

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1981

Introduced by Assembly Member Hill

February 17, 2010

An act to amend Section 2982 of the Civil Code, and to amend Sections 42861, 42885, 42886, and 42889 of, and to add Sections 42860.5 and 42885.1 to, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1981, as amended, Hill. Recycling: waste tires: fees.

(1) The California Tire Recycling Act requires a person who purchases a new tire to pay a California tire fee and the revenue generated from the fee is deposited in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery, upon appropriation by the Legislature, for programs related to the disposal of waste tires, except that a specified amount of the fee is designated for programs and projects that mitigate or remediate air pollution caused by waste tires. The tire fee is imposed upon, among other things, a new tire sold with a new or used motor vehicle, including the spare tire.

Existing law authorizes the department to enter into a contract with the State Board of Equalization to collect the fee pursuant to the Fee Collection Procedures Law, which provides for criminal penalties for certain violations of that law.

This bill would exclude, from the tire fee, a tire on a vehicle that is ~~below a specified weight and that is sold or leased by a new motor vehicle~~ dealer. The bill would instead require a person who purchases

or leases those vehicles to pay a California vehicle tire fee and would require the retail vehicle seller, as defined, to collect the California vehicle tire fee. The retail vehicle seller would be required to remit the fee, except as specified, to the state for deposit in the California Tire Recycling Management Fund.

The bill would also make conforming changes with regard to the vehicle tire fee, including conforming changes to the Automobile Sales Finance Act. The bill would impose a state-mandated local program by creating new crimes with regard to the collection of the California new vehicle tire fee.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 2982 of the Civil Code is amended to
2 read:

3 2982. A conditional sale contract subject to this chapter shall
4 contain the disclosures required by Regulation Z, whether or not
5 Regulation Z applies to the transaction. In addition, to the extent
6 applicable, the contract shall contain the other disclosures and
7 notices required by, and shall satisfy the requirements and
8 limitations of, this section. The disclosures required by subdivision
9 (a) may be itemized or subtotaled to a greater extent than as
10 required by that subdivision and shall be made together and in the
11 sequence set forth in that subdivision. All other disclosures and
12 notices may appear in the contract in any location or sequence and
13 may be combined or interspersed with other provisions of the
14 contract.

15 (a) The contract shall contain the following disclosures, as
16 applicable, which shall be labeled “itemization of the amount
17 financed:”

18 (1) (A) The cash price, exclusive of document preparation fees,
19 business partnership automation fees, taxes imposed on the sale,
20 pollution control certification fees, prior credit or lease balance on

1 property being traded in, the amount charged for a service contract,
2 the amount charged for a theft deterrent system, the amount charged
3 for a surface protection product, the amount charged for an optional
4 debt cancellation agreement, and the amount charged for a contract
5 cancellation option agreement.

6 (B) The fee to be retained by the seller for document preparation.

7 (C) The fee charged by the seller for certifying that the motor
8 vehicle complies with applicable pollution control requirements.

9 (D) A charge for a theft deterrent device.

10 (E) A charge for a surface protection product.

11 (F) Taxes imposed on the sale.

12 (G) The amount of any optional business partnership automation
13 fee to register or transfer the vehicle, which shall be labeled
14 “Optional DMV Electronic Filing Fee.”

15 (H) The amount charged for a service contract.

16 (I) The prior credit or lease balance remaining on property being
17 traded in, as required by paragraph (6). The disclosure required
18 by this subparagraph shall be labeled “prior credit or lease balance
19 (see downpayment and trade-in calculation).”

20 (J) Any charge for an optional debt cancellation agreement.

21 (K) Any charge for a used vehicle contract cancellation option
22 agreement.

23 (L) The total cash price, which is the sum of subparagraphs (A)
24 to (K), inclusive.

25 (M) The disclosures described in subparagraphs (D), (E), and
26 (K) are not required on contracts involving the sale of a motorcycle,
27 as defined in Section 400 of the Vehicle Code, or on contracts
28 involving the sale of an off-highway motor vehicle that is subject
29 to identification under Section 38010 of the Vehicle Code, and the
30 amounts of those charges, if any, are not required to be reflected
31 in the total price under subparagraph (L).

32 (2) Amounts paid to public officials for the following:

33 (A) Vehicle license fees.

34 (B) Registration, transfer, and titling fees.

