

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0949.01 Jennifer Berman x3286

SENATE BILL 19-198

SENATE SPONSORSHIP

Todd and Coram,

HOUSE SPONSORSHIP

Buentello and Gray,

Senate Committees

State, Veterans, & Military Affairs
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUED MANAGEMENT OF WASTE TIRES, AND, IN**
102 **CONNECTION THEREWITH, MAKING AND REDUCING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

To encourage resource recovery, recycling, and reuse of waste tires, there is a waste tire fee assessed on each new tire sold in the state. Commencing on January 1, 2020, the bill raises the waste tire fee from 55 cents to up to \$2.00, as set by the solid and hazardous waste commission by rule, and, on January 1, 2024, reduces it to 55 cents.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
April 23, 2019

The bill also recreates the end users fund, into which fund, on and after January 1, 2020, 75% of the revenue collected from the waste tire fee will be transferred. The fund is used to provide rebates to end users for the processing of waste tires into tire-derived products or fuel. The end users fund and the rebate program are repealed on July 1, 2025.

The bill increases the number of waste tires that an owner or operator of a waste tire monofill is required to process into tire-derived product from 2 to 5.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 30-20-1402, **amend**
3 (1); and **add** (1.2), (1.5), (7.5), and (9.5) as follows:

4 **30-20-1402. Definitions.** As used in this part 14, unless the
5 context otherwise requires:

6 (1) ~~"Beneficial user" means a person who uses solid waste as an~~
7 ~~ingredient in a manufacturing process or as an effective substitute for~~
8 ~~natural or commercial products, in a manner that does not pose a threat~~
9 ~~to human health or the environment. Avoidance of processing or disposal~~
10 ~~cost alone does not constitute beneficial use "ALTERNATIVE DAILY~~
11 ~~COVER" MEANS AT LEAST THREE INCHES OF EARTHEN MATERIAL OR OTHER~~
12 ~~SUITABLE MATERIAL PLACED OVER THE EXPOSED SOLID WASTE AT THE END~~
13 ~~OF EACH OPERATING DAY, OR AT SUCH FREQUENCIES AS NEEDED TO~~
14 ~~PREVENT OR MINIMIZE NUISANCE CONDITIONS.~~

15 (1.2) "ASTM STANDARD D6270" MEANS THE AMERICAN SOCIETY
16 FOR TESTING AND MATERIALS STANDARD ENTITLED "STANDARD
17 PRACTICE FOR USE OF SCRAP TIRES IN CIVIL ENGINEERING
18 APPLICATIONS", EFFECTIVE ON DECEMBER 15, 2017.

19 (1.5) "BENEFICIAL USER" MEANS A PERSON WHO USES SOLID
20 WASTE FOR ENERGY RECOVERY IN A MANUFACTURING PROCESS OR AS AN
21 EFFECTIVE SUBSTITUTE FOR NATURAL OR COMMERCIAL PRODUCTS, IN A

1 MANNER THAT DOES NOT POSE A THREAT TO HUMAN HEALTH OR THE
2 ENVIRONMENT. AVOIDANCE OF PROCESSING OR DISPOSAL COST ALONE
3 DOES NOT CONSTITUTE BENEFICIAL USE.

4 (7.5) "RURAL COUNTY" MEANS A COUNTY WITH A POPULATION OF
5 FEWER THAN SIXTY THOUSAND RESIDENTS.

6 (9.5) "TON" MEANS A UNIT OF WEIGHT EQUAL TO TWO THOUSAND
7 POUNDS.

8 **SECTION 2.** In Colorado Revised Statutes, 30-20-1403, **amend**
9 (1)(a) and (2) as follows:

10 **30-20-1403. Waste tire fee - distribution - rules - repeal.**

11 (1) (a) (I) (A) UNTIL DECEMBER 31, 2019, RETAILERS OF NEW MOTOR
12 VEHICLE TIRES AND NEW TRAILER TIRES SHALL COLLECT A WASTE TIRE FEE
13 IN AN AMOUNT OF FIFTY-FIVE CENTS PER TIRE. THE STATE TREASURER
14 SHALL CREDIT THE REVENUE FROM THE FEE ASSESSED IN THIS SUBSECTION
15 (1)(a)(I)(A) TO THE WASTE TIRE ADMINISTRATION, ENFORCEMENT,
16 MARKET DEVELOPMENT, AND CLEANUP FUND CREATED IN SECTION
17 30-20-1404.

18 (B) THIS SUBSECTION (1)(a)(I) IS REPEALED, EFFECTIVE JULY 1,
19 2020.

