

CHAPTER 192

HEALTH AND ENVIRONMENT

HOUSE BILL 00-1167

BY REPRESENTATIVES Swenson, Coleman, Gotlieb, Mace, Morrison, Plant, Tapia, and S. Williams;
also SENATOR Musgrave.

AN ACT

CONCERNING MAXIMIZATION OF THE USE OF THE WASTE TIRE CLEANUP FUND.

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

SECTION 1. 25-17-202 (1) (b), (3), and (3.2), Colorado Revised Statutes, are amended to read:

25-17-202. Waste tire recycling development fee - cash fund created - repeal.

(1) (b) For the purposes of this part 2:

(I) ~~"End user" means a person who uses processed waste tires for a commercial or industrial purpose.~~

(II) "Motor vehicle tire" means any tire used for a motor vehicle, as such term is defined in section 42-1-102 (58), C.R.S.; except that motor vehicle shall not include motorcycles.

(III) ~~"Processed waste tires" means waste tires that have been processed for recycling in Colorado.~~

(IV) ~~"Processor" means a person who processes waste tires for recycling in Colorado.~~

(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 three and

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

one-third percent of the total amount of fees transmitted to the treasurer. The remaining 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. and in subsection (3.2) of this section. ~~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.~~ THE STATE TREASURER SHALL INVEST THE MONEYS IN THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND SO LONG AS SAID MONEYS ARE TIMELY AVAILABLE TO FUND THE ANNUAL APPROPRIATIONS AUTHORIZED BY THIS SUBSECTION (3). INVESTMENTS SHALL BE THOSE OTHERWISE PERMITTED BY STATE LAW, AND INTEREST OR ANY OTHER RETURN ON THE INVESTMENTS SHALL BE PAID INTO THE WASTE TIRE RECYCLING DEVELOPMENT CASH 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.

~~(3.2) (a) The division of local government in the department of local affairs shall provide partial reimbursement to persons for waste tire processing and usage. The purpose of such partial reimbursements shall be to assist new waste tire recycling technologies to become economically feasible and to thereby encourage the use of waste tires and reduce the storage of such tires in Colorado. An amount of up to five percent of the moneys appropriated to the department of local affairs from the waste tire recycling development cash fund shall be used for such partial reimbursements.~~

~~(b) A partial reimbursement to a processor or to an end user under this subsection (3.2) shall be in an amount of up to twenty dollars for each ton of raw waste tires that are processed or used.~~

~~(c) The division of local government shall promulgate rules to establish application procedures and eligibility criteria for partial reimbursements to processors and end users under this subsection (3.2).~~

~~(d) This subsection (3.2) is repealed, effective July 1, 2003.~~

SECTION 2. 24-32-114 (1), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-32-114. Cleanup of illegally disposed of waste tires - waste tire cleanup fund - assistance to counties - legislative declaration - repeal. (1) MONEYS APPROPRIATED FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND, CREATED IN SECTION 25-17-202 (3), C.R.S., TO THE DIVISION OF LOCAL GOVERNMENT IN ACCORDANCE WITH SAID SECTION, 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. IN ADDITION TO MONEYS OTHERWISE PROVIDED AS FUNDS ARE AVAILABLE AND WITHIN APPROPRIATED AMOUNTS, MONEYS IN THE WASTE TIRE CLEANUP FUND SHALL BE EXPENDED FOR THE FOLLOWING PURPOSES:

(a) UP TO THIRTY PERCENT OF THE MONEYS APPROPRIATED TO THE DEPARTMENT OF LOCAL AFFAIRS FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND MAY BE EXPENDED TO PROVIDE GRANTS TO COUNTIES AND MUNICIPALITIES FOR THE DISPOSAL, RECYCLING, OR REUSE 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 RULES OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CONCERNING RECYCLING, OR, AS AN ALTERNATIVE TO DISPOSAL, TO ENCOURAGE THE RECYCLING OF SUCH WASTE TIRES BY CONTRACT WITH PRIVATE ENTERPRISES;

(b) (I) UP TO TEN PERCENT OF THE MONEYS APPROPRIATED TO THE DEPARTMENT OF LOCAL AFFAIRS FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND MAY BE EXPENDED TO PROVIDE FOR TIRE REUSE OR RECYCLING INCENTIVES IN PUBLIC PROJECTS FOR PRODUCTS THAT CONTAIN OR MAKE USE OF RECYCLED WASTE TIRES. THE DIRECTOR SHALL DETERMINE HOW MONEYS FOR SUCH INCENTIVES SHALL BE DISTRIBUTED AMONG PROJECTS. ANY STATE AGENCY IS AUTHORIZED TO EXPEND TIRE REUSE OR RECYCLING INCENTIVE MONEYS DISTRIBUTED PURSUANT TO THIS SECTION.

(II) THE GENERAL ASSEMBLY HEREBY FINDS THAT THE PURPOSE OF THE TIRE REUSE OR RECYCLING INCENTIVES UNDER THE PROVISIONS OF THIS PARAGRAPH (b) IS TO ENCOURAGE THE BENEFICIAL REUSE AND RECYCLING OF COLORADO WASTE TIRES AND IS NOT INTENDED TO USURP FUNCTIONS PROPERLY PERFORMED BY THE PRIVATE SECTOR OR TO COMPETE UNFAIRLY WITH PRIVATE BUSINESSES.