35 ~~(C) The California vehicle tire fee imposed pursuant to Section~~
36 ~~42885.1 of the Public Resources Code.~~

37 *(C) The California tire fee or the California vehicle tire fee*
38 *imposed pursuant to Section 42885 or 42885.1, respectively, of*
39 *the Public Resources Code.*

1 (3) The aggregate amount of premiums agreed, upon execution
2 of the contract, to be paid for policies of insurance included in the
3 contract, excluding the amount of any insurance premium included
4 in the finance charge.

5 (4) The amount of the state fee for issuance of a certificate of
6 compliance, noncompliance, exemption, or waiver pursuant to any
7 applicable pollution control statute.

8 (5) A subtotal representing the sum of the foregoing items.

9 (6) The amount of the buyer's downpayment itemized to show
10 the following:

11 (A) The agreed value of the property being traded in.

12 (B) The prior credit or lease balance, if any, owing on the
13 property being traded in.

14 (C) The net agreed value of the property being traded in, which
15 is the difference between the amounts disclosed in subparagraphs
16 (A) and (B). If the prior credit or lease balance of the property
17 being traded in exceeds the agreed value of the property, a negative
18 number shall be stated.

19 (D) The amount of any portion of the downpayment to be
20 deferred until not later than the due date of the second regularly
21 scheduled installment under the contract and that is not subject to
22 a finance charge.

23 (E) The amount of any manufacturer's rebate applied or to be
24 applied to the downpayment.

25 (F) The remaining amount paid or to be paid by the buyer as a
26 downpayment.

27 (G) The total downpayment. If the sum of subparagraphs (C)
28 to (F), inclusive, is zero or more, that sum shall be stated as the
29 total downpayment and no amount shall be stated as the prior credit
30 or lease balance under subparagraph (I) of paragraph (1). If the
31 sum of subparagraphs (C) to (F), inclusive, is less than zero, then
32 that sum, expressed as a positive number, shall be stated as the
33 prior credit or lease balance under subparagraph (I) of paragraph
34 (1), and zero shall be stated as the total downpayment. The
35 disclosure required by this subparagraph shall be labeled "total
36 downpayment" and shall contain a descriptor indicating that if the
37 total downpayment is a negative number, a zero shall be disclosed
38 as the total downpayment and a reference made that the remainder
39 shall be included in the disclosure required pursuant to
40 subparagraph (I) of paragraph (1).

1 (7) The amount of any administrative finance charge, labeled
2 “prepaid finance charge.”

3 (8) The difference between item (5) and the sum of items (6)
4 and (7), labeled “amount financed.”

5 (b) No particular terminology is required to disclose the items
6 set forth in subdivision (a) except as expressly provided in that
7 subdivision.

8 (c) If payment of all or a portion of the downpayment is to be
9 deferred, the deferred payment shall be reflected in the payment
10 schedule disclosed pursuant to Regulation Z.

11 (d) If the downpayment includes property being traded in, the
12 contract shall contain a brief description of that property.

13 (e) The contract shall contain the names and addresses of all
14 persons to whom the notice required under Section 2983.2 and
15 permitted under Sections 2983.5 and 2984 is to be sent.

16 (f) (1) If the contract includes a finance charge determined on
17 the precomputed basis, the contract shall identify the method of
18 computing the unearned portion of the finance charge in the event
19 of prepayment in full of the buyer’s obligation and contain a
20 statement of the amount or method of computation of any charge
21 that may be deducted from the amount of any unearned finance
22 charge in computing the amount that will be credited to the
23 obligation or refunded to the buyer. The method of computing the
24 unearned portion of the finance charge shall be sufficiently
25 identified with a reference to the actuarial method if the
26 computation will be under that method. The method of computing
27 the unearned portion of the finance charge shall be sufficiently
28 identified with a reference to the Rule of 78’s, the sum of the digits,
29 or the sum of the periodic time balances method in all other cases,
30 and those references shall be deemed to be equivalent for disclosure
31 purposes.

32 (2) If the contract includes a finance charge that is determined
33 on the simple-interest basis but provides for a minimum finance
34 charge in the event of prepayment in full, the contract shall contain
35 a statement of that fact and the amount of the minimum finance
36 charge or its method of calculation.