20 (II) EFFECTIVE JANUARY 1, 2020, AND CONTINUING THROUGH
21 DECEMBER 31, 2025, retailers of new motor vehicle tires and new trailer
22 tires shall collect a waste tire fee in an amount to be set by the
23 commission, by rule, not to exceed ~~one dollar and fifty cents~~ TWO
24 DOLLARS on the sale of each new tire; except that, effective on and after
25 January 1, ~~2018~~ 2024, the waste tire fee is fifty-five cents on the sale of
26 each new tire.

27 (III) EFFECTIVE JANUARY 1, 2020, THE COMMISSION MAY REVIEW

1 THE FEE ON AN ANNUAL BASIS AND, BY RULE, ADJUST THE FEE AMOUNT IN
2 A MANNER CONSISTENT WITH THE OBLIGATIONS SET FORTH IN SUBSECTION
3 (2) OF THIS SECTION. THE COMMISSION SHALL SET THE FEE IN AN AMOUNT
4 THAT IS SUFFICIENT TO:

5 (A) OFFSET THE DEPARTMENT'S DIRECT AND INDIRECT COSTS OF
6 IMPLEMENTING THIS PART 14, WHICH COSTS MUST NOT EXCEED THE
7 EQUIVALENT OF FIFTY CENTS FOR EACH NEW TIRE SOLD; AND

8 (B) COVER THE REBATE PROGRAM DESCRIBED IN SECTION
9 30-20-1405.

10 (IV) The receipt from the retailer to the customer for every new
11 tire PURCHASED must contain the following statement in the largest
12 bold-faced type capable based on point-of-sale software and on existing
13 invoice printers, not to exceed fifteen points: "Section 30-20-1403,
14 Colorado Revised Statutes, requires retailers to collect a waste tire fee set
15 by the solid and hazardous waste commission on the sale of each new
16 motor vehicle tire and each new trailer tire."

17 (2) (a) ~~Until December 31, 2017~~ FROM JANUARY 1, 2020,
18 THROUGH DECEMBER 31, 2025, the state treasurer shall distribute the
19 revenue from the fee assessed in subsection (1) of this section as follows:

20 (I) ~~Thirty percent~~ THE PORTION OF THE FEE COLLECTED TO OFFSET
21 THE COSTS DESCRIBED IN SUBSECTION (1)(a)(III)(A) OF THIS SECTION to
22 the waste tire administration, enforcement, MARKET DEVELOPMENT, and
23 cleanup fund created in section 30-20-1404; AND

24 (II) ~~Sixty-five percent~~ THE PORTION OF THE FEE COLLECTED TO
25 COVER THE COSTS DESCRIBED IN SUBSECTION (1)(a)(III)(B) OF THIS
26 SECTION to the end users fund created in section 30-20-1405. and

27 (III) ~~Five percent to the waste tire market development fund~~

1 ~~created in section 30-20-1406.~~

2 (b) ~~Effective January 1, 2018, the state treasurer shall distribute~~
3 ~~all of the revenue from the fee assessed in subsection (1) of this section~~
4 ~~to the waste tire administration, enforcement, and cleanup fund created~~
5 ~~in section 30-20-1404.~~

6 **SECTION 3.** In Colorado Revised Statutes, 30-20-1404, **amend**
7 (1), (2) introductory portion, (2)(l), and (2)(m); and add (2)(o) as follows:

8 **30-20-1404. Waste tire administration, enforcement, market**
9 **development, and cleanup fund - creation - rules.** (1) There is hereby
10 created in the state treasury the waste tire administration, enforcement,
11 MARKET DEVELOPMENT, and cleanup fund, referred to in this section as
12 the "fund", consisting of the fee revenue credited pursuant to section
13 30-20-1403 (2)(a)(I) or (2)(b) and any other ~~moneys~~ MONEY appropriated
14 to it. The general assembly shall annually appropriate the ~~moneys~~ MONEY
15 in the fund to the department for its direct and indirect administrative and
16 enforcement costs in administering and enforcing this part 14. The state
17 treasurer shall credit all interest earned on the investment of ~~moneys~~
18 MONEY in the fund to the fund. Any unexpended and unencumbered
19 ~~moneys~~ MONEY in the fund IN EXCESS OF SIXTEEN AND ONE-HALF
20 PERCENT OF THE PREVIOUS FISCAL YEAR'S EXPENDITURES at the end of any
21 fiscal year ~~remain in the fund and do not revert to the general fund or any~~
22 ~~other fund~~ SHALL BE CREDITED:

23 (a) THROUGH DECEMBER 31, 2025, TO THE END USERS FUND
24 CREATED IN SECTION 30-20-1405; AND

25 (b) ON AND AFTER JANUARY 1, 2026, TO THE GENERAL FUND.

