

CHAPTER 221

HEALTH AND ENVIRONMENT

HOUSE BILL 95-1238

BY REPRESENTATIVES Epps, Dean, Martin, Morrison, and Schwarz;
also SENATORS R. Powers, Bishop, Feeley, and Tebedo.

AN ACT**CONCERNING THE CLEANUP OF WASTE TIRES.**

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

SECTION 1. 25-17-201, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-17-201. Legislative declaration. The general assembly hereby finds and declares that there is a special need to address problems created by the disposal of waste tires in order to protect the environment and the public health. To that end, it is the intent of the general assembly in adopting this part 2 to encourage the development of techniques for resource recovery, recycling, and reuse of waste tires, TO PROVIDE FOR THE CLEANUP OF WASTE TIRES THAT HAVE BEEN DISPOSED OF ILLEGALLY, and to study the feasibility and cost-efficiency of creating transportation grants for the purpose of transporting waste tires to other end users.

SECTION 2. 25-17-202 (3), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended, and the said 25-17-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-17-202. Waste tire recycling development fee - cash fund created - repeal.
(3) The department of revenue shall transmit the fee with a report of its direct and indirect administrative costs in complying with this section to the state treasurer, who shall credit the same to the waste tire recycling development cash fund, which fund is hereby created. The general assembly shall make annual appropriations out of the fund to the department of revenue in an amount equal to the department of revenue's direct and indirect administrative costs, but which amount shall not exceed five percent of the total amount of fees transmitted to the treasurer. The remaining

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

moneys in the fund shall be subject to annual appropriation by the general assembly to the department of local affairs for allocation to the Colorado housing and finance authority for the purposes described in section 29-4-719.1 (2) (f), C.R.S., AND TO THE DIVISION OF LOCAL GOVERNMENT FOR THE PURPOSES DESCRIBED IN SECTION 24-32-114, C.R.S. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(3.5) (a) FOR THE FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 1996, MONEYS ALLOCATED TO THE DIVISION OF LOCAL GOVERNMENT PURSUANT TO SUBSECTION (3) OF THIS SECTION, LESS A PROPORTIONATE SHARE OF THE ADMINISTRATIVE COSTS OF THE DEPARTMENT OF LOCAL AFFAIRS IN ADMINISTERING THE FUNDS, SHALL CONSTITUTE NOT MORE THAN THIRTY PERCENT OF THE MONEYS APPROPRIATED TO THE DEPARTMENT OF LOCAL AFFAIRS FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND.

(b) THIS SUBSECTION (3.5) IS REPEALED, EFFECTIVE UPON RECEIPT BY THE GENERAL ASSEMBLY OF A CERTIFICATION BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS TO THE GENERAL ASSEMBLY AND THE COLORADO HOUSING AND FINANCE AUTHORITY THAT ALL ILLEGAL WASTE TIRE DUMPS OR STORAGE FACILITIES IN THE STATE HAVE BEEN CLOSED AND THE TIRES HELD BY SUCH FACILITIES HAVE BEEN DISPOSED OF OR RECYCLED AT A STATE OR COUNTY APPROVED STORAGE, DISPOSAL, OR RECYCLING FACILITY. SUCH CERTIFICATION SHALL BE FILED WITH THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ON BEHALF OF THE GENERAL ASSEMBLY AND WITH THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES. ANY FUNDS REMAINING IN THE WASTE TIRE CLEANUP FUND CREATED PURSUANT TO SECTION 24-32-114, C.R.S., UPON THE REPEAL OF THIS SUBSECTION (3.5) SHALL REVERT TO THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

SECTION 3. 25-17-203, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-17-203. Repeal of part. This part 2 is repealed, effective July 1, 1998 2000.

SECTION 4. Part 1 of article 32 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-114. Cleanup of illegally disposed of waste tires - waste tire cleanup fund - assistance to counties - legislative declaration - repeal. (1) (a) THE DIRECTOR, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, SHALL EXPEND MONEYS ALLOCATED TO THE DIVISION PURSUANT TO SECTION 25-17-202 (3), C.R.S., IN THE MANNER SET FORTH IN THIS SECTION TO PROVIDE FOR THE DISPOSAL OR RECYCLING OF ILLEGALLY DUMPED OR STORED WASTE TIRES AT A STATE OR COUNTY APPROVED STORAGE OR DISPOSAL FACILITY OR AT A RECYCLING FACILITY OPERATED PURSUANT TO REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CONCERNING RECYCLING.

(b) EXPENDITURES AUTHORIZED BY THIS SECTION MAY BE MADE IN THE FORM OF GRANTS TO COUNTIES.