37 (g) (1) If the contract includes a finance charge that is
38 determined on the precomputed basis and provides that the
39 unearned portion of the finance charge to be refunded upon full
40 prepayment of the contract is to be determined by a method other

1 than actuarial, the contract shall contain a notice, in at least
2 10-point boldface type if the contract is printed, reading as
3 follows: “Notice to buyer: (1) Do not sign this agreement before
4 you read it or if it contains any blank spaces to be filled in. (2)
5 You are entitled to a completely filled-in copy of this agreement.
6 (3) You can prepay the full amount due under this agreement at
7 any time and obtain a partial refund of the finance charge if it is
8 \$1 or more. Because of the way the amount of this refund will be
9 figured, the time when you prepay could increase the ultimate cost
10 of credit under this agreement. (4) If you default in the performance
11 of your obligations under this agreement, the vehicle may be
12 repossessed and you may be subject to suit and liability for the
13 unpaid indebtedness evidenced by this agreement.”

14 (2) If the contract includes a finance charge that is determined
15 on the precomputed basis and provides for the actuarial method
16 for computing the unearned portion of the finance charge upon
17 prepayment in full, the contract shall contain a notice, in at least
18 10-point boldface type if the contract is printed, reading as
19 follows: “Notice to buyer: (1) Do not sign this agreement before
20 you read it or if it contains any blank spaces to be filled in. (2)
21 You are entitled to a completely filled-in copy of this agreement.
22 (3) You can prepay the full amount due under this agreement at
23 any time and obtain a partial refund of the finance charge if it is
24 \$1 or more. (4) If you default in the performance of your
25 obligations under this agreement, the vehicle may be repossessed
26 and you may be subject to suit and liability for the unpaid
27 indebtedness evidenced by this agreement.”

28 (3) If the contract includes a finance charge that is determined
29 on the simple-interest basis, the contract shall contain a notice, in
30 at least 10-point boldface type if the contract is printed, reading
31 as follows: “Notice to buyer: (1) Do not sign this agreement
32 before you read it or if it contains any blank spaces to be filled in.
33 (2) You are entitled to a completely filled-in copy of this
34 agreement. (3) You can prepay the full amount due under this
35 agreement at any time. (4) If you default in the performance of
36 your obligations under this agreement, the vehicle may be
37 repossessed and you may be subject to suit and liability for the
38 unpaid indebtedness evidenced by this agreement.”

39 (h) The contract shall contain a notice in at least 8-point boldface
40 type, acknowledged by the buyer, that reads as follows:

1 “If you have a complaint concerning this sale, you should try to
2 resolve it with the seller.

3 Complaints concerning unfair or deceptive practices or methods
4 by the seller may be referred to the city attorney, the district
5 attorney, or an investigator for the Department of Motor Vehicles,
6 or any combination thereof.

7 After this contract is signed, the seller may not change the
8 financing or payment terms unless you agree in writing to the
9 change. You do not have to agree to any change, and it is an unfair
10 or deceptive practice for the seller to make a unilateral change.

11
12 _____
13
14 Buyer’s Signature”
15

16 (i) (1) The contract shall contain an itemization of any insurance
17 included as part of the amount financed disclosed pursuant to
18 paragraph (3) of subdivision (a) and of any insurance included as
19 part of the finance charge. The itemization shall identify the type
20 of insurance coverage and the premium charged therefor, and, if
21 the insurance expires before the date of the last scheduled
22 installment included in the repayment schedule, the term of the
23 insurance shall be stated.

24 (2) If any charge for insurance, other than for credit life or
25 disability, is included in the contract balance and disbursement of
26 any part thereof is to be made more than one year after the date of
27 the conditional sale contract, any finance charge on the amount to
28 be disbursed after one year shall be computed from the month the
29 disbursement is to be made to the due date of the last installment
30 under the conditional sale contract.

31 (j) (1) Except for contracts in which the finance charge or
32 portion thereof is determined by the simple-interest basis and the
33 amount financed disclosed pursuant to paragraph (8) of subdivision
34 (a) is more than two thousand five hundred dollars (\$2,500), the
35 dollar amount of the disclosed finance charge may not exceed the
36 greater of:

37 (A) (i) One and one-half percent on so much of the unpaid
38 balance as does not exceed two hundred twenty-five dollars (\$225),
39 1 ⅙ percent on so much of the unpaid balance in excess of two
40 hundred twenty-five dollars (\$225) as does not exceed nine hundred

1 dollars (\$900) and five-sixths of 1 percent on so much of the unpaid
2 balance in excess of nine hundred dollars (\$900) as does not exceed
3 two thousand five hundred dollars (\$2,500).

4 (ii) One percent of the entire unpaid balance; multiplied in either
5 case by the number of months (computed on the basis of a full
6 month for any fractional month period in excess of 15 days)
7 elapsing between the date of the contract and the due date of the
8 last installment.

