

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1239

Introduced by Assembly Members Gordon and Atkins

February 27, 2015

An act to amend Section 42885 of, *and to repeal and add Section 42872.1 of*, the Public Resources Code, relating to tire recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1239, as amended, Gordon. Tire recycling: California tire regulatory ~~fee~~. *fee and waste tire program*.

The

(1) *The California Tire Recycling Act* requires, until January 1, 2024, a person who purchases a new tire to pay a California tire fee of \$1.75 per tire, for deposit in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature, to fund the waste tire program and for other purposes, including to pay for the costs associated with a waste tire and used tire hauler program and manifest system, as provided. After January 1, 2024, existing law reduces the tire fee to \$0.75 per tire.

Existing law requires any person generating waste tires or used tires that are transported or submitted for transportation, for offsite handling, altering, storage, disposal, or for any combination thereof, to complete a California Uniform Waste and Used Tire Manifest, as required by the department. Existing law requires a generator to provide the manifest to the waste and used tire hauler at the time of transfer of the tires, and to submit to the department, on a quarterly schedule, a legible copy of each manifest.

This bill would require a waste tire generator, as defined, to pay a California regulatory tire fee according to a schedule of amounts to be determined by the department. For a waste tire generator that is a retail seller of new tires to end user purchasers, the bill would authorize the department to ~~determine~~ *establish* the California tire regulatory fee in an amount that is sufficient to generate revenues equivalent to the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory activities regarding these waste tire generators, but not to exceed \$1.25 per new tire sold, as provided. For waste tire generators that are not retail sellers, the bill would authorize the department to ~~determine~~ *establish* the amount of the California tire regulatory fee in a amount that is sufficient to generate revenues equivalent to the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory activities regarding those waste tire generators, depending upon the nature of the activity generating waste tires, the number of waste tires generated, and other appropriate bases. The bill would prohibit the aggregate amount of California tire regulatory fees imposed to exceed the aggregate reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory costs for regulating waste tire generators.

(2) *Existing law establishes, as a part of the waste tire program, the tire recycling program, which promotes and develops alternatives to the landfill disposal of used whole tires. The program provides for grants to certain entities involved in activities that result in reduced landfill disposal of whole used tires, and development and implementation of a waste tire incentive payment program to promote increased demand of waste tires recycled in this state. Under the act, until June 30, 2019, the Rubberized Pavement Market Development Act provides for the award of grants to certain public agency projects that use rubberized asphalt concrete.*

This bill would repeal the Rubberized Pavement Market Development Act and instead enact the Tire Recycling Incentive Program Act. The bill would require the department, in accordance with the tire recycling program, to establish this incentive program to award payments to eligible recipients, as specified. The bill would require the department to award these payments in the amount of \$2 for every 12 pounds of

crumb rubber used by the eligible recipient, but would authorize the department to adjust this rate if it finds that the adjusted amount would further the purposes of the tire recycling act. The bill would require the department, while the existing tire fee remains greater than or equal to \$1.75 per tire, to annually allocate, of the amount appropriated to the department for purposes of the waste tire program, \$30,000,000 for the tire recycling incentive program.

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. Section 42872.1 of the Public Resources Code is
2 repealed.
3 ~~42872.1. (a) This section shall be known, and may be cited,~~
4 ~~as the Rubberized Pavement Market Development Act.~~
5 ~~(b) In accordance with the tire recycling program authorized by~~
6 ~~Section 42872, the department shall award grants in the following~~
7 ~~manner:~~
8 ~~(1) To cities, counties, and other local governmental agencies~~
9 ~~for the funding of public works projects that utilize rubberized~~
10 ~~pavement.~~
11 ~~(2) To state and local governmental agencies, including regional~~
12 ~~park districts, for the funding of disability access projects at parks~~
13 ~~and Class I bikeways as defined in subdivision (a) of Section 890.4,~~
14 ~~relative to projects that utilize rubberized pavement.~~
15 ~~(c) (1) Except as provided in paragraph (2), the department~~
16 ~~shall award the grants pursuant to subdivision (b) in the amount~~
17 ~~of two dollars (\$2) for every 12 pounds of crumb rubber used in~~
18 ~~a public works or disability access project by a state or local~~
19 ~~governmental agency, including a regional park district.~~
20 ~~(2) The department may adjust the amount of grants awarded~~
21 ~~pursuant to paragraph (1) to an amount that is greater than, or less~~
22 ~~than, two dollars (\$2) for every 12 pounds of crumb rubber if the~~
23 ~~department finds this adjustment would further the purposes of~~
24 ~~this article.~~
25 ~~(d) This section shall become inoperative on June 30, 2019,~~
26 ~~and, as of January 1, 2020, is repealed, unless a later enacted~~
27 ~~statute, that becomes operative on or before January 1, 2020,~~

