

CHAPTER 34

(HB 433)

AN ACT relating to waste tires.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *The Waste Tire Working Group is hereby established and shall be attached to the cabinet for administrative purposes and staff support.*
- (2) *The Waste Tire Working Group shall have the following five (5) members:*
 - (a) *The director of the Division of Waste Management or his or her designee who shall be an ex officio member and also serve as chair;*
 - (b) *The manager of the Recycling and Local Assistance Branch within the Division of Waste Management or his or her designee who shall be an ex officio member;*
 - (c) *One (1) representative of the Kentucky Department of Agriculture, to be selected by the Commissioner of Agriculture and appointed by the Governor for an initial term of two (2) years and who may be reappointed; and*
 - (d) *Two (2) representatives of the Solid Waste Coordinators of Kentucky selected by the Solid Waste Coordinators of Kentucky and appointed by the Governor for an initial term of three (3) years and who may be reappointed.*
- (3) *The members of the Waste Tire Working Group identified in paragraphs (c) and (d) of subsection (2) of this section shall receive travel-related expenses but no salary as compensation.*
- (4) *The first meeting of the Waste Tire Working Group shall be no later than August 15, 2011. The working group shall meet at least twice a year or more frequently at the call of the chair.*
- (5) *The Waste Tire Working Group shall:*
 - (a) *Provide advice and input to the cabinet regarding:*
 1. *The administration and implementation of alternative methods for controlling the local accumulation of waste tires;*
 2. *Developing the concept of a core fee for waste tires;*
 3. *Improving the manifest system that tracks tires from point of sale to point of disposal;*
 4. *Developing ways to assist local governments with direct grants for waste tire disposal; and*
 5. *Developing an informational fact sheet on proper waste tire disposal pursuant to subsections (2) and (7) of Section 2 of this Act to be made available on the cabinet's Web site and available in print upon request;*
 - (b) *Serve as an advisory body to the cabinet in the development of a formula that the cabinet will use to apportion the money in the waste tire trust fund established by KRS 224.50-880 for crumb rubber grants, tire amnesties, and tire-derived fuel, and to return a portion of the waste tire funds to local governments during Commonwealth Cleanup Week for waste tire disposal; and*
 - (c) *Provide advice and input to the cabinet on the data development and preparation of the waste tire report mandated under KRS 224.50-872.*

➔Section 2. KRS 224.50-868 is amended to read as follows:

- (1) Until July 31, 2010, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.

- (2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall ***be encouraged by the retailer to leave the waste tire with the retailer*** ~~either offer the retailer that waste tire~~ or meet the following requirements:
- (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
 - (b) Deliver the waste tire to a person registered in accordance with the waste tire program; or
 - (c) Reuse the waste tire for its original intended purpose or an agricultural purpose.
- (3) A retailer shall report to the Department of Revenue on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the Department of Revenue may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.
- (4) A retailer shall:
- (a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and
 - (b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar (\$1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."
- (5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.
- (6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.
- (7) ***The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.***

➔Section 3. KRS 224.50-872 is amended to read as follows:

The cabinet shall report to the General Assembly no later than January 15 ~~each year~~, ~~2010,~~ on the effectiveness of the waste tire program in developing markets for waste tires, the ***amount of revenue generated and the*** effectiveness of the fee established in KRS 224.50-868 in funding the cabinet's implementation of the waste tire program, to include any waste tire amnesty program established by the cabinet as provided for in KRS 224.50-880(1)(b), ~~and~~ whether the fee should be extended, ***comparative data on the number of waste tires generated each year, the number disposed of, the number of orphan tire piles, and the cost of tire disposal by counties in the Commonwealth*** ~~beyond July 31, 2010~~.

➔Section 4. KRS 224.50-874 is amended to read as follows:

- (1) A recordkeeping system shall be implemented for a waste tire from the time it becomes a waste tire to the time it is disposed, recycled, or used as tire-derived fuel.
- (2) A retailer, an automotive recycling dealer, and a person required to register as an accumulator, transporter, or processor who transfers waste tires to another person shall obtain a receipt for the waste tires. ***The final processor or a transporter who arranges for disposal or recycling out-of-state shall return a copy of the receipt for disposal or recycling to the retailer within thirty (30) days of receiving the waste tires. If the retailer does not receive the receipt from the final processor or transporter showing proof of who took final custody of the waste tires and disposed of the tires in accordance with KRS 224.50-856 (1) and (2), the retailer shall notify the Division of Waste Management.***
- (3) A person filling out a receipt shall provide the following information:

- (a) That person's name, address, company and signature;
 - (b) The number of waste tires or their passenger tire equivalents accepted;
 - (c) The date the waste tires were transferred; and
 - (d) The name and address of the person transferring the waste tires.
- (4) A person who fills out a receipt shall keep a copy for three (3) years.

→Section 5. KRS 224.50-880 is amended to read as follows:

- (1) A waste tire trust fund is established in the state treasury. The fund shall be used by the cabinet for the following purposes:
- (a) Properly managing waste tires;
 - (b) Paying the ~~cabinet's costs in implementing the waste tire program to include~~ costs associated with any waste tire amnesty program established by the cabinet that permits waste tires to be turned in without incurring fees, charges, or penalties;
 - (c) Paying the Department of Revenue's costs of assessing and collecting the fee established by KRS 224.50-868;
 - (d) Entering into the agreements described in KRS 224.50-876; and
 - (e) Awarding the grants described in KRS 224.50-878.

The cabinet shall utilize no more than twenty-five percent (25%) of the funds for the administrative costs related to implementing the waste tire program. All remaining funds shall be utilized, in accordance with KRS 224.50-850 to 224.50-880, for waste tire amnesty programs, crumb rubber grants, tire-derived fuel programs, and other projects that will manage waste tires as appropriate to protect human health, safety, and the environment, or to develop markets for waste tires.

- (2) All interest earned on money in the fund shall be credited to the fund.
- (3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.
- (4) Any money remaining in the waste tire trust fund established by KRS 224.50-820 shall be transferred to the fund established by this section.

Signed by Governor March 15, 2011.