9 (B) If the finance charge is determined by the precomputed
10 basis, twenty-five dollars (\$25).

11 (C) If the finance charge or a portion thereof is determined by
12 the simple-interest basis:

13 (i) Twenty-five dollars (\$25) if the unpaid balance does not
14 exceed one thousand dollars (\$1,000).

15 (ii) Fifty dollars (\$50) if the unpaid balance exceeds one
16 thousand dollars (\$1,000) but does not exceed two thousand dollars
17 (\$2,000).

18 (iii) Seventy-five dollars (\$75) if the unpaid balance exceeds
19 two thousand dollars (\$2,000).

20 (2) The holder of the contract may not charge, collect, or receive
21 a finance charge that exceeds the disclosed finance charge, except
22 to the extent (A) caused by the holder's receipt of one or more
23 payments under a contract that provides for determination of the
24 finance charge or a portion thereof on the 365-day basis at a time
25 or times other than as originally scheduled whether or not the
26 parties enter into an agreement pursuant to Section 2982.3, (B)
27 permitted by paragraph (2), (3), or (4) of subdivision (c) of Section
28 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and
29 (c) of Section 2982.8.

30 (3) If the finance charge or a portion thereof is determined by
31 the simple-interest basis and the amount of the unpaid balance
32 exceeds five thousand dollars (\$5,000), the holder of the contract
33 may, in lieu of its right to a minimum finance charge under
34 subparagraph (C) of paragraph (1), charge, receive, or collect on
35 the date of the contract an administrative finance charge not to
36 exceed seventy-five dollars (\$75), provided that the sum of the
37 administrative finance charge and the portion of the finance charge
38 determined by the simple-interest basis shall not exceed the
39 maximum total finance charge permitted by subparagraph (A) of
40 paragraph (1). Any administrative finance charge that is charged,

1 received, or collected by a holder shall be deemed a finance charge
2 earned on the date of the contract.

3 (4) If a contract provides for unequal or irregular payments, or
4 payments on other than a monthly basis, the maximum finance
5 charge shall be at the effective rate provided for in paragraph (1),
6 having due regard for the schedule of installments.

7 (k) The contract may provide that for each installment in default
8 for a period of not less than 10 days the buyer shall pay a
9 delinquency charge in an amount not to exceed in the aggregate 5
10 percent of the delinquent installment, which amount may be
11 collected only once on any installment regardless of the period
12 during which it remains in default. Payments timely received by
13 the seller under an extension or deferral agreement may not be
14 subject to a delinquency charge unless the charge is permitted by
15 Section 2982.3. The contract may provide for reasonable collection
16 costs and fees in the event of delinquency.

17 (l) Notwithstanding any provision of a contract to the contrary,
18 the buyer may pay at any time before maturity the entire
19 indebtedness evidenced by the contract without penalty. In the
20 event of prepayment in full:

21 (1) If the finance charge was determined on the precomputed
22 basis, the amount required to prepay the contract shall be the
23 outstanding contract balance as of that date, provided, however,
24 that the buyer shall be entitled to a refund credit in the amount of
25 the unearned portion of the finance charge, except as provided in
26 paragraphs (3) and (4). The amount of the unearned portion of the
27 finance charge shall be at least as great a proportion of the finance
28 charge, including any additional finance charge imposed pursuant
29 to Section 2982.8 or other additional charge imposed because the
30 contract has been extended, deferred, or refinanced, as the sum of
31 the periodic monthly time balances payable more than 15 days
32 after the date of prepayment bears to the sum of all the periodic
33 monthly time balances under the schedule of installments in the
34 contract or, if the contract has been extended, deferred, or
35 refinanced, as so extended, deferred, or refinanced. If the amount
36 of the refund credit is less than one dollar (\$1), no refund credit
37 need be made by the holder. Any refund credit may be made in
38 cash or credited to the outstanding obligations of the buyer under
39 the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges that are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision may not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2). Notwithstanding, the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. This chapter does not prohibit the disclosure in that contract of

1 additional information required or permitted under Regulation Z,
2 as in effect at the time that disclosure is made.

3 (n) If the seller imposes a fee for document preparation, the
4 contract shall contain a disclosure that the fee is not a governmental
5 fee.

6 (o) A seller may not impose an application fee for a transaction
7 governed by this chapter.