26 (2) The department shall use the ~~moneys~~ MONEY in the fund for:

27 (l) Maintaining an online complaint form and processes for law

1 enforcement, fire departments, and citizens to report potential waste tire
2 violations; and

3 (m) In conjunction with the division of fire prevention and control
4 in the department of public safety, developing a model fire prevention,
5 training, and firefighting plan, hiring a consultant to assist in developing
6 the plan, and reimbursing the division of fire prevention AND CONTROL
7 for its time spent assisting the department in implementing this paragraph
8 (m) SUBSECTION (2)(m); AND

9 (o) ENCOURAGING WASTE TIRE MARKET DEVELOPMENT.

10 **SECTION 4.** In Colorado Revised Statutes, **recreate and**
11 **reenact, with amendments,** 30-20-1405 as follows:

12 **30-20-1405. End users fund - creation - quarterly rebates -**
13 **rules - repeal.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY
14 THE END USERS FUND, REFERRED TO IN THIS SECTION AS THE "FUND",
15 CONSISTING OF THE FEE REVENUE CREDITED PURSUANT TO SECTION
16 30-20-1403 (2)(a)(II). THE STATE TREASURER SHALL CREDIT ALL
17 INTEREST AND ANY OTHER RETURN ON THE INVESTMENT OF MONEY IN THE
18 FUND TO THE FUND. THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY
19 THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSES
20 SPECIFIED IN THIS SECTION.

21 (2) (a) THE DEPARTMENT SHALL USE THE MONEY IN THE FUND TO
22 PROVIDE QUARTERLY REBATES TO IN-STATE:

23 (I) END USERS; AND

24 (II) RETAILERS THAT SELL TIRE-DERIVED PRODUCTS.

25 (b) A WASTE TIRE HAULER OF TIRES IN A RURAL COUNTY IS ONLY
26 ELIGIBLE FOR REBATES PURSUANT TO THIS SUBSECTION (2) IF THE WASTE
27 TIRE HAULER IS ALSO AN END USER OR HAS CONTRACTED WITH AN END

1 USER THAT IS ALSO A WASTE TIRE HAULER.

2 (3) THE REBATE IS SUBJECT TO THE FOLLOWING CONDITIONS:

3 (a) THE DEPARTMENT SHALL PAY THE REBATE AMOUNT
4 QUARTERLY, ON A PER-TON BASIS; AND

5 (b) ONCE THE DEPARTMENT HAS PAID A REBATE ON A PARTICULAR
6 QUANTITY OF TIRE-DERIVED PRODUCT, EVERY PART OF THAT PARTICULAR
7 QUANTITY OF TIRE-DERIVED PRODUCT IS NO LONGER ELIGIBLE FOR
8 PAYMENT OF THE REBATE.

9 (4) (a) THE COMMISSION SHALL ANNUALLY SET THE AMOUNT OF
10 THE REBATE, BY RULE, ON A PER-TON BASIS, AND THE DEPARTMENT SHALL
11 PAY THE SET REBATE AMOUNT FOR EACH TON OF QUALIFIED TIRE-DERIVED
12 PRODUCT. THE COMMISSION SHALL CALCULATE THE REBATE TO EQUAL,
13 BUT NOT EXCEED, THE AMOUNT OF THE ANTICIPATED INCOME
14 TRANSFERRED INTO THE FUND DURING EACH SUCCEEDING TWELVE-MONTH
15 PERIOD.

16 (b) EACH YEAR, THE DEPARTMENT SHALL CONTINUE TO PROVIDE
17 THE REBATE IN ACCORDANCE WITH THE TIERED STRUCTURE SET FORTH IN
18 SUBSECTION (5)(e) OF THIS SECTION UNTIL:

19 (I) ALL QUALIFIED REBATE REQUESTS SUBMITTED IN THAT YEAR
20 ARE SATISFIED; OR

21 (II) THERE IS INSUFFICIENT MONEY IN THE FUND TO SUPPORT
22 ADDITIONAL REBATE PAYMENTS.