1 ~~deletes or extends the dates on which it becomes inoperative and~~
2 ~~is repealed.~~

3 *SEC. 2. Section 42872.1 is added to the Public Resources Code,*
4 *to read:*

5 *42872.1. (a) This section shall be known, and may be cited,*
6 *as the Tire Recycling Incentive Program Act.*

7 *(b) In accordance with the tire recycling program authorized*
8 *by Section 42872, the department shall establish a tire recycling*
9 *incentive program that awards payments to eligible recipients, as*
10 *determined by the department, in the following manner:*

11 *(1) To cities, counties, other local governmental agencies, and*
12 *school districts for the funding of construction projects that use*
13 *recycled tires.*

14 *(2) To state and local governmental agencies, including regional*
15 *park districts, for the funding of disability access projects at parks*
16 *and Class I bikeways, as defined in subdivision (a) of Section 890.4*
17 *of the Streets and Highways Code, relative to projects that use*
18 *recycled tires.*

19 *(3) To a private manufacturer who produces a consumer product*
20 *using recycled tires in California.*

21 *(c) For purposes of subdivision (b), eligible recipients shall*
22 *meet specified criteria, as established by the department, that are*
23 *consistent with the provisions of this article.*

24 *(d) (1) Except as provided in paragraph (2), the department*
25 *shall award the payments pursuant to subdivision (b) in the amount*
26 *of two dollars (\$2) for every 12 pounds of crumb rubber used by*
27 *the eligible recipient.*

28 *(2) The department may adjust the amount of payments awarded*
29 *pursuant to paragraph (1) to an amount that is greater than, or*
30 *less than, two dollars (\$2) for every 12 pounds of crumb rubber*
31 *if the department finds this adjustment would further the purposes*
32 *of this article.*

33 *(e) (1) Of the amount appropriated to the department in the*
34 *annual Budget Act pursuant to subdivision (b) of Section 42889,*
35 *the department shall annually allocate thirty million dollars*
36 *(\$30,000,000) for the tire recycling incentive program established*
37 *pursuant to subdivision (b).*

38 *(2) This subdivision shall become inoperative if the tire fee*
39 *specified in subdivision (b) of Section 42885 becomes less than*
40 *one dollar and seventy-five cents (\$1.75) per tire.*

1 SECTION 1.

2 SEC. 3. Section 42885 of the Public Resources Code, as
3 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
4 amended to read:

5 42885. (a) (1) For purposes of this section, “California tire
6 fee” means the fee imposed pursuant to subdivision (b) of this
7 section.

8 (2) For purposes of this section, *a* “California tire regulatory
9 fee” means ~~the~~ *a* fee imposed pursuant to subdivision (c) of this
10 section.

11 (b) (1) A person who purchases a new tire, as defined in
12 subdivision (h), shall pay a California tire fee of one dollar and
13 seventy-five cents (\$1.75) per tire.

14 (2) The retail seller shall charge the retail purchaser the amount
15 of the California tire fee as a charge that is separate from, and not
16 included in, any other fee, charge, or other amount paid by the
17 retail purchaser.

18 (3) The retail seller shall collect the California tire fee from the
19 retail purchaser at the time of sale and may retain 1 ½ percent of
20 the fee as reimbursement for any costs associated with the
21 collection of the fee. The retail seller shall remit the remainder to
22 the state on a quarterly schedule for deposit in the California Tire
23 Recycling Management Fund, which is hereby created in the State
24 Treasury.

25 (c) (1) A waste tire generator, as defined by Section 18450 of
26 Title 14 of the California Code of Regulations, shall pay a
27 California tire regulatory fee according to a schedule of amounts
28 to be determined by the department pursuant to the following:

29 (A) For a waste tire generator that is a retail seller of new tires
30 to end user purchasers, the amount of the California tire regulatory
31 fee shall be established by the department in an amount that is
32 sufficient to generate revenues equivalent to the reasonable
33 regulatory costs incurred by the department incident to audits,
34 inspections, administrative costs, adjudications, manifesting,
35 registration, and other regulatory activities regarding these waste
36 tire generators, but not to exceed one dollar and twenty-five cents
37 (\$1.25) per new tire sold. The department may differentiate in
38 setting fees between retail sellers of new tires who are waste tire
39 generators depending upon the nature of the retail seller’s activity

1 generating waste tires, the number of waste tires generated, and
2 other appropriate bases.