8 (p) The seller or holder may charge and collect a fee not to
9 exceed fifteen dollars (\$15) for the return by a depository institution
10 of a dishonored check, negotiated order of withdrawal, or share
11 draft issued in connection with the contract, if the contract so
12 provides or if the contract contains a generalized statement that
13 the buyer may be liable for collection costs incurred in connection
14 with the contract.

15 (q) The contract shall disclose on its face, by printing the word
16 “new” or “used” within a box outlined in red, that is not smaller
17 than one-half inch high and one-half inch wide, whether the vehicle
18 is sold as a new vehicle, as defined in Section 430 of the Vehicle
19 Code, or as a used vehicle, as defined in Section 665 of the Vehicle
20 Code.

21 (r) The contract shall contain a notice with a heading in at least
22 12-point bold type and the text in at least 10-point bold type,
23 circumscribed by a line, immediately above the contract signature
24 line, that reads as follows:

25
26 **THERE IS NO COOLING-OFF PERIOD UNLESS YOU**
27 **OBTAIN A CONTRACT CANCELLATION OPTION.**
28

29 California law does not provide for a “cooling-off” or other cancellation
30 period for vehicle sales. Therefore, you cannot later cancel this contract
31 simply because you change your mind, decide the vehicle costs too much,
32 or wish you had acquired a different vehicle. After you sign below, you
33 may only cancel this contract with the agreement of the seller or for legal
34 cause, such as fraud.

35 However, California law does require a seller to offer a 2-day contract
36 cancellation option on used vehicles with a purchase price of less than
37 \$40,000, subject to certain statutory conditions. This contract cancellation
38 option requirement does not apply to the sale of a recreational vehicle, a
39 motorcycle, or an off-highway motor vehicle subject to identification

1 under California law. See the vehicle contract cancellation option
2 agreement for details.

3
4
5 SEC. 2. Section 42860.5 is added to the Public Resources Code,
6 to read:

7 42860.5. For purposes of this chapter, “department” or “board”
8 means the Department of Resources Recycling and Recovery.

9 SEC. 3. Section 42861 of the Public Resources Code is
10 amended to read:

11 42861. The Legislature finds and declares the following:

12 (a) The problem posed by used tire storage and disposal requires
13 a comprehensive, statewide response, including, but not limited
14 to, reducing landfill disposal of used whole tires, recycling of tires
15 into secondary uses, source material development and promotion
16 of secondary markets for used tire byproducts, tire shredding, and
17 energy recovery.

18 (b) California is currently faced with an existing used tire
19 inventory of at least 100 million tires, an amount that grows by
20 over 20 million tires per year. Without a dedication of resources
21 to address the state’s growing tire population, the health and safety
22 of all Californians will be increasingly at risk.

23 (c) There are currently no dedicated resources for the recycling
24 of used tires, or a comprehensive tire shredding program.
25 Therefore, the levying of a fee on the disposal of used whole tires
26 in the state is needed to support tire recycling activities.

27 ~~(d) To ease compliance for licensed dealers and their customers,~~
28 ~~collection of a fee for tires sold with certain vehicles should be~~

29 *(d) To mitigate the environmental impacts caused by tires*
30 *mounted on new and used vehicles on California roads, and to*
31 *ease compliance for new motor vehicle dealers and their customers,*
32 *collection of a fee for vehicles sold by new motor vehicle dealers*
33 *should be assessed on a per vehicle, rather than a per tire, basis.*

34 (e) Used tires represent a valuable state resource that should be
35 reclaimed and recycled whenever possible. An abundance of tire
36 recycling alternatives exist that have been demonstrated to be
37 environmentally safe. These alternatives need to be promoted in
38 order to achieve the maximum use of used tires.

39 (f) Shredding of used tires represents a preferable alternative to
40 whole tire storage or disposal. Given the rapidly decreasing amount

1 of landfill space available to local jurisdictions, shredding
2 represents a positive way of storing tires until a secondary use can
3 be developed.

4 SEC. 4. Section 42885 of the Public Resources Code, as
5 amended by Section 55 of Chapter 77 of the Statutes of 2006, is
6 amended to read:

7 42885. (a) For purposes of this section, “California tire fee”
8 means the fee imposed pursuant to this section.

9 (b) (1) Except as provided in subdivision (i), a person who
10 purchases a new tire, as defined in subdivision (g), shall pay a
11 California tire fee of one dollar and seventy-five cents (\$1.75) per
12 tire.