23 (5) THE COMMISSION SHALL PROMULGATE RULES GOVERNING
24 ADMINISTRATION OF THE REBATE, WHICH RULES MUST INCLUDE THE
25 FOLLOWING:

26 (a) A QUARTERLY REBATE SCHEDULE FOR QUALIFIED RECIPIENTS,
27 WITH THE FIRST END USER PAYOUT IN JULY 2020, TO BE ISSUED FOR END

1 USES THAT OCCUR BETWEEN APRIL 1, 2020, AND JUNE 30, 2020;

2 (b) A REQUIREMENT THAT TWENTY-FIVE PERCENT OF THE
3 EXPECTED ANNUAL REBATE AMOUNT BE HELD IN RESERVE BEFORE PAYING
4 THE FIRST QUARTERLY REBATE;

5 (c) IF THE BALANCE OF THE FUND IS ANTICIPATED TO BE
6 INSUFFICIENT TO PAY OUT ALL OF THE REBATES APPLIED FOR, A
7 REQUIREMENT THAT THE DEPARTMENT:

8 (I) GIVE NOTICE OF THE ANTICIPATED INSUFFICIENCY TO ALL END
9 USERS THAT DURING THE PRECEDING TWELVE MONTHS HAVE SUBMITTED
10 AN APPLICATION FOR A REBATE; AND

11 (II) PAY A PROPORTIONALLY REDUCED REBATE BEGINNING WITH
12 TIER 1 AND RURAL WASTE TIRE HAULER REBATE RECIPIENTS, CONTINUING
13 TO TIER 2 REBATE RECIPIENTS, AND ENDING WITH TIER 3 REBATE
14 RECIPIENTS;

15 (d) A REQUIREMENT THAT AN END USER THAT QUALIFIES FOR A
16 REBATE BY UTILIZING WASTE TIRES FOR:

17 (I) ALTERNATIVE DAILY COVER MUST VERIFY WITH THE
18 DEPARTMENT THAT THE ALTERNATIVE DAILY COVER MEETS ALL
19 SPECIFICATION STANDARDS FOR ALL TYPE-B TIRE-DERIVED AGGREGATE,
20 AS ESTABLISHED BY THE ASTM STANDARD D6270; AND

21 (II) TIRE-DERIVED AGGREGATE MUST VERIFY WITH THE
22 DEPARTMENT THAT THE TIRE-DERIVED AGGREGATE MEETS ALL
23 SPECIFICATION STANDARDS FOR ALL TYPE-A TIRE-DERIVED AGGREGATE,
24 AS ESTABLISHED BY THE ASTM STANDARD D6270; AND

25 (e) THREE TIERS OF REBATE AMOUNTS THAT THE DEPARTMENT
26 MAY PAY OUT BASED ON THE AMOUNT OF THE WASTE TIRE THAT WAS USED
27 AND DESTROYED AS FOLLOWS:

1 (I) TIER 1: FULL REBATES GOING TO CRUMBED RUBBER END USES
2 AND END USES THAT COMPLETELY DESTROY THE WASTE TIRE FOR THE
3 PURPOSE OF ENERGY RECOVERY OR OTHER CLEAN TECHNOLOGIES AS
4 DEFINED AND APPROVED BY THE COMMISSION BY RULE;

5 (II) TIER 2: FIFTY PERCENT OF THE FULL REBATE GOING TO END
6 USES SUCH AS MOLDED PRODUCTS AND RUBBER MULCH; AND

7 (III) TIER 3: TWENTY-FIVE PERCENT OF THE FULL REBATE GOING
8 TO TIRE BALE END USES AND END USES FOR ALTERNATIVE DAILY COVER
9 AND TIRE-DERIVED AGGREGATE THAT MEET THE ASTM STANDARD
10 D6270.

11 (6) THE DEPARTMENT:

12 (a) SHALL PAY:

13 (I) THE REBATE ONLY FOR WASTE TIRES THAT ARE GENERATED
14 AND PROCESSED IN COLORADO; AND

15 (II) TO AN END USER ONLY IF THE END USE INVOLVES
16 TIRE-DERIVED PRODUCTS IN COLORADO OR USE OF THE ENTIRE WASTE TIRE
17 TO GENERATE ENERGY OR FUEL IN COLORADO; AND

18 (b) MAY DENY:

19 (I) THE REBATE TO A PERSON THAT IS OUT OF COMPLIANCE WITH
20 ANY STATE OR FEDERAL ENVIRONMENTAL LAWS, RULES, OR REGULATIONS;
21 AND

22 (II) ALL FUTURE REBATES PURSUANT TO THIS SECTION AND
23 GRANTS OF MONEY FROM THE WASTE TIRE ADMINISTRATION,
24 ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND CREATED IN
25 SECTION 30-20-1404 TO AN APPLICANT THAT KNOWINGLY OR
26 INTENTIONALLY PROVIDES FALSE INFORMATION TO THE DEPARTMENT
27 WHEN APPLYING FOR A REBATE OR FOR A GRANT OF MONEY FROM THE

