

SENATE BILL REPORT

SHB 2085

As Reported By Senate Committee On:
Water, Energy & Environment, March 31, 2005
Ways & Means, April 4, 2005

Title: An act relating to cleanup of waste tires.

Brief Description: Regarding the cleanup of waste tires.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Simpson, Hankins, Murray, Haler, Morris, Ormsby, B. Sullivan, Dickerson, Chase, Wood and Ericks).

Brief History: Passed House: 3/11/05, 76-17.

Committee Activity: Water, Energy & Environment: 3/22/05, 3/31/05 [DPA-WM, DNP].
Ways & Means: 4/4/05 [DPA(WEE), DNP].

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hewitt, Honeyford and Regala.

Minority Report: Do not pass.

Signed by Senator Mulliken.

Staff: Margaret King (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Water, Energy & Environment.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Staff: Paula Faas (786-7449)

Background: A \$1 fee was assessed on the retail sale of each new vehicle replacement tire sold from October 1989 until September 1995. The tire seller collected the fee and could retain 10 percent of all fees collected. Revenue generated by the fee funded: state and local efforts to remove discarded tires from unauthorized dump sites; local enforcement of unauthorized tire dumping; local pilot projects for on-site tire shredding; implement a public education program; produce marketing studies on tire recycling; and a tire study. In 2002, the

Legislature enacted a requirement that the Department of Ecology (DOE) track and report the annual and cumulative increases and decreases in the state's tire recycling rates.

Individuals engaging in the business of transporting or storing waste tires are required to be licensed by the DOE. To obtain a license, the business must assure the DOE that it is in compliance with the law and post a bond of \$10,000. A violation of licensing requirements is punishable as a gross misdemeanor.

Summary of Amended Bill: The \$1 tire fee on new tires is reinstated beginning July 1, 2005. Tire retailers may retain 10 percent of the fee and must remit the remainder to the Department of Revenue. A Waste Tire Removal Account is created in the State Treasury. It is an appropriated account and moneys may be used for the cleanup of unauthorized waste tire piles and measures to prevent future accumulation of unauthorized waste tire piles. An appropriation of up to \$150,000 is made from the waste tire removal account to the Office of Financial Management (OFM) for oversight of a detailed study to identify and collect information on tire cleanup sites in the state. An appropriation of \$40,000 is made from the waste tire removal account to the Department of Revenue (DOR) for the administration of the \$1 fee.

The DOE is directed to conduct the study, which is to be delivered to the Legislature by November 15, 2005. The study must include at least the following elements:

- identification of existing tire cleanup sites in the State of Washington including the estimated number of tires in each tire cleanup site and a map and a photograph identifying the location of each one of the tire cleanup sites;
- the estimated cost for cleanup of each tire site by cost component;
- the estimated reimbursement of costs to be recovered from persons or entities that created or have responsibility for the tire cleanup site;
- identification of the type of reimbursements for recovery by each of the tire cleanup sites;
- the estimated time frame to begin the cleanup project and the estimated completion date for each tire cleanup site;
- identification of local government needs for each one of the counties and an assessment of local government functions relating to unauthorized tire piles, including cleanup, enforcement, and public health; and
- a statewide cleanup plan based on multiple funding options between 20 cents and 60 cents for each new tire sold at retail in the state starting on July 1, 2005. The plan must include the estimated time frame to begin and complete each of the tire cleanup sites. In addition, the plan must include a process to be followed in selecting entities to perform the tire site cleanups. The 2006 Legislature must determine the final distribution of the tire cleanup fee and the appropriations for this statewide tire cleanup plan.

In addition to conducting the study, the DOE is directed to immediately initiate a pilot project to clean up an existing site in Goldendale, Washington that poses a significant health and safety threat.

The \$1 fee collected by the seller is held in trust by the seller until paid to the DOR. Appropriation or conversion of the fee or failure to remit the fee to the DOR is a gross misdemeanor. It is a misdemeanor for the seller to fail to collect the fee or for the buyer to

refuse to pay the fee. Additionally, a seller that fails to collect the fee, or collects the fee but fails to submit the fee to the DOR is liable to the state for the amount of the fee that should have been collected or remitted.

Those that currently transport or store tires must be licensed by the State and provide a bond of \$10,000 until January 1, 2006, and thereafter provide a bond in an amount to be determined by DOE in an amount sufficient to cover the liability for the cost of cleanup of the waste tires. Licensees must also be accept liability for and authorize the DOE to recover any costs incurred in any cleanup of waste tires transported or stored in violation of the act. Licensees must be registered in the State of Washington as a business, be in compliance with all state laws, rules and local ordinances, have a federal identification number, and report annually to the amount of tires transported and their disposition. Failure to report will result in loss of license and a violation of the act. Persons who transport or store waste tires without a license will be liable for the costs of cleanup of any waste tires transported or stored, unless the person can show that he/she was licensed at the time the tires were transported or stored.

Once waste tires are legally transferred to a validly licensed transporter or storer of waste tires the transferring business has no further liability relative to the transferred tires if it has documented proof that such a transfer occurred.

Amended Bill Compared to Original Bill: Adds a new section that specifically addresses the duties, liabilities, and penalties for sellers and buyers with respect to collecting and submitting the \$1 fee on new tire sales to the Department of Revenue (DOR). Adds a new provision that directs the DOE to begin a pilot project with fees for the clean up a tire pile in Goldendale, WA. Maintains the current bond amount of \$10,000 until January 1, 2006, for tires transported or stored before the effective date of the amendment. Clarifies liability provisions for licensed and unlicensed tire businesses, transporters and storers. Provides technical amendments.

Appropriation: The sum of \$150,000 from waste tire removal account to OFM for the study. The sum of \$40,000 from waste tire removal account to the DOR for administrative costs.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Water, Energy & Environment): In addition to being a nuisance, tire piles are a health threat by providing a non-natural breeding ground for mosquitoes to spread West Nile Virus. Counties want to clean up tire piles and will do the work but the value of the property will not recoup the cost of cleanup. Cost of cleanup of tire site in Lewis County estimated at \$680,000 and value of property where tires are located is \$155,000 --leaving a difference of \$525,000 for the County to pick up. One of biggest contributors to waste tires are end of life vehicles. Auto Recyclers of Washington supports the bill as do other industry businesses because provides protection to those that dispose of the tires correctly and will help stop "shame recycling" and illegal dumping. Bill allows DOE to assess current situation and focus on the cleanup of existing tire piles.

Testimony Against (Water, Energy & Environment): None.

Who Testified (Water, Energy & Environment): PRO: Representative Simpson, prime sponsor; Representative Hankins, co-sponsor; Vicki Kirkpatrick, Washington State Association of Local Public Health Officials; Eric Johnson, Lewis County and Washington Association of Counties; Jim King, Independent Business Association; Don Phelps, AAA Auto Wrecking and Auto Recyclers of Washington; Brad Lovaas, Washington Refuse and Recycle Association; Cullen Stephenson, Department of Ecology.

Testimony For (Ways & Means): This bill is a result of nine months of work from stakeholders. It will reduce future tire piles and future costs to the state. The largest unauthorized tire pile in the state is located in Klickitat County. DOE claims cleanup of this pile will begin shortly after the bill's passage. Passage of the bill is urged.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): PRO: Gary Smith, Independent Business Association; Rick Jensen, Ross Marketing, Goldendale, WA.