemeanor.

1       **Sec. 5.** RCW 70.95.530 and 1988 c 250 s 1 are each amended to read  
2 as follows:

3       (1) Moneys in the waste tire removal account may be appropriated to  
4 the department of ecology:

5       ~~((1))~~ (a) To provide for funding to state and local governments  
6 for the removal of discarded vehicle tires from unauthorized tire dump  
7 sites;

8       ~~((2))~~ (b) To accomplish the other purposes of RCW  
9 70.95.020~~((5))~~ as they relate to waste tire cleanup under this  
10 chapter; and

11       ~~((3) To fund the study authorized in section 2, chapter 250, Laws~~  
12 ~~of 1988))~~ (c) To conduct a study of existing tire cleanup sites. The  
13 office of financial management shall oversee the study process and  
14 approve the completed study. The completed study shall be delivered to  
15 the house of representatives and senate transportation committees by  
16 November 15, 2005. In conducting the study, the department shall  
17 consult on a regular basis with interested parties. The following  
18 identified elements at a minimum shall be included in the completed  
19 study:

20       (i) Identification of existing tire cleanup sites in the state of  
21 Washington;

22       (ii) The estimated number of tires in each tire cleanup site;

23       (iii) A map identifying the location of each one of the tire  
24 cleanup sites;

25       (iv) A photograph of each one of the tire cleanup sites;

26       (v) The estimated cost for cleanup of each tire site by cost  
27 component;

28       (vi) The estimated reimbursement of costs to be recovered from  
29 persons or entities that created or have responsibility for the tire  
30 cleanup site;

31       (vii) Identification of the type of reimbursements for recovery by  
32 each of the tire cleanup sites;

33       (viii) The estimated time frame to begin the cleanup project and  
34 the estimated completion date for each tire cleanup site;

35       (ix) An assessment of local government functions relating to  
36 unauthorized tire piles, including cleanup, enforcement, and public  
37 health;

1 (x) Identification of needs in the areas in (c)(ix) of this  
2 subsection for each one of the counties; and

3 (xi) A statewide cleanup plan based on multiple funding options  
4 between twenty cents and sixty cents for each new tire sold at retail  
5 in the state starting on July 1, 2005. The plan shall include the  
6 estimated time frame to begin each of the tire cleanup sites and the  
7 estimated completion date for each one of the sites. In addition, the  
8 plan must include a process to be followed in selecting entities to  
9 perform the tire site cleanups. The 2006 legislature shall determine  
10 the final distribution of the tire cleanup fee and the appropriations  
11 for this statewide tire cleanup plan.

12 (2) In spending funds in the account under this section, the  
13 department of ecology shall identify communities with the most severe  
14 problems with waste tires and provide funds first to those communities  
15 to remove accumulations of waste tires.

16 (3) Immediately after the effective date of this section, the  
17 department of ecology shall initiate a pilot project in a city with a  
18 population between three and four thousand within a county with a  
19 population less than twenty thousand to contract to clean up a formerly  
20 licensed tire pile in existence for ten or more years. To begin the  
21 project, the department shall seek to use financial assurance funds set  
22 aside for clean up of the tire pile. For purposes of this subsection,  
23 population figures are the official 2004 population as estimated by the  
24 office of financial management for purposes of state revenue  
25 allocation.

26 **Sec. 6.** RCW 70.95.555 and 1988 c 250 s 4 are each amended to read  
27 as follows:

28 Any person engaged in the business of transporting or storing waste  
29 tires shall be licensed by the department. To obtain a license, each  
30 applicant must:

31 (1) Provide assurances that the applicant is in compliance with  
32 this chapter and the rules regarding waste tire storage and  
33 transportation; ~~((and))~~

34 (2) Accept liability for and authorize the department to recover  
35 any costs incurred in any cleanup of waste tires transported or newly  
36 stored by the applicant in violation of this section, or RCW 70.95.560

1 or section 4 or 8 of this act, or rules adopted thereunder, after the  
2 effective date of this section;

3 (3) Until January 1, 2006, post a bond in the sum of ten thousand  
4 dollars in favor of the state of Washington for waste tires transported  
5 or stored before the effective date of this section. In lieu of the  
6 bond, the applicant may submit financial assurances acceptable to the  
7 department;

8 (4) After January 1, 2006, for waste tires transported or stored  
9 before the effective date of this section, or for waste tires  
10 transported or stored after the effective date of this section, post a  
11 bond in an amount to be determined by the department sufficient to  
12 cover the liability for the cost of cleanup of the transported or  
13 stored waste tires, in favor of the state of Washington. In lieu of  
14 the bond, the applicant may submit financial assurances acceptable to  
15 the department;

16 (5) Be registered in the state of Washington as a business and be  
17 in compliance with all state laws, rules, and local ordinances;

18 (6) Have a federal tax identification number and be in compliance  
19 with all applicable federal codes and regulations; and

20 (7) Report annually to the department the amount of tires  
21 transported and their disposition. Failure to report shall result in  
22 revocation of the license.

23 **Sec. 7.** RCW 70.95.560 and 1989 c 431 s 95 are each amended to read  
24 as follows:

25 (1) Any person who transports or stores waste tires without a  
26 license in violation of RCW 70.95.555 shall be guilty of a gross  
27 misdemeanor and upon conviction shall be punished under RCW  
28 9A.20.021(2).

29 (2) Any person who transports or stores waste tires without a  
30 license in violation of RCW 70.95.555 is liable for the costs of  
31 cleanup of any and all waste tires transported or stored. This  
32 subsection does not apply to the storage of waste tires when the  
33 storage of the tires occurred before the effective date of this section  
34 and the storage was licensed in accordance with RCW 70.95.555 at the  
35 time the tires were stored.

1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 70.95 RCW  
2 to read as follows:

3        No person or business, having documented proof that it legally  
4 transferred possession of waste tires to a validly licensed transporter  
5 or storer of waste tires or to a validly permitted recycler, has any  
6 further liability related to the waste tires legally transferred.

7        NEW SECTION.    **Sec. 9.**    The sum of one hundred fifty thousand  
8 dollars, or as much thereof as may be necessary, is appropriated for  
9 the fiscal year ending June 30, 2006, from the waste tire removal  
10 account to the office of financial management to reimburse the  
11 department of ecology to complete the study in section 5 of this act.

12        NEW SECTION.    **Sec. 10.**    The sum of forty thousand dollars, or as  
13 much thereof as may be necessary, is appropriated for the biennium  
14 ending June 30, 2007, from the waste tire removal account to the  
15 department of revenue for administration of the fee established in  
16 section 2 of this act.

17        NEW SECTION.    **Sec. 11.**    If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21        NEW SECTION.    **Sec. 12.**    This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and takes effect  
24 July 1, 2005."

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**ADOPTED 04/13/2005**

25        On page 1, line 1 of the title, after "tires;" strike the remainder  
26 of the title and insert "amending RCW 70.95.510, 70.95.530, 70.95.555,

1 and 70.95.560; adding new sections to chapter 70.95 RCW; creating a new  
2 section; prescribing penalties; making appropriations; providing an  
3 effective date; and declaring an emergency."

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