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

17 (3) The retail seller shall collect the California tire fee from the
18 retail purchaser at the time of sale and may retain 1½ percent of
19 the fee as reimbursement for any costs associated with the
20 collection of the fee. The retail seller shall remit the remainder to
21 the state on a quarterly schedule for deposit in the California Tire
22 Recycling Management Fund, which is hereby created in the State
23 Treasury.

24 (c) 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 (d) 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 (e) 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.

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

(g) For purposes of this section, “new tire” means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. “New tire” does not include retreaded, reused, or recycled tires *or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, which is sold or leased by a new motor vehicle dealer, as defined in Section 426 of the Vehicle Code.*

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

(1) A self-propelled wheelchair.

(2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person’s physical disability, is otherwise unable to move about as a pedestrian.

(i) The California tire fee shall not be imposed on a tire on a ~~vehicle that meets both of the following requirements:~~

~~(A) The vehicle has a manufacturer’s gross vehicle weight rating of less than 11,500 pounds.~~

~~(B) The vehicle is sold or leased by a dealer, as defined by Section 285 of the Vehicle Code.~~ *vehicle that is sold or leased by a new motor vehicle dealer, as defined in Section 426 of the Vehicle Code.*

1 (j) This section shall remain in effect only until January 1, 2015,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2015, deletes or extends that date.

4 SEC. 5. Section 42885 of the Public Resources Code, as added
5 by Section 13.5 of Chapter 707 of the Statutes of 2004, is amended
6 to read:

7 42885. (a) For purposes of this section, "California tire fee"
8 means the fee imposed pursuant to this section.

9 (b) (1) Except as provided in subdivision (i), a person who
10 purchases a new tire, as defined in subdivision (g), shall pay a
11 California tire fee of seventy-five cents (\$0.75) per tire.

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

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

22 (c) The department, or its agent authorized pursuant to Section
23 42882, shall be reimbursed for its costs of collection, auditing, and
24 making refunds associated with the California Tire Recycling
25 Management Fund, but not to exceed 3 percent of the total annual
26 revenue deposited in the fund.

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

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

39 (f) In addition to the civil penalty that may be imposed pursuant
40 to subdivision (e), the department may impose an administrative

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

9 (g) For purposes of this section, “new tire” means a pneumatic
10 or solid tire intended for use with on-road or off-road motor
11 vehicles, motorized equipment, construction equipment, or farm
12 equipment that is sold separately from the motorized equipment,
13 or a new tire sold with a ~~new or~~ used motor vehicle, as defined in
14 Section 42803.5, including the spare tire, construction equipment,
15 or farm equipment. “New tire” does not include retreaded, reused,
16 or recycled tires *or a new tire sold with a new or used motor*
17 *vehicle, as defined in Section 42803.5, which is sold or leased by*
18 *a new motor vehicle dealer, as defined in Section 426 of the Vehicle*
19 *Code.*

20 (h) The California tire fee may not be imposed on any tire sold
21 with, or sold separately for use on, any of the following:

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

29 (i) The California tire fee shall not be imposed on a tire on a
30 ~~vehicle that meets both of the following requirements:~~

31 ~~(A) The vehicle has a manufacturer’s gross vehicle weight rating~~
32 ~~of less than 11,500 pounds.~~

33 ~~(B) The vehicle is sold or leased by a dealer, as defined by~~
34 ~~Section 285 of the Vehicle Code.~~ *vehicle that is sold or leased by*
35 *a new motor vehicle dealer, as defined in Section 426 of the Vehicle*
36 *Code.*

37 (j) This section shall become operative on January 1, 2015.

38 SEC. 6. Section 42885.1 is added to the Public Resources Code,
39 to read:

1 42885.1. (a) For purposes of this section, the following
2 definitions shall apply:

3 (1) "California vehicle tire fee" means the fee imposed pursuant
4 to this section.

5 (2) "Retail vehicle seller" means a ~~dealer, as defined in Section~~
6 ~~285 new motor vehicle dealer, as defined in Section 426 of the~~
7 Vehicle Code.

