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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~~ *terms* "asphalt containing crumb rubber" and "*rubberized asphalt concrete*" and would require the department to require the use of ~~asphalt containing~~ crumb rubber

(CRM) at a specified percentage, ~~by~~ *per metric ton*, of the total amount of asphalt paving materials used for state highway ~~and~~ construction *and repair* projects that use asphalt as a construction material. The bill would require the amount of asphalt *paving materials* containing crumb rubber, on and after January 1, 2007, to be not less than ~~20%~~ *6.62 pounds of CRM per metric ton* 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, *and on or before January 1 annually thereafter*, 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 ~~amount of asphalt containing crumb rubber~~ *department*, on and after January 1, 2010, to ~~be use~~ not less than ~~25%~~ *8.27 pounds of CRM per metric ton* of the total asphalt paving materials used, and on and after January 1, 2013, not less than ~~35%, except as provided~~ *11.58 pounds of CRM per metric ton, unless the department delays the implementation of these requirements, pursuant to a specified procedure.*

The bill would specify that, for purposes of complying with those requirements regarding the use of specified percentages of asphalt containing crumb rubber, only crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States may be used.

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.

1 (b) By the year 2020, more than 43,000,000 scrap tires will be  
2 generated each year in California.

3 (c) There are currently up to 6,000,000 tires in legal and illegal  
4 scrap tire piles.

5 (d) Twenty-five percent of California scrap tires, more than  
6 8,000,000 tires, are disposed of in landfills or stockpiled in legal  
7 or illegal dumps.

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

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

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

18 SEC. 3. Section 42703 is added to the Public Resources  
19 Code, to read:

20 42703. (a) Except as provided in subdivision (d), the  
21 Department of Transportation shall require ~~the use of asphalt~~  
22 ~~containing crumb rubber in lieu of other materials at the~~  
23 ~~following levels for state highway construction or repair projects~~  
24 ~~that use asphalt as a construction material:~~

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

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

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

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

39 ~~(c) (1) The Secretary of Business, Transportation and Housing~~  
40 ~~shall, on or before January 1, 2009, and annually thereafter,~~

1 ~~prepare an analysis comparing the cost differential between~~  
2 ~~asphalt containing crumb rubber and conventional asphalt. The~~  
3 ~~analysis shall include the cost differential of the quantity of~~  
4 ~~asphalt containing crumb rubber and conventional asphalt needed~~  
5 ~~per mile paved and, at a minimum, all of the following:~~

6 ~~(A) The lifespan and duration of the asphalt containing crumb~~  
7 ~~rubber and conventional asphalt.~~

8 ~~(B) The maintenance cost of the asphalt containing crumb~~  
9 ~~rubber and conventional asphalt and other potential cost savings~~  
10 ~~to the department, including, but not limited to, soundwalls.~~

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

24 ~~(3) Notwithstanding subdivision (a), if the Department of~~  
25 ~~Transportation delays the implementation of paragraph (2) of~~  
26 ~~subdivision (a), then paragraph (3) of subdivision (a) shall be~~  
27 ~~delayed until three years after the date the department~~  
28 ~~implements paragraph (2) of subdivision (a).~~

29 ~~(d) For purposes of complying with the requirements of~~  
30 ~~subdivision (a), only crumb rubber manufactured in the United~~  
31 ~~States that is derived from waste tires taken from vehicles owned~~  
32 ~~and operated in the United States may be used.~~

33 ~~(e) The Department of Transportation and the board shall~~  
34 ~~develop procedures for using crumb rubber and other derived tire~~  
35 ~~products in other projects.~~

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

1 ~~(g) For purposes of this section, “asphalt containing crumb~~  
2 ~~rubber” means a paving material that uses an asphalt rubber~~  
3 ~~binder containing an amount of reclaimed tire rubber that is 15~~  
4 ~~percent or more by weight of the total blend, and that meets other~~  
5 ~~specifications for both the physical properties of asphalt rubber~~  
6 ~~and the application of asphalt rubber, as defined in the American~~  
7 ~~Society for Testing and Materials (ASTM) Standard~~  
8 ~~Specification for Asphalt-Rubber Binder. the use of crumb~~  
9 ~~rubber in lieu of other materials at the following levels for state~~  
10 ~~highway construction or repair projects that use asphalt as a~~  
11 ~~construction material:~~