(c) MONEYS APPROPRIATED FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND TO THE DIVISION OF LOCAL GOVERNMENT IN ACCORDANCE WITH SECTION 25-17-202 (3), C.R.S., SHALL BE DEPOSITED IN THE WASTE TIRE CLEANUP FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY, FOR USE IN ACCORDANCE WITH THIS SECTION.

(d) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE WASTE TIRE CLEANUP PROGRAM IS A NEW STATE PROGRAM AND THAT ADMINISTRATION OF THE PROGRAM REQUIRES SERVICES OF A SPECIALIZED, TECHNICAL NATURE THAT ARE NOT AVAILABLE WITHIN THE STATE PERSONNEL SYSTEM. THE DIRECTOR IS THEREFORE AUTHORIZED TO CONTRACT WITH A PRIVATE PERSON, CORPORATION, OR ENTITY FOR THE ADMINISTRATION OF THE WASTE TIRE CLEANUP PROGRAM DESCRIBED IN THIS SECTION IF THE CONTRACT OTHERWISE COMPLIES WITH PART 5 OF ARTICLE 50 OF THIS TITLE CONCERNING CONTRACTS FOR PERSONAL SERVICES.

(2) IN PROVIDING ASSISTANCE TO COUNTIES PURSUANT TO THIS SECTION, THE DIRECTOR SHALL GIVE PRIMARY CONSIDERATION TO THE NUMBER OF ILLEGAL WASTE TIRE DUMPS OR STORAGE FACILITIES IN EACH COUNTY AND WHETHER FACILITIES ARE AVAILABLE TO RECYCLE SUCH WASTE TIRES.

(3) (a) GRANTS MADE TO COUNTIES PURSUANT TO THIS SECTION SHALL BE USED SOLELY FOR THE REMOVAL OF WASTE TIRES FROM ILLEGAL DUMPS AND STORAGE FACILITIES WITHIN THE COUNTIES AND FOR DISPOSAL OR RECYCLING OF THE REMOVED TIRES AT A STATE OR COUNTY APPROVED STORAGE, DISPOSAL, OR RECYCLING FACILITY.

(b) COUNTIES RECEIVING GRANTS PURSUANT TO THIS SECTION MAY USE SUCH GRANTS TO FUND THE REMOVAL AND DISPOSAL OR RECYCLING OF WASTE TIRES WITH COUNTY PERSONNEL OR MAY CONTRACT WITH PRIVATE ENTITIES OR OTHER LOCAL GOVERNMENTS FOR SUCH ACTIVITIES, IF SUCH CONTRACTS ARE OTHERWISE IN ACCORDANCE WITH LAW.

(c) IN AWARDING CONTRACTS FOR SERVICES PURSUANT TO THIS SECTION, A COUNTY MAY GIVE PREFERENTIAL BIDDING TREATMENT TO INDIVIDUALS OR ENTITIES THAT WILL RECYCLE, PURSUANT TO REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CONCERNING RECYCLING, AND REUSE, RATHER THAN DISPOSE OF, THE WASTE TIRES.

(d) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE TO PURSUE PROPOSALS FOR RECYCLING WASTE TIRES, IN LIEU OF STORAGE OR LANDFILL DISPOSAL, WHENEVER FEASIBLE.

(4) NO LATER THAN JANUARY 1, 1997, AND BIENNIALY THEREAFTER, EACH COUNTY IN THE STATE THAT HAS RECEIVED FUNDS PURSUANT TO THIS SECTION SHALL SUBMIT A REPORT TO THE DIRECTOR AND TO THE GENERAL ASSEMBLY CONCERNING THE QUANTITY, EXPRESSED IN WEIGHT OR AS A NUMBER, OF TIRES REMOVED FROM ILLEGAL DUMPS OR STORAGE FACILITIES IN THE COUNTY AND DISPOSED OF AT APPROVED FACILITIES; THE METHOD IN WHICH SUCH DISPOSAL WAS ACCOMPLISHED

AND THE METHOD OF RECYCLING, IF ANY; AND, THE QUANTITY OF TIRES IN THE COUNTY REMAINING TO BE DISPOSED OF OR RECYCLED IN FUTURE YEARS.

