A BILL FOR AN ACT

CONCERNING THE CONTINUED MANAGEMENT OF WASTE TIRES, AND, IN
CONNECTION THEREWITH, MAKING AND REDUCING AN
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.
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 The end users fund and the rebate program are repealed on July 1, 2025.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.

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

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

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

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

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

(1.5) "BENEFICIAL USER" MEANS A PERSON WHO USES SOLID WASTE FOR ENERGY RECOVERY IN A MANUFACTURING PROCESS OR AS AN EFFECTIVE SUBSTITUTE FOR NATURAL OR COMMERCIAL PRODUCTS, IN A
MANNER THAT DOES NOT POSE A THREAT TO HUMAN HEALTH OR THE
ENVIRONMENT. AVOIDANCE OF PROCESSING OR DISPOSAL COST ALONE
DOES NOT CONSTITUTE BENEFICIAL USE.

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

(9.5) "Ton" MEANS A UNIT OF WEIGHT EQUAL TO TWO THOUSAND
POUNDS.

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

(1) (a) (I) (A) UNTIL DECEMBER 31, 2019, RETAILERS OF NEW MOTOR
VEHICLE TIRES AND NEW TRAILER TIRES SHALL COLLECT A WASTE TIRE FEE
IN AN AMOUNT TO BE SET BY THE COMMISSION, BY RULE, NOT TO EXCEED
ONE DOLLAR AND FIFTY CENTS ON THE SALE OF EACH NEW TIRE. THE
STATE TREASURER SHALL CREDIT THE REVENUE FROM THE FEE ASSESSED
IN THIS SUBSECTION (1)(a)(I)(A) TO THE WASTE TIRE ADMINISTRATION,
ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND CREATED IN
SECTION 30-20-1404.
(B) THIS SUBSECTION (1)(a)(I) IS REPEALED, EFFECTIVE JULY 1,
2020.
(II) EFFECTIVE JANUARY 1, 2020, AND CONTINUING THROUGH
DECEMBER 31, 2025, retailers of new motor vehicle tires and new trailer
tires shall collect a waste tire fee in an amount to be set by the
commission, by rule, not to exceed one dollar and fifty cents two
dollars on the sale of each new tire; except that, effective on and after
January 1, 2018, the waste tire fee is fifty-five cents on the sale of
each new tire.
Effective January 1, 2020, the commission may review the fee on an annual basis and, by rule, adjust the fee amount in a manner consistent with the obligations set forth in subsection (2) of this section. The commission shall set the fee in an amount that is sufficient to:

(A) Offset the department’s direct and indirect costs of implementing this Part 14, which costs must not exceed the equivalent of fifty-five cents for each new tire sold; and

(B) Cover the rebate program described in section 30-20-1405.

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

(2) (a) Until December 31, 2017 from January 1, 2020, through December 31, 2025, the state treasurer shall distribute the revenue from the fee assessed in subsection (1) of this section as follows:

(I) Thirty percent the portion of the fee collected to offset the costs described in subsection (1)(a)(III)(A) of this section to the waste tire administration, enforcement, market development, and cleanup fund created in section 30-20-1404; and

(II) Sixty-five percent the portion of the fee collected to cover the costs described in subsection (1)(a)(III)(B) of this section to the end users fund created in section 30-20-1405. and
(III) Five percent to the waste tire market development fund created in section 30-20-1406:

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

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

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

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

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

(2) The department shall use the moneys in the fund for:
(l) Maintaining an online complaint form and processes for law enforcement, fire departments, and citizens to report potential waste tire violations; and

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

(m) SUBSECTION (2)(m); AND

(o) ENCOURAGING WASTE TIRE MARKET DEVELOPMENT.

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

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

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

(I) END USERS; AND

(II) RETAILERS THAT SELL TIRE-DERIVED PRODUCTS.

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

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

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

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

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

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

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

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

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

(a) A QUARTERLY REBATE SCHEDULE FOR QUALIFIED RECIPIENTS,
WITH THE FIRST END USER PAYOUT IN JULY 2020, TO BE ISSUED FOR ENDS
USES THAT OCCUR BETWEEN APRIL 1, 2020, AND JUNE 30, 2020;

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

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

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

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

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

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

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

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

(I) Tier 1: Full rebates going to end uses that completely
destroy the waste tire for the purpose of energy recovery or
other clean technologies as defined and approved by the
commission by rule;

(II) Tier 2: Fifty percent of the full rebate going to end
uses such as molded products, crumbed rubber, and rubber
mulch; and

(III) Tier 3: Twenty-five percent of the full rebate going
to end uses for alternative daily cover and tire-derived
aggregate that meet the ASTM standard D6270.

(6) The department:

(a) Shall pay:

(I) the rebate only for waste tires that are generated
and processed in Colorado; and

(II) to an end user only if the end use involves
tire-derived products in Colorado or use of the entire waste tire
to generate energy or fuel in Colorado; and

(b) may deny:

(I) the rebate to a person that is out of compliance with
any state or federal environmental laws, rules, or regulations;

and

(II) all future rebates pursuant to this section and
grants of money from the waste tire administration,
enforcement, market development, and cleanup fund created in
section 30-20-1404 to an applicant that knowingly or
intentionally provides false information to the department
WHEN APPLYING FOR A REBATE OR FOR A GRANT OF MONEY FROM THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND.

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

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

(a) THE TOTAL TONNAGE OF TIRES PROCESSED; AND

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

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

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

(c) ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER ANY MONEY LEFT IN THE FUND TO THE GENERAL FUND.
(10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 5. In Colorado Revised Statutes, 30-20-1415, amend

(1)(j) and (3) as follows:

30-20-1415. Waste tire monofills - requirements. (1) An owner
or operator of a waste tire monofill shall, as specified by the commission
by rule:

(j) On an annual basis, for every one waste tire received, end use
at least two FIVE waste tires, or process at least two FIVE waste tires into
tire-derived product; and

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

SECTION 6. Appropriation. For the 2019-20 state fiscal year,

$3,262,500 is appropriated to the department of public health and
environment for use by the hazardous materials and waste management
division. This appropriation consists of $3,375,000 from the end users
fund created in section 30-20-1405 (1), C.R.S., and a reduction of
$112,500 from the waste tire administration, enforcement, market
development, and cleanup fund created in section 30-20-1404 (1), C.R.S.
To implement this act, the division may use this appropriation for waste
tire program administration.
SECTION 7. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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