3 (B) For a waste tire generator that is not a retail seller, the
4 amount of the California tire regulatory fee shall be established
5 by the department in an amount that is sufficient to generate
6 revenues equivalent to the reasonable regulatory costs incurred by
7 the department incident to audits, inspections, administrative costs,
8 adjudications, manifesting, registration, and other regulatory
9 activities regarding these waste tire generators. The department
10 may differentiate between categories of waste tire generators that
11 are not retail sellers in setting fees depending upon the nature of
12 the activity generating waste tires, the number of waste tires
13 generated, and other appropriate bases.

14 (C) The aggregate amount of California waste tire fees imposed
15 pursuant to subparagraphs (B) and (C) shall not exceed the
16 aggregate reasonable regulatory costs incurred by the department
17 incident to audits, inspections, administrative costs, adjudications,
18 manifesting, registration, and other regulatory costs for regulating
19 waste tire generators.

20 (2) A waste tire generator shall remit the fees assessed pursuant
21 to this subdivision to the state on a quarterly schedule for deposit
22 in a separate account in the California Tire Recycling Management
23 Fund.

24 (d) The department, or its agent authorized pursuant to Section
25 42882, shall be reimbursed for its costs of collection, auditing, and
26 making refunds associated with the California Tire Recycling
27 Management Fund, but not to exceed 3 percent of the total annual
28 revenue deposited in the fund.

29 (e) The California tire fee imposed pursuant to subdivision (b)
30 shall be separately stated by the retail seller on the invoice given
31 to the customer at the time of sale. Any other disposal or
32 transaction fee charged by the retail seller related to the tire
33 purchase shall be identified separately from the California tire fee.

34 (f) A person or business who knowingly, or with reckless
35 disregard, makes a false statement or representation in a document
36 used to comply with this section is liable for a civil penalty for
37 each violation or, for continuing violations, for each day that the
38 violation continues. Liability under this section may be imposed
39 in a civil action and shall not exceed twenty-five thousand dollars
40 (\$25,000) for each violation.

1 (g) In addition to the civil penalty that may be imposed pursuant
2 to subdivision~~(f)~~ (f), the department may impose an administrative
3 penalty in an amount not to exceed five thousand dollars (\$5,000)
4 for each violation of a separate provision or, for continuing
5 violations, for each day that the violation continues, on a person
6 who intentionally or negligently violates a permit, rule, regulation,
7 standard, or requirement issued or adopted pursuant to this chapter.
8 The department shall adopt regulations that specify the amount of
9 the administrative penalty and the procedure for imposing an
10 administrative penalty pursuant to this subdivision.

11 (h) For purposes of this section, “new tire” means a pneumatic
12 or solid tire intended for use with onroad or off-road motor
13 vehicles, motorized equipment, construction equipment, or farm
14 equipment that is sold separately from the motorized equipment,
15 or a new tire sold with a new or used motor vehicle, as defined in
16 Section 42803.5, including the spare tire, construction equipment,
17 or farm equipment. “New tire” does not include retreaded, reused,
18 or recycled tires.

19 (i) The California tire fee shall not be imposed on a tire sold
20 with, or sold separately for use on, any of the following:

- 21 (1) A self-propelled wheelchair.
- 22 (2) A motorized tricycle or motorized quadricycle, as defined
23 in Section 407 of the Vehicle Code.
- 24 (3) A vehicle that is similar to a motorized tricycle or motorized
25 quadricycle and is designed to be operated by a person who, by
26 reason of the person’s physical disability, is otherwise unable to
27 move about as a pedestrian.

28 (j) This section shall remain in effect only until January 1, 2024,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2024, deletes or extends that date.

31 ~~SEC. 2.~~

32 *SEC. 4.* Section 42885 of the Public Resources Code, as
33 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
34 amended to read:

35 42885. (a) (1) For purposes of this section, “California tire
36 fee” means the fee imposed pursuant to subdivision (b) of this
37 section.

38 (2) For purposes of this section, *a* “California tire regulatory
39 fee” means ~~the~~ *a* fee imposed pursuant to subdivision (c) of this
40 section.

1 (b) (1) Every person who purchases a new tire, as defined in
2 subdivision (h), shall pay a California tire fee of seventy-five cents
3 (\$0.75) per tire.

4 (2) The retail seller shall charge the retail purchaser the amount
5 of the California tire fee as a charge that is separate from, and not
6 included in, any other fee, charge, or other amount paid by the
7 retail purchaser.

8 (3) The retail seller shall collect the California tire fee from the
9 retail purchaser at the time of sale and may retain 3 percent of the
10 fee as reimbursement for any costs associated with the collection
11 of the fee. The retail seller shall remit the remainder to the state
12 on a quarterly schedule for deposit in the California Tire Recycling
13 Management Fund, which is hereby created in the State Treasury.

