

SUBJECT: Regulating the storage and movement of used or scrap tires

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Pickett, E. Thompson, Cyrier, Dale, Kacal, Landgraf, Lozano, E. Rodriguez

0 nays

1 absent — Reynolds

SENATE VOTE: On final passage, April 4 — 20-11 (Bettencourt, Buckingham, Burton, Campbell, Creighton, Hall, Hancock, Hughes, Kolkhorst, Schwertner, V. Taylor)

WITNESSES: None

BACKGROUND: The Solid Waste Disposal Act (Health and Safety Code, ch. 361) regulates the disposal of waste that could pose a health or environmental hazard. Sec. 361.112 regulates the storage, transportation, and disposal of used or scrap tires. This section prohibits a person from storing more than 500 used or scrap tires for any period on any publicly or privately owned property unless the person registers the storage site with the Texas Commission on Environmental Quality.

DIGEST: CSSB 570 would regulate the storage, transportation, and use of used or scrap tires and would establish penalties for violations of regulations related to the handling of used or scrap tires.

Storage of tires. CSSB 570 would require a used or scrap tire generator, including a tire dealer, junkyard, or fleet operator, who stored used or scrap tires outdoors to store the tires in a way that protected them from theft. A retailer who took possession of a scrap tire from a customer also would be required to store the tire securely.

Posting of tire rules. The bill would require a retailer to post a sign in a

location readily visible to customers that specified the requirements for the disposal of scrap and used tires. The Texas Commission on Environmental Quality (TCEQ) would be required to develop and make available on its website the language and specifications for the sign.

Registration. The bill would require a transporter or a tire processor not required to register as a storage site under sec. 361.112 to register annually with TCEQ and would give TCEQ the authority to revoke the registration under certain circumstances. A transporter would mean a person who collected used or scrap tires from another person to move them to a used tire dealer, scrap tire processor, end user, or disposal facility.

The bill would specify persons would not be required to register with TCEQ under this provision.

Insignia. CSSB 570 would require TCEQ to issue annually a registration insignia to each transporter, which would have to be displayed on each vehicle used to transport tires under the transporter's registration. The commission could adopt rules for issuing duplicate and multiple insignia.

Financial assurance. The bill would require a transporter or tire processor required to register with TCEQ to provide financial assurance by filing one of the following with the commission:

- a surety bond obtained from a surety company authorized to do business in the state;
- evidence of an established trust account; or
- an irrevocable letter of credit.

The bond, trust account, or letter of credit would be required to be in favor of the state and in an amount of \$25,000 or more for a transporter and an amount adequate to ensure proper cleanup and closure of a site for a tire processor.

The bill would require any money received from a bond, trust account, or

letter of credit to be used to clean up unauthorized tire sites where the transporter had delivered tires.

Contracting with transporters. CSSB 570 would allow a generator to contract for the transportation of used or scrap tires only with a transporter who was registered appropriately and had filed evidence of financial assurance. A generator who knowingly contracted with an unregistered transporter would be liable for any civil penalties for the illegal disposal of tires and criminal offenses involving the tires committed by the transporter.

Records of tires. The bill would allow customers to retain a scrap or used tire removed from their vehicle during the purchase of a tire and would require the retailer whose customer retained a tire to keep a record of the retention for at least three years.

The bill also would require a transporter of used or scrap tires to maintain records to assure that the tires were transported to registered storage sites or a facility authorized by TCEQ. A political subdivision or person who contracted with one would not be required to keep records of the transportation of used or scrap tires from a roadway it maintained or an easement adjacent to a such a roadway.

TCEQ would have to require a transporter of used or scrap tires to submit electronic annual reports on its records to the commission. Transporters that failed to do so would be ineligible to renew their registration.

Construction with tires. The bill would direct TCEQ to require a person who used more than 1,000 used or scrap tires in a construction project to obtain approval from the commission before using the tires. In considering approval, TCEQ would be required to consider potential effects on human health and the environment.

Violations. A reckless violation of certain provision of the bill or a rule adopted or terms of an order granted under Health and Safety Code, ch. 361 relating to used or scrap tires would be punishable for an individual

by a fine of between \$1,000 and \$50,000 and/or confinement of up to one year. For a person other than an individual, a reckless violation would be punishable by a fine of \$1,000 to \$100,000. An intentional violation would be punishable for an individual by a fine of between \$1,000 and \$100,000 and/or confinement of up to two years and for a person other than an individual by a fine of \$1,000 to \$250,000.

CSSB 570 would require TCEQ to adopt the rules necessary to implement the bill by March 1, 2018, and would not require a person to be registered as a transporter until September 1, 2018.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 570 would help to enforce proper disposal of tires to keep consumers safe and the environment clear of dangerous tire piles by statutorily requiring that transporters be registered and that retailers implement anti-theft measures. Tires left unsecured are at risk of theft and subsequent illegal dumping, which costs the state millions of dollars to clean up and creates risks of fire, pollution, and environmental hazards.

The bill would codify certain rules and harness existing statute to help stop tire theft and dumping and would not increase the administrative burden on businesses.

**OPPONENTS
SAY:**

CSSB 570 would impose unnecessary regulations on businesses to address issues that could be better handled through enforcement of current law. The bill also would diminish property rights by imposing anti-theft policies on individuals and retailers and by making generators liable for contracting with an unregistered transporter.

NOTES:

A companion bill, HB 3744 by Walle, was considered in a formal meeting of the House Committee on Environmental Regulation on April 27 and failed to receive affirmative votes in committee.