(5) NO LATER THAN JANUARY 1, 1999, THE DIRECTOR SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY CONCERNING THE FOLLOWING:

(a) EXPENDITURES MADE PURSUANT TO THIS SECTION;

(b) THE STATUS OF WASTE TIRE DISPOSAL AND RECYCLING ACTIVITIES PURSUANT TO THIS SECTION;

(c) THE STATUS OF ILLEGAL WASTE TIRE DUMPING OR STORAGE FACILITIES BY COUNTY;

(d) THE AMOUNT OF TIRES RECYCLED, EXPRESSED IN WEIGHT OR AS A NUMBER OF TIRES; AND

(e) THE COST-EFFECTIVENESS OF MAKING GRANTS PURSUANT TO THIS SECTION FOR THE PROPER DISPOSAL OF WASTE TIRES.

(6) WHEN THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS DETERMINES THAT ALL ILLEGAL WASTE TIRE DUMPS AND STORAGE FACILITIES IN THE STATE HAVE BEEN CLOSED AND THE TIRES HELD BY SUCH FACILITIES HAVE BEEN DISPOSED OF OR RECYCLED AT A STATE OR COUNTY APPROVED STORAGE, DISPOSAL, OR RECYCLING FACILITY, THE DIRECTOR SHALL CERTIFY THAT FACT TO THE GENERAL ASSEMBLY AND THE COLORADO HOUSING AND FINANCE AUTHORITY. CERTIFICATION SHALL BE AS PRESCRIBED IN SECTION 25-17-202 (3.5) (b), C.R.S.

(7) THIS SECTION IS REPEALED, EFFECTIVE UPON RECEIPT BY THE GENERAL ASSEMBLY OF THE CERTIFICATION DESCRIBED IN SUBSECTION (6) OF THIS SECTION.

SECTION 5. 29-4-719.1 (2) (f) (I) (E), (2) (f) (II), (2) (f) (III), (2) (f) (IV), and (2) (f) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

29-4-719.1. Economic development fund - repeal. (2) Moneys held in the economic development fund shall be expended by the authority for the following purposes:

(f) (I) (E) ~~Of the moneys made available pursuant to this paragraph (f), at least fifteen percent shall be made available to individuals or entities engaged in waste diversion or recycling programs in rural areas of the state, no less than thirty percent shall be made available for new businesses to be used for start up costs, and no more than thirty four percent may be awarded to a single individual or entity.~~

(II) No later than January 1, 1995, and thereafter, ~~biannually~~ BIENNIALY but no later than January 1 of such year, the authority shall submit a report to the general assembly concerning the ~~following~~: EXPENDITURES MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (f).

~~(A) Expenditures made under subparagraph (I) of this paragraph (f);~~

~~(B) The status of state, local, and private waste diversion and recycling activities in the state, specifically addressing the following: A description of waste diversion activities and alternatives in place, including a description of the types of materials and products diverted and how such materials and products have been or are being reused, recycled, and composted; an assessment of the market for recycled, source-reduced, and composted products and materials and the need for the continuation of the procurement program for such products; and, in cooperation with the department of revenue, an assessment of the use by individual and corporate tax payers of the tax credits pursuant to sections 39-22-114.5, 39-22-309, and 39-22-515, C.R.S.; and~~

~~(C) The feasibility and cost-effectiveness of adopting transportation grants for the purpose of transporting waste tires to other end users, including, but not limited to, individuals or entities that engage in resource recovery, recycling, and reuse of waste materials.~~

~~(III) Moneys in the economic development fund may be used for costs associated with subparagraph (H) of this paragraph (f). However, no more than five percent of the moneys in the economic development fund appropriated from the waste tire recycling development cash fund or two hundred fifty thousand dollars, whichever is greater, shall be used for such purposes.~~

~~(f) (IV) Any moneys deposited in the economic development fund which THAT have been appropriated from the waste tire recycling development cash fund and which THAT are not used for the purposes described in subparagraph (I) of this paragraph (f) shall remain in the economic development fund and shall not be transferred to the general fund of the state at the end of any fiscal year until July 1, 1998 2005, at which time this subparagraph (IV) shall be repealed, and any moneys remaining in the fund shall be subject to appropriation by the general assembly for purposes that are consistent with subparagraph (I) of this paragraph (f) and section 25-17-101, C.R.S.~~

~~(V) This subparagraph (V) and subparagraphs (II) ~~(HH)~~; and (IV) of this paragraph (f) are repealed, effective July 1, 1998 2005.~~

SECTION 6. Future appropriations. Although no appropriation is included in this act for the fiscal year beginning July 1, 1995, it appears that this act will require appropriations from the waste tire recycling development cash fund in the department of local affairs for subsequent fiscal years, and the amount required to be appropriated for the fiscal year beginning July 1, 1996, is estimated to be one million two hundred forty-three thousand two hundred dollars (\$1,243,200).

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1995