(III) FOR THE PURPOSE OF EXPENDING TIRE REUSE OR RECYCLING INCENTIVES UNDER THE PROVISIONS OF THIS PARAGRAPH (b), THE STATE PURCHASING DIRECTOR AND ANY PURCHASING AGENT HAVE THE AUTHORITY TO PURCHASE PRODUCTS WITH RECYCLED WASTE TIRE CONTENT UNLESS ANY OF THE FOLLOWING CONDITIONS EXIST:

(A) THE PRODUCT IS NOT AVAILABLE WITHIN A REASONABLE PERIOD OF TIME;

(B) THE PRODUCT FAILS TO MEET EXISTING PURCHASING RULES, INCLUDING ANY APPLICABLE SPECIFICATIONS; OR

(C) THE PRODUCT FAILS TO MEET FEDERAL OR STATE HEALTH OR SAFETY STANDARDS AS SET FORTH IN THE CODE OF FEDERAL REGULATIONS OR THE COLORADO CODE OF REGULATIONS.

(c) UP TO FIVE PERCENT OF THE MONEYS APPROPRIATED TO THE DEPARTMENT OF LOCAL AFFAIRS FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND MAY BE EXPENDED TO PROVIDE FOR PARTIAL REIMBURSEMENT TO PROCESSORS AND END USERS, UP TO A MAXIMUM OF TWENTY DOLLARS FOR EACH TON OF RAW COLORADO WASTE TIRES THAT ARE PROCESSED OR USED. THE PURPOSE OF SUCH PARTIAL REIMBURSEMENTS SHALL BE TO ASSIST NEW WASTE TIRE RECYCLING TECHNOLOGIES TO BECOME ECONOMICALLY FEASIBLE AND TO THEREBY ENCOURAGE THE USE OF WASTE TIRES AND REDUCE THE STORAGE OF WASTE TIRES IN COLORADO.

(d) UP TO FIVE PERCENT OF THE MONEYS APPROPRIATED TO THE DEPARTMENT OF LOCAL AFFAIRS FROM THE WASTE TIRE RECYCLING DEVELOPMENT CASH FUND MAY BE ALLOCATED TO THE COLORADO COMMISSION ON HIGHER EDUCATION CREATED IN SECTION 23-1-102, C.R.S., FOR THE PURPOSE OF EVALUATING POTENTIAL USES FOR RECYCLED MATERIAL MADE FROM WASTE TIRES. THE COMMISSION SHALL, IF POSSIBLE, UTILIZE SUCH MONEYS TO OBTAIN MATCHING FUNDS FROM FEDERAL OR PRIVATE SOURCES. THE COMMISSION SHALL ANNUALLY INFORM THE DIVISION REGARDING THE PROGRESS THAT THE COMMISSION HAS MADE IN SUCH EVALUATIONS.

MONEYS ALLOCATED PURSUANT TO THIS PARAGRAPH (d), IF UNEXPENDED IN THE YEAR IN WHICH ALLOCATED, SHALL ROLL FORWARD INTO THE FOLLOWING FISCAL YEAR AND SHALL BE AVAILABLE TO THE COMMISSION FOR THE USES SPECIFIED BY THIS PARAGRAPH (d) IN SUCH FOLLOWING FISCAL YEAR.

(e) THE DIVISION MAY REALLOCATE UNCOMMITTED MONEYS BETWEEN ANY FUNDING CATEGORY DESCRIBED IN THIS SUBSECTION (1) AT THE END OF EACH FISCAL QUARTER.

SECTION 3. 24-32-114 (3) (b), (3) (c), and (4), Colorado Revised Statutes, are amended, and the said 24-32-114 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-32-114. Cleanup of illegally disposed of waste tires - waste tire cleanup fund - assistance to counties - legislative declaration - repeal. (1.5) 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.

(3) (b) Counties AND MUNICIPALITIES receiving grants pursuant to this section may use such grants to fund the removal and disposal or recycling of waste tires with county OR MUNICIPAL personnel or may contract with private entities, other local governments, or other governmental agencies for such activities, if such contracts are otherwise in accordance with law. The use of inmate labor shall be pursued whenever feasible, at the sole discretion of the board of county commissioners OR THE GOVERNING BODY OF THE MUNICIPALITY.

(c) In awarding contracts for services pursuant to this section, a county OR MUNICIPALITY 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.

(4) No later than January 1, 1997, and biennially thereafter, each county AND MUNICIPALITY 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 OR MUNICIPALITY and disposed of at approved facilities or in recycling or reuse projects; the method in which such disposal was accomplished and the method of recycling or reuse, if any; and the quantity of tires in the county OR MUNICIPALITY remaining to be disposed of or recycled in future years.

(8) FOR PURPOSES OF THIS SECTION:

(a) "END USER" MEANS A PERSON WHO USES PROCESSED WASTE TIRES FOR A COMMERCIAL OR INDUSTRIAL PURPOSE.

(b) "PROCESSOR" MEANS A PERSON WHO PROCESSES WASTE TIRES FOR RECYCLING IN COLORADO.

(c) "PUBLIC PROJECT" MEANS:

(I) ANY PUBLICLY FUNDED CONTRACT ENTERED INTO BY A GOVERNMENTAL BODY OF THE EXECUTIVE BRANCH OF THIS STATE THAT IS SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE; AND

(II) ANY PUBLICLY FUNDED CONTRACT ENTERED INTO BY ANY POLITICAL SUBDIVISION OF THE STATE.

(d) "TIRE" OR "MOTOR VEHICLE TIRE" MEANS ANY TIRE USED FOR A MOTOR VEHICLE, AS SUCH TERM IS DEFINED IN SECTION 42-1-102 (58), C.R.S.; EXCEPT THAT MOTOR VEHICLE SHALL NOT INCLUDE MOTORCYCLES.

SECTION 4. 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 24, 2000