14 (c) (1) A waste tire generator, as defined by Section 18450 of
15 Title 14 of the California Code of Regulations, shall pay a
16 California tire regulatory fee according to a schedule of amounts
17 to be determined by the department pursuant to the following:

18 (A) For a waste tire generator that is a retail seller of new tires
19 to end user purchasers, the amount of the California tire regulatory
20 fee shall be established by the department in an amount that is
21 sufficient to generate revenues equivalent to the reasonable
22 regulatory costs incurred by the department incident to audits,
23 inspections, administrative costs, adjudications, manifesting,
24 registration, and other regulatory activities regarding these waste
25 tire generators, but not to exceed one dollar and twenty-five cents
26 (\$1.25) per new tire sold. The department may differentiate in
27 setting fees between retail sellers of new tires who are waste tire
28 generators depending upon the nature of the retail seller's activity
29 generating waste tires, the number of waste tires generated, and
30 other appropriate bases.

31 (B) For a waste tire generator that is not a retail seller, the
32 amount of the California tire regulatory fee shall be established
33 by the department in an amount that is sufficient to generate
34 revenues equivalent to the reasonable regulatory costs incurred by
35 the department incident to audits, inspections, administrative costs,
36 adjudications, manifesting, registration, and other regulatory
37 activities regarding these waste tire generators. The department
38 may differentiate between categories of waste tire generators that
39 are not retail sellers in setting fees depending upon the nature of

1 the activity generating waste tires, the number of waste tires
2 generated, and other appropriate bases.

3 (C) The aggregate amount of California waste tire fees imposed
4 pursuant to subparagraphs (B) and (C) shall not exceed the
5 aggregate reasonable regulatory costs incurred by the department
6 incident to audits, inspections, administrative costs, adjudications,
7 manifesting, registration, and other regulatory costs for regulating
8 waste tire generators.

9 (2) A waste tire generator shall remit the fees assessed pursuant
10 to this subdivision to the state on a quarterly schedule for deposit
11 in a separate account in the California Tire Recycling Management
12 Fund.

13 (d) The department, or its agent authorized pursuant to Section
14 42882, shall be reimbursed for its costs of collection, auditing, and
15 making refunds associated with the California Tire Recycling
16 Management Fund, but not to exceed 3 percent of the total annual
17 revenue deposited in the fund.

18 (e) The California tire fee imposed pursuant to subdivision (b)
19 shall be separately stated by the retail seller on the invoice given
20 to the customer at the time of sale. Any other disposal or
21 transaction fee charged by the retail seller related to the tire
22 purchase shall be identified separately from the California tire fee.

23 (f) Any person or business who knowingly, or with reckless
24 disregard, makes any false statement or representation in any
25 document used to comply with this section is liable for a civil
26 penalty for each violation or, for continuing violations, for each
27 day that the violation continues. Liability under this section may
28 be imposed in a civil action and shall not exceed twenty-five
29 thousand dollars (\$25,000) for each violation.

30 (g) In addition to the civil penalty that may be imposed pursuant
31 to subdivision (f), the department may impose an administrative
32 penalty in an amount not to exceed five thousand dollars (\$5,000)
33 for each violation of a separate provision or, for continuing
34 violations, for each day that the violation continues, on any person
35 who intentionally or negligently violates any permit, rule,
36 regulation, standard, or requirement issued or adopted pursuant to
37 this chapter. The department shall adopt regulations that specify
38 the amount of the administrative penalty and the procedure for
39 imposing an administrative penalty pursuant to this subdivision.

- 1 (h) For purposes of this section, “new tire” means a pneumatic
2 or solid tire intended for use with onroad or off-road motor
3 vehicles, motorized equipment, construction equipment, or farm
4 equipment that is sold separately from the motorized equipment,
5 or a new tire sold with a new or used motor vehicle, as defined in
6 Section 42803.5, including the spare tire, construction equipment,
7 or farm equipment. “New tire” does not include retreaded, reused,
8 or recycled tires.
- 9 (i) The California tire fee may not be imposed on any tire sold
10 with, or sold separately for use on, any of the following:
 - 11 (1) Any self-propelled wheelchair.
 - 12 (2) Any motorized tricycle or motorized quadricycle, as defined
13 in Section 407 of the Vehicle Code.
 - 14 (3) Any vehicle that is similar to a motorized tricycle or
15 motorized quadricycle and is designed to be operated by a person
16 who, by reason of the person’s physical disability, is otherwise
17 unable to move about as a pedestrian.
- 18 (j) This section shall become operative on January 1, 2024.