8 (3) "Vehicle" means a vehicle, as defined in Section 430 of the
9 ~~Vehicle Code, with a manufacturers gross vehicle weight rating~~
10 ~~of less than 11,500 pounds. Vehicle Code.~~

11 (b) (1) Until December 31, 2014, a person who purchases or
12 leases a vehicle shall pay a California vehicle tire fee of ~~eight~~
13 ~~dollars (\$8) nine dollars and fifty cents (\$9.50).~~ On and after
14 January 1, 2015, a person who purchases or leases a vehicle in a
15 retail sale shall pay a California vehicle tire fee of ~~four dollars (\$4)~~
16 ~~five dollars (\$5).~~

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

21 (3) The retail vehicle seller shall collect the California vehicle
22 tire fee from the retail vehicle purchaser or lessee at the time of
23 sale and may retain 1 ½ percent of the fee as reimbursement for
24 any costs associated with the collection of the fee. The retail vehicle
25 seller shall remit the remainder to the state on a quarterly schedule
26 for deposit in the California Tire Recycling Management Fund
27 created pursuant to Section 42885.

28 (c) The department, or its agent authorized pursuant to Section
29 42882, shall be reimbursed for its costs of collection, auditing, and
30 making refunds associated with the California vehicle tire fee, but
31 not to exceed 3 percent of the total annual revenue from that fee
32 that is deposited in the fund.

33 (d) The California vehicle tire fee imposed pursuant to
34 subdivision (b) shall be separately stated by the retail vehicle seller
35 on the ~~invoice conditional sale~~ or lease agreement given to the
36 retail vehicle purchaser or lessee at the time of sale or lease. Any
37 other disposal or transaction fee charged by the retail vehicle seller
38 related to the tire purchase or vehicle lease shall be identified
39 separately from the California tire fee.

1 (e) A person or business who knowingly, or with reckless
2 disregard, makes a false statement or representation in a document
3 used to comply with this section is liable for a civil penalty for
4 each violation or, for continuing violations, for each day that the
5 violation continues. Liability under this section may be imposed
6 in a civil action and shall not exceed twenty-five thousand dollars
7 (\$25,000) for each violation.

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

18 SEC. 7. Section 42886 of the Public Resources Code is
19 amended to read:

20 42886. The fees remitted pursuant to Sections 42885 and
21 42885.1 are due and payable quarterly on or before the 15th day
22 of the month following each calendar quarter.

23 SEC. 8. Section 42889 of the Public Resources Code, as
24 amended by Section 3 of Chapter 333 of the Statutes of 2009, is
25 amended to read:

26 42889. (a) Commencing January 1, 2005, of the moneys
27 collected pursuant to Section 42885, an amount equal to
28 seventy-five cents (\$0.75) per tire on which the fee is imposed
29 shall be transferred by the State Board of Equalization to the Air
30 Pollution Control Fund. Until December 31, 2014, of the moneys
31 collected pursuant to Section 42885.1, an amount equal to ~~three~~
32 ~~dollars and forty-four cents (\$3.44)~~ *four dollars and nine cents*
33 *(\$4.09)* per vehicle on which the fee is imposed shall be transferred
34 by the State Board of Equalization to the Air Pollution Control
35 Fund. The state board shall expend those moneys, or allocate those
36 moneys to the districts for expenditure, to fund programs and
37 projects that mitigate or remediate air pollution caused by tires in
38 the state, to the extent that the state board or the applicable district
39 determines that the program or project remediates air pollution

1 harms created by tires upon which the fee described in Sections
2 42885 and 42885.1 is imposed.

3 (b) The remaining moneys collected pursuant to Sections 42885
4 and 42885.1 shall be used to fund the waste tire program, and shall
5 be appropriated to the department in the annual Budget Act in a
6 manner consistent with the five-year plan adopted and updated by
7 the department. These moneys shall be expended for the payment
8 of refunds under this chapter and for the following purposes:

9 (1) To pay the administrative overhead cost of this chapter, not
10 to exceed 6 percent of the total revenue deposited in the fund
11 annually, or an amount otherwise specified in the annual Budget
12 Act.

13 (2) To pay the costs of administration associated with collection,
14 making refunds, and auditing revenues in the fund, not to exceed
15 3 percent of the total revenue deposited in the fund, as provided
16 in subdivision (c) of Section 42885 and subdivision (c) of Section
17 42885.1.

18 (3) To pay the costs associated with operating the tire recycling
19 program specified in Article 3 (commencing with Section 42870).

