

BILL ANALYSIS

Senate Research Center

H.B. 3132
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Natural Resources
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Engrossed

DIGEST

The Texas Legislature created a scrap tire program in 1991 to address a problem with illegally dumped tires and to create recycling and end-use markets. A \$2 fee was paid at the point of retail purchase for each tire sold and it was used to pay processors to transport tires from tire dealers and shred the tires into chips. After several years of the tire program, few recycling and end-use markets had been created. The Texas Legislature later changed the law to include only those tire processors who were actually sending tire chips to an end-use market. In 1997, the Texas Legislature allowed the tire program to expire under sunset rules. H.B. 3132 creates a scrap tire enforcement fund which provides for the collection of a fee of 25 cents for each tire sold of a particular size and character. The fees collected under this bill are to be used by the Texas Natural Resource Conservation Commission to enforce the legal disposal of scrap tires, remediate hazardous sites, and administer the program. This bill also requires vendors and disposal sites to remit reports on the collection and disposal of tires. Furthermore, this bill authorizes some of the fund to be used by the Texas State Comptroller of Public Accounts to assist in the administration of this program.

PURPOSE

As proposed, H.B. 3132 creates the scrap tire enforcement fund and regulates scrap tire disposal.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller of public accounts in SECTION 1 (Section 361.462(c), Health and Safety Code) and Texas Natural Resource Conservation Commission in SECTION 1 (Sections 361.464(b) and 361.465, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 361, Health and Safety Code, by adding Subchapter P, as follows:

SUBCHAPTER P. SCRAP TIRE ENFORCEMENT FUND

Sec. 361.461. DEFINITION. Defines "scrap tire."

Sec. 361.462. SCRAP TIRE RECYCLING FEE. (a) Requires a person who sells or offers to sell new tires not for resale to collect a scrap tire enforcement fee of 25 cents for each new tire sold that has a rim diameter of 12 inches or larger. Provides that the fee required by this section does not apply to the sale of new tires mounted on a new motor vehicle as original equipment.

(b) Requires a person required to collect a fee under this section to pay the fees collected to the Texas State Comptroller of Public Accounts (comptroller) at a time and in a manner prescribed by the to the comptroller.

(c) Requires the comptroller to adopt rules as necessary to collect and administer the fee under this section.

(d) Requires the comptroller to make copies of the reports required under this section readily available to the Texas Natural Resource Conservation Commission (TNRCC) on request.

(e) Provides that this subsection does not limit or prohibit a person from charging, as a cost of conducting business, a scrap tire disposal fee to a customer who purchases a new tire from the person at retail. Prohibits a person from representing to a customer in connection with a sale or

offer to sell a new tire at retail that a scrap tire disposal fee charged as a cost of conducting business is mandated by the state.

(f) Authorizes the comptroller to provide for payment and reporting of scrap tire fees under this section to be made electronically.

(g) Makes specified chapters and sections of the Tax Code applicable to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters and sections apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

Sec. 361.463. SCRAP TIRE ENFORCEMENT FUND. Provides that the scrap tire enforcement fund is a special account in the general revenue fund. Provides that the fund consists of any money, and interest on money, received by TNRCC or the comptroller for use for the purposes of the fund. Authorizes the fund to be used only to pay for auditing required for scrap tire enforcement under Section 361.466, for remediating any site where scrap tires have been discarded illegally, TNRCC's reasonable and necessary administrative costs related to this subchapter, and the comptroller's reasonable and necessary administrative costs related to this subchapter.

Sec. 361.464. SCRAP TIRE COLLECTION REPORT. Requires a person who sells or offers to sell new tires not for resale to send to TNRCC a scrap tire collection report at a time and in the manner prescribed by TNRCC. Requires TNRCC, by rule, to provide a form for reporting the collection of scrap tires required by this section. Sets forth the prescribed format of the form. Authorizes TNRCC to provide for electronic reporting under this section.

Sec. 361.465. SCRAP TIRE DISPOSITION REPORT. Requires each person receiving scrap tires as a waste product or raw material for recycling to send to TNRCC a scrap tire disposition report at a time and in the manner prescribed by TNRCC rules and register annually with TNRCC as a permanent disposition facility for scrap tires. Requires TNRCC, by rule, to provide a form reporting the disposition of scrap tires. Sets forth the prescribed format of the form. Authorizes TNRCC to require an annual fee of not more than \$20 for registration under this section. Requires the reports under this section to use the tax identification number assigned to a person by the comptroller, to the extent possible. Authorizes a permitted landfill that receives shredded, split, or quartered tires for disposal to require the person bringing the tires to provide a report of the number of tires brought for disposal. Provides that the permitted landfill need only forward copies of reports received for the scrap tire transporter to satisfy the requirements of this subsection.

Sec. 361.466. COMMISSION AUDIT OF SCRAP TIRE REPORTING. Requires TNRCC, to the extent practicable and necessary, to compare scrap tire collection reports required under Section 361.464 and scrap tire disposition reports required under Section 361.465 to determine if scrap tires are being properly transported, disposed of, or recycled. Requires TNRCC to conduct an investigation of any discrepancies found in the reports to determine if there is a reasonable probability that scrap tires were discarded illegally. Requires TNRCC to institute any civil or criminal enforcement action the executive director considers necessary and appropriate if the result of the investigation is positive. Sets forth possible actions. Requires the state's share of fines and penalties received under this chapter, Chapter 365 (Litter), or any other law that involves an illegal discarding site to be used, as is practicable and necessary, to remediate that site. Requires fines and penalties not used for remediation of a site to be deposited into the scrap tire enforcement fund under Section 361.463.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.