

ASSEMBLY BILL

No. 338

Introduced by Assembly Member Levine
(Principal coauthor: Assembly Member Maze)
(Coauthors: Assembly Members DeVore, Karnette, and Yee)
(Coauthors: Senators Chesbro, Ducheny, and Figueroa)

February 10, 2005

An act to add Section 42703 to the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as introduced, Levine. Recycling: crumb rubber.

Existing law requires the State Procurement Officer, in purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agency that provides road construction and repair services, to make contracts available that utilize recycled materials, including crumb rubber, unless the Director of Transportation determines that the use of the materials is not cost effective based on specified factors.

This bill would define the term "asphalt containing crumb rubber" and would require the department to require the use of asphalt containing crumb rubber at a specified percentage, by ton, of the total amount of asphalt paving materials used for state highway and construction projects that use asphalt as a construction material. The bill would require the amount of asphalt containing crumb rubber, on and after January 1, 2007, to be not less than 20% of the total amount of asphalt paving materials used. The bill would require the Secretary of Business, Transportation and Housing, on or before January 1, 2010, to prepare a specified analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt,

including specified information. The bill would require the secretary to continue to prepare that analysis annually until the time that the secretary determines that the cost of asphalt containing crumb rubber does not exceed 10% of the cost of conventional asphalt.

The bill would require the amount of asphalt containing crumb rubber, on and after January 1, 2010, to be not less than 25% of the total asphalt paving materials used, and on and after January 1, 2013, not less than 35%, except as provided.

The bill would direct the department, if a state highway or construction project utilizes crumb rubber, to require the project to use crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States, unless the department determines that use of that material for a particular project is not cost effective.

The bill would require the department and the California Integrated Waste Management Board to develop procedures for using crumb rubber and other tire-derived products in other projects and would require the department to notify and confer with the East Bay Municipal Utility District before using asphalt containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Thirty-two million scrap tires are currently generated in
- 4 California each year.
- 5 (b) By the year 2020, more than 43,000,000 scrap tires will be
- 6 generated each year in California.
- 7 (c) There are currently up to 6,000,000 tires in legal and illegal
- 8 scrap tire piles.
- 9 (d) Twenty-five percent of California scrap tires, more than
- 10 8,000,000 tires, are disposed of in landfills or stockpiled in legal
- 11 or illegal dumps.
- 12 (e) Crumb rubber from recycled scrap tires can be used as an
- 13 additive for making asphalt for highway construction and repair.

1 (f) It is state policy to not discard scrap tires in landfills or
2 legal or illegal stockpiles, and to find alternative uses for
3 recycling tires that have been generated in California.

4 SEC. 2. It is the intent of the Legislature that the Department
5 of Transportation explore all feasible means to stimulate
6 increased usage of crumb rubber throughout the 12 regional
7 districts to help expand the marketplace for crumb rubber in the
8 state.

9 SEC. 3. Section 42703 is added to the Public Resources Code,
10 to read:

11 42703. (a) Except as provided in subdivision (c), the
12 Department of Transportation shall require the use of asphalt
13 containing crumb rubber in lieu of other materials at the
14 following levels for state highway construction or repair projects
15 that use asphalt as a construction material:

16 (1) On and after January 1, 2007, not less than 20 percent, by
17 ton, of the total amount of asphalt paving materials used shall be
18 asphalt containing crumb rubber.

19 (2) On and after January 1, 2010, not less than 25 percent, by
20 ton, of the total amount of asphalt paving materials used shall be
21 asphalt containing crumb rubber.

22 (3) On and after January 1, 2013, not less than 35 percent, by
23 ton, of the total amount of asphalt paving materials used shall be
24 asphalt containing crumb rubber.

25 (b) (1) The Secretary of Business, Transportation and
26 Housing shall, on or before January 1, 2010, and annually
27 thereafter, prepare an analysis comparing the cost differential
28 between asphalt containing crumb rubber and conventional
29 asphalt. The analysis shall include, at a minimum, all of the
30 following:

31 (A) The lifespan and duration of the asphalt products.

32 (B) The maintenance cost of the asphalt products.

33 (C) The quantity of asphalt product needed per mile paved.

34 (2) The secretary shall continue to prepare the analysis
35 required by paragraph (1) annually until the time that the
36 secretary determines that the cost of asphalt containing crumb
37 rubber does not exceed 10 percent of the cost of conventional
38 asphalt.

39 (3) Notwithstanding subdivision (a), if after completing the
40 analysis required by paragraphs (1) and (2), the secretary

1 determines that the cost of asphalt containing crumb rubber
2 exceeds 10 percent of the cost of conventional asphalt, then the
3 Department of Transportation shall continue to meet the
4 requirement specified in paragraph (1) of subdivision (a), and
5 shall not implement the requirement specified in paragraph (2) of
6 subdivision (a). If the secretary determines pursuant to an
7 analysis prepared pursuant to paragraphs (1) and (2), that the cost
8 of asphalt containing crumb rubber does not exceed 10 percent of
9 the cost of conventional asphalt, then the Department of
10 Transportation shall implement paragraph (2) of subdivision (a)
11 within one year of that determination, but not before January 1,
12 2010.

13 (4) Notwithstanding subdivision (a), if the Department of
14 Transportation delays the implementation of paragraph (2) of
15 subdivision (a), then paragraph (3) of subdivision (a) shall be
16 delayed until three years after the date the department
17 implements paragraph (2) of subdivision (a).

18 (c) (1) Except as provided in paragraph (2) and subdivision
19 (d), if a state highway or construction project utilizes crumb
20 rubber, the Department of Transportation shall require the project
21 to use crumb rubber manufactured in the United States that is
22 derived from waste tires taken from vehicles owned and operated
23 in the United States, in a manner otherwise consistent with this
24 article.

25 (2) Paragraph (1) does not require the use of crumb rubber
26 manufactured in the United States that is derived from waste tires
27 taken from vehicles owned and operated in the United States, for
28 a particular project, if the Department of Transportation
29 determines that use of that material is not cost effective pursuant
30 to subdivision (a) of Section 42701.

31 (d) The Department of Transportation and the board shall
32 develop procedures for using crumb rubber and other derived tire
33 products in other projects.

34 (e) The Department of Transportation shall notify and confer
35 with the East Bay Municipal Utility District before using asphalt
36 containing crumb rubber on a state highway construction or
37 repair project that overlays district infrastructure.

38 (f) For purposes of this section, “asphalt containing crumb
39 rubber” means a paving material that uses an asphalt rubber
40 binder containing an amount of reclaimed tire rubber that is 15

1 percent or more by weight of the total blend, and that meets other
2 specifications for both the physical properties of asphalt rubber
3 and the application of asphalt rubber, as defined in the American
4 Society for Testing and Materials (ASTM) Standard
5 Specification for Asphalt-Rubber Binder.

O