

AMENDED IN SENATE JUNE 30, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 338**

**Introduced by Assembly Member Levine**

**(Principal coauthor: Assembly Member Maze)**

**(Coauthors: Assembly Members Cohn, DeVore, Shirley Horton,  
Karnette, Koretz, Ruskin, and Yee)**

**(Coauthors: Senators Alquist, Chesbro, Denham, Ducheny, and  
Figueroa)**

February 10, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as amended, 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, 2009, 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.

1 (d) Twenty-five percent of California scrap tires, more than  
2 8,000,000 tires, are disposed of in landfills or stockpiled in legal  
3 or illegal dumps.

4 (e) Crumb rubber from recycled scrap tires can be used as an  
5 additive for making asphalt for highway construction and repair.

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

9 SEC. 2. It is the intent of the Legislature that the Department  
10 of Transportation explore all feasible means to stimulate  
11 increased usage of crumb rubber throughout the 12 regional  
12 districts to help expand the marketplace for crumb rubber in the  
13 state.

14 SEC. 3. Section 42703 is added to the Public Resources  
15 Code, to read:

16 42703. (a) Except as provided in ~~subdivision (e)~~ *paragraph*  
17 *(2) of subdivision (d)*, the Department of Transportation shall  
18 require the use of asphalt containing crumb rubber in lieu of  
19 other materials at the following levels for state highway  
20 construction or repair projects that use asphalt as a construction  
21 material:

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

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

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

31 *(b) The percentages of use of asphalt containing crumb rubber*  
32 *required in subdivision (a) shall be achieved on a statewide basis*  
33 *and shall not require the use of asphalt containing crumb rubber*  
34 *in each individual project or in places where it is not feasible to*  
35 *use that material.*

36 ~~(b)~~  
37 (c) (1) The Secretary of Business, Transportation and Housing  
38 shall, on or before January 1, 2009, and annually thereafter,  
39 prepare an analysis comparing the cost differential between  
40 asphalt containing crumb rubber and conventional asphalt. The

1 analysis shall include *the cost of the quantity of asphalt product*  
2 *needed per mile paved and*, at a minimum, all of the following:

3 (A) The lifespan and duration of the asphalt ~~products~~  
4 *materials*.

5 (B) The maintenance cost of the asphalt ~~products~~ *materials*  
6 *and other potential cost savings to the department, including, but*  
7 *not limited to, soundwalls*.

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

9 ~~(2) The secretary shall continue to prepare the analysis~~  
10 ~~required by paragraph (1) annually until the time that the~~  
11 ~~secretary determines that the cost of asphalt containing crumb~~  
12 ~~rubber does not exceed 10 percent of the cost of conventional~~  
13 ~~asphalt.~~

14 ~~(3)~~

15 (2) Notwithstanding subdivision (a), if after completing the  
16 analysis required by ~~paragraphs (1) and (2)~~ *paragraph (1)*, the  
17 secretary determines that the cost of asphalt containing crumb  
18 rubber exceeds ~~10 percent of the cost of conventional asphalt~~,  
19 then the Department of Transportation shall continue to meet the  
20 requirement specified in paragraph (1) of subdivision (a), and  
21 shall not implement the requirement specified in paragraph (2) of  
22 subdivision (a). If the secretary determines pursuant to an  
23 analysis prepared pursuant to ~~paragraphs (1) and (2)~~ *paragraph*  
24 *(1)*, that the cost of asphalt containing crumb rubber does not  
25 exceed ~~10 percent of the cost of conventional asphalt~~, then the  
26 Department of Transportation shall implement paragraph (2) of  
27 subdivision (a) within one year of that determination, but not  
28 before January 1, 2010.

29 ~~(4)~~

30 (3) Notwithstanding subdivision (a), if the Department of  
31 Transportation delays the implementation of paragraph (2) of  
32 subdivision (a), then paragraph (3) of subdivision (a) shall be  
33 delayed until three years after the date the department  
34 implements paragraph (2) of subdivision (a).

35 ~~(e)~~

36 (d) (1) Except as provided in paragraph (2) and subdivision  
37 ~~(d)~~ *(e)*, if a state highway or construction project utilizes crumb  
38 rubber, the Department of Transportation shall require the project  
39 to use crumb rubber manufactured in the United States that is  
40 derived from waste tires taken from vehicles owned and operated

1 in the United States, in a manner otherwise consistent with this  
2 article.

3 (2) Paragraph (1) does not require the use of crumb rubber  
4 manufactured in the United States that is derived from waste tires  
5 taken from vehicles owned and operated in the United States, for  
6 a particular project, if the Department of Transportation  
7 determines that use of that material is not cost effective pursuant  
8 to subdivision (a) of Section 42701.

9 ~~(d)~~

10 (e) The Department of Transportation and the board shall  
11 develop procedures for using crumb rubber and other derived tire  
12 products in other projects.

13 ~~(e)~~

14 (f) The Department of Transportation shall notify and confer  
15 with the East Bay Municipal Utility District before using asphalt  
16 containing crumb rubber on a state highway construction or  
17 repair project that overlays district infrastructure.

18 ~~(f)~~

19 (g) For purposes of this section, “asphalt containing crumb  
20 rubber” means a paving material that uses an asphalt rubber  
21 binder containing an amount of reclaimed tire rubber that is 15  
22 percent or more by weight of the total blend, and that meets other  
23 specifications for both the physical properties of asphalt rubber  
24 and the application of asphalt rubber, as defined in the American  
25 Society for Testing and Materials (ASTM) Standard  
26 Specification for Asphalt-Rubber Binder.