1 WASTE TIRE ADMINISTRATION, ENFORCEMENT, MARKET DEVELOPMENT,
2 AND CLEANUP FUND.

3 (7) WASTE TIRES OBTAINED FROM RURAL COUNTIES ARE ELIGIBLE
4 FOR AN ADDITIONAL REBATE AMOUNT OF TWENTY-FIVE DOLLARS PER TON;
5 HOWEVER, THE ADDITIONAL REBATE AMOUNT MUST NOT EXCEED THE
6 REBATE AMOUNT FOR TIER 3 REBATES AS DETERMINED BY THE
7 COMMISSION BY RULE PURSUANT TO SUBSECTION (5)(e)(III) OF THIS
8 SECTION. TO QUALIFY FOR THE ADDITIONAL REBATE AMOUNT SET FORTH
9 IN THIS SUBSECTION (7), AN END USER MUST PROVIDE EVIDENCE TO THE
10 DEPARTMENT DOCUMENTING THE COUNTY OF ORIGIN FOR EACH WASTE
11 TIRE.

12 (8) THE DEPARTMENT SHALL REQUIRE THAT AN END USER SUBMIT
13 AN APPLICATION FOR A REBATE THAT CONTAINS SELF-CERTIFICATIONS
14 PROVIDED BY THE END USER REGARDING:

15 (a) THE TOTAL TONNAGE OF TIRES PROCESSED; AND

16 (b) THE TOTAL TONNAGE OF TIRES COLLECTED IN RURAL
17 COUNTIES.

18 (9) (a) THE DEPARTMENT MAY ISSUE REBATES AFTER JANUARY 1,
19 2026, ONLY FOR END USES OCCURRING AND REBATES APPLIED FOR ON OR
20 BEFORE DECEMBER 31, 2025.

21 (b) THE COMMISSION SHALL REPEAL ANY RULES CONCERNING THE
22 FUND AND IMPLEMENTATION OF THIS SECTION ONCE THE DEPARTMENT HAS
23 ISSUED THE FINAL REBATES PURSUANT TO SUBSECTION (9)(a) OF THIS
24 SECTION.

25 (c) ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER ANY
26 MONEY LEFT IN THE FUND TO THE GENERAL FUND.

27 (10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

1 **SECTION 5.** In Colorado Revised Statutes, 30-20-1415, **amend**
2 (3) as follows:

3 **30-20-1415. Waste tire monofills - requirements. (3) AFTER**
4 SOLICITING PUBLIC COMMENT, the department may issue a waiver relating
5 to any requirement of this section; EXCEPT THAT THE DEPARTMENT SHALL
6 NOT ISSUE A WAIVER OF SUBSECTION (1)(j) OR (1)(k) OF THIS SECTION TO
7 A WASTE TIRE MONOFILL OWNER OR OPERATOR UNLESS THE OWNER OR
8 OPERATOR HAS DEMONSTRATED THAT IT HAS ACHIEVED A NET REDUCTION
9 ON AN ANNUAL BASIS IN THE NUMBER OF WASTE TIRES IN THE MONOFILL
10 OR UNLESS AN EMERGENCY EVENT OF LIMITED DURATION SUCH AS A FIRE
11 OR FLOOD, AS DEFINED BY THE COMMISSION, HAS OCCURRED.

12 **SECTION 6. Appropriation.** For the 2019-20 state fiscal year,
13 \$3,262,500 is appropriated to the department of public health and
14 environment for use by the hazardous materials and waste management
15 division. This appropriation consists of \$3,375,000 from the end users
16 fund created in section 30-20-1405 (1), C.R.S., and a reduction of
17 \$112,500 from the waste tire administration, enforcement, market
18 development, and cleanup fund created in section 30-20-1404 (1), C.R.S.
19 To implement this act, the division may use this appropriation for waste
20 tire program administration.

21 **SECTION 7. Act subject to petition - effective date -**
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
23 the expiration of the ninety-day period after final adjournment of the
24 general assembly (August 2, 2019, if adjournment sine die is on May 3,
25 2019); except that, if a referendum petition is filed pursuant to section 1
26 (3) of article V of the state constitution against this act or an item, section,
27 or part of this act within such period, then the act, item, section, or part

1 will not take effect unless approved by the people at the general election
2 to be held in November 2020 and, in such case, will take effect on the
3 date of the official declaration of the vote thereon by the governor.

4 (2) This act applies to conduct occurring on or after the applicable
5 effective date of this act.