20 (4) To pay the costs associated with the development and
21 enforcement of regulations relating to the storage of waste tires
22 and used tires. The department shall consider designating a city,
23 county, or city and county as the enforcement authority of
24 regulations relating to the storage of waste tires and used tires, as
25 provided in subdivision (c) of Section 42850, and regulations
26 relating to the hauling of waste and used tires, as provided in
27 subdivision (b) of Section 42963. If the department designates a
28 local entity for that purpose, the department shall provide sufficient,
29 stable, and noncompetitive funding to that entity for that purpose,
30 based on available resources, as provided in the five-year plan
31 adopted and updated as provided in subdivision (a) of Section
32 42885.5. The department may consider and create, as appropriate,
33 financial incentives for citizens who report the illegal hauling or
34 disposal of waste tires as a means of enhancing local and statewide
35 waste tire and used tire enforcement programs.

36 (5) To pay the costs of cleanup, abatement, removal, or other
37 remedial action related to waste tire stockpiles throughout the state,
38 including all approved costs incurred by other public agencies
39 involved in these activities by contract with the department. Not
40 less than six million five hundred thousand dollars (\$6,500,000)

1 shall be expended by the department during each of the following
2 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

3 (6) To make studies and conduct research directed at promoting
4 and developing alternatives to the landfill disposal of waste tires.

5 (7) To assist in developing markets and new technologies for
6 used tires and waste tires. The department's expenditure of funds
7 for purposes of this subdivision shall reflect the priorities for waste
8 management practices specified in subdivision (a) of Section
9 40051.

10 (8) To pay the costs associated with implementing and operating
11 a waste tire and used tire hauler program and manifest system
12 pursuant to Chapter 19 (commencing with Section 42950).

13 (9) To pay the costs to create and maintain an emergency
14 reserve, which shall not exceed one million dollars (\$1,000,000).

15 (10) To pay the costs of cleanup, abatement, or other remedial
16 action related to the disposal of waste tires in implementing and
17 operating the Farm and Ranch Solid Waste Cleanup and Abatement
18 Grant Program established pursuant to Chapter 2.5 (commencing
19 with Section 48100) of Part 7.

20 (11) To fund border region activities specified in paragraph (8)
21 of subdivision (b) of Section 42885.5.

22 (c) This section shall remain in effect only until January 1, 2015,
23 and as of that date is repealed, unless a later enacted statute that
24 is enacted before January 1, 2015, deletes or extends that date.

25 SEC. 9. Section 42889 of the Public Resources Code, as
26 amended by Section 4 of Chapter 333 of the Statutes of 2009, is
27 amended to read:

28 42889. Funding for the waste tire program shall be appropriated
29 to the department in the annual Budget Act. The moneys in the
30 fund shall be expended for the payment of refunds under this
31 chapter and for the following purposes:

32 (a) To pay the administrative overhead cost of this chapter, not
33 to exceed 5 percent of the total revenue deposited in the fund
34 annually, or an amount otherwise specified in the annual Budget
35 Act.

36 (b) To pay the costs of administration associated with collection,
37 making refunds, and auditing revenues in the fund, not to exceed
38 3 percent of the total revenue deposited in the fund, as provided
39 in subdivision (c) of Section 42885 and subdivision (c) of Section
40 42885.1.

1 (c) To pay the costs associated with operating the tire recycling
2 program specified in Article 3 (commencing with Section 42870).

3 (d) To pay the costs associated with the development and
4 enforcement of regulations relating to the storage of waste tires
5 and used tires. The department shall consider designating a city,
6 county, or city and county as the enforcement authority of
7 regulations relating to the storage of waste tires and used tires, as
8 provided in subdivision (c) of Section 42850, and regulations
9 relating to the hauling of waste and used tires, as provided in
10 subdivision (b) of Section 42963. If the department designates a
11 local entity for that purpose, the department shall provide sufficient,
12 stable, and noncompetitive funding to that entity for that purpose,
13 based on available resources, as provided in the five-year plan
14 adopted and updated as provided in subdivision (a) of Section
15 42885.5. The department may consider and create, as appropriate,
16 financial incentives for citizens who report the illegal hauling or
17 disposal of waste tires as a means of enhancing local and statewide
18 waste tire and used tire enforcement programs.

19 (e) To pay the costs of cleanup, abatement, removal, or other
20 remedial action related to waste tire stockpiles throughout the state,
21 including all approved costs incurred by other public agencies
22 involved in these activities by contract with the department. Not
23 less than six million five hundred thousand dollars (\$6,500,000)
24 shall be expended by the department during each of the following
25 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

26 (f) To fund border region activities specified in paragraph (8)
27 of subdivision (b) of Section 42885.5.

28 (g) This section shall become operative on January 1, 2015.

29 SEC. 10. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.