12 *(1) On and after January 1, 2007, the Department of*  
13 *Transportation shall use, on an annual average, not less than*  
14 *6.62 pounds of CRM per metric ton of the total amount of asphalt*  
15 *paving materials used.*

16 *(2) On and after January 1, 2010, the Department of*  
17 *Transportation shall use, on an annual average, not less than*  
18 *8.27 pounds of CRM per metric ton of the total amount of asphalt*  
19 *paving materials used.*

20 *(3) On and after January 1, 2013, the Department of*  
21 *Transportation shall use, on an annual average, not less than*  
22 *11.58 pounds of CRM per metric ton of the total amount of*  
23 *asphalt paving materials used.*

24 *(b) (1) The annual average use of crumb rubber required in*  
25 *subdivision (a) shall be achieved on a statewide basis and shall*  
26 *not require the use of asphalt containing crumb rubber in each*  
27 *individual project or in a place where it is not feasible to use that*  
28 *material.*

29 *(2) On and after January 1, 2007, and before January 1, 2015,*  
30 *not less than 50 percent of the asphalt pavement used to comply*  
31 *with the requirements of subdivision (a) shall be rubberized*  
32 *asphalt concrete.*

33 *(3) On and after January 1, 2015, the Department of*  
34 *Transportation may use any material meeting the definition of*  
35 *asphalt containing crumb rubber, with respect to product type or*  
36 *specification, to comply with the requirements of subdivision (a).*

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

1 conventional asphalt. The analysis shall include the cost of the  
2 quantity of asphalt product needed per lane mile paved and, at a  
3 minimum, shall include all of the following:

4 (A) The lifespan and duration of the asphalt materials.

5 (B) The maintenance cost of the asphalt materials and other  
6 potential cost savings to the department, including, but not  
7 limited to, reduced soundwall construction costs resulting from  
8 noise reduction qualities of rubberized asphalt concrete.

9 (C) The difference between each type or specification of  
10 asphalt containing crumb rubber, considering the  
11 cost-effectiveness of each type or specification separately in  
12 comparison to the cost-effectiveness of conventional asphalt  
13 paving materials.

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

27 (3) Notwithstanding subdivision (a), if the Department of  
28 Transportation delays the implementation of paragraph (2) of  
29 subdivision (a), the Department of Transportation shall not  
30 implement the requirement of paragraph (3) of subdivision (a)  
31 until three years after the date the department implements  
32 paragraph (2) of subdivision (a).

33 (d) For the purposes of complying with the requirements of  
34 subdivision (a), only crumb rubber manufactured in the United  
35 States that is derived from waste tires taken from vehicles owned  
36 and operated in the United States may be used.

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

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

5 (g) *For purposes of this section the following definitions shall*  
6 *apply:*

7 (1) *“Asphalt containing crumb rubber” means any asphalt*  
8 *pavement construction, rehabilitation, or maintenance material*  
9 *that contains reclaimed tire rubber and that is specified for use*  
10 *by the Department of Transportation.*

11 (2) *“Crumb rubber” or “CRM” has the same meaning as*  
12 *defined in Section 42801.7.*

13 (3) *“Rubberized asphalt concrete” or “RAC” means a paving*  
14 *material that uses an asphalt rubber binder containing an*  
15 *amount of reclaimed tire rubber that is 15 percent or more by*  
16 *weight of the total blend, and that meets other specifications for*  
17 *both the physical properties of asphalt rubber and the*  
18 *application of asphalt rubber, as defined in the American Society*  
19 *for Testing and Materials (ASTM) Standard Specification for*  
20 *Asphalt-Rubber Binder.*