

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 167

Introduced by Senator Ducheny

February 14, 2009

An act to amend Sections 42885.5 and 42889 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 167, as amended, Ducheny. Solid waste: waste tires.

The California Tire Recycling Act imposes a California tire fee on a new tire purchased in the state. The revenue generated from the fee is used, upon appropriation by the Legislature, for the purposes of programs related to waste tires. The act requires the *California* Integrated Waste Management Board to adopt a 5-year plan, which is to be updated biennially, to establish goals and priorities for waste tire programs that include, among other things, specified border region activities, conducted in coordination with the California Environmental Protection Agency, related to waste tires in the California-Mexico border region.

This bill would, additionally, require the 5-year plan to include, as a border activity, the development of projects in Mexico in the California-Mexico border region, including education, infrastructure, mitigation, cleanup, prevention, reuse, and recycling projects, that address the movement of used tires from California to Mexico that are eventually disposed *of* in California.

The bill would authorize the board, upon appropriation by the Legislature, to use the revenues generated from the California tire fee to fund border activities.

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) According to the *California* Integrated Waste Management
4 Board's Five Year Plan for the Waste Tire Recycling Management
5 Program, Fourth Edition, issued on July 1, 2007, nearly 2.3 million
6 reusable and waste tires were exported from California with many
7 of the tires exported to Mexico.
- 8 (b) Many of the tires exported to Mexico have a very short life
9 span and are illegally disposed of or are used inappropriately for
10 structural purposes in shanty towns and colonias in or near the
11 City of Tijuana, Mexico.
- 12 (c) Illegally disposed tires on the Mexico side of the border have
13 caused environmental issues in California-~~such as~~, *such as* tires
14 entering into the Tijuana Estuary and smoke from tire fires in
15 Mexicali dispersing into Calexico.
- 16 (d) During the wet weather months, stormwater carries
17 thousands of waste tires back across the border from Tijuana into
18 California through the Tijuana River channel and open culverts in
19 the border fence.
- 20 (e) Waste tires from Tijuana blanket the sensitive ecosystems
21 of the Tijuana River Valley, Estuary, and Border Field State Park.
22 Approximately 80,000 pounds of tires are removed by hand each
23 year from the river, sediment basins, and the sensitive habitats of
24 the Tijuana River Valley and the Tijuana River National ~~Estuaries~~
25 *Estuarine* Research Reserve.
- 26 (f) Waste tires that cannot be removed serve as breeding grounds
27 for mosquitoes, viruses, and rodents threatening the public health.
- 28 (g) Federal, state, and local agencies spend between five dollars
29 (\$5) and thirteen dollars (\$13) to excavate each tire that is
30 ultimately deposited in a California landfill.
- 31 (h) It is more efficient and cost effective to work directly with
32 agencies in Baja California to invest in, and develop cooperative
33 recycling and reuse projects, mirroring the effective waste tire
34 programs in California.

1 SEC. 2. Section 42885.5 of the Public Resources Code is
2 amended to read:

3 42885.5. (a) The board shall adopt a five-year plan, which
4 shall be updated every two years, to establish goals and priorities
5 for the waste tire program and each program element.

6 (b) On or before July 1, 2001, and every two years thereafter,
7 the board shall submit the adopted five-year plan to the appropriate
8 policy and fiscal committees of the Legislature. The board shall
9 include in the plan, programmatic and fiscal issues including, but
10 not limited to, the hierarchy used by the board to maximize
11 productive uses of waste and used tires, and the performance
12 objectives and measurement criteria used by the board to evaluate
13 the success of its waste and used tire recycling program.
14 Additionally, the plan shall describe each program element's
15 effectiveness, based upon performance measures developed by the
16 board, including, but not limited to, the following:

17 (1) Enforcement and regulations relating to the storage of waste
18 and used tires.

19 (2) Cleanup, abatement, or other remedial action related to waste
20 tire stockpiles throughout the state.

21 (3) Research directed at promoting and developing alternatives
22 to the landfill disposal of waste tires.

23 (4) Market development and new technology activities for used
24 tires and waste tires.

25 (5) The waste and used tire hauler program and manifest system.

26 (6) A description of the grants, loans, contracts, and other
27 expenditures proposed to be made by the board under the tire
28 recycling program.

29 (7) Until June 30, 2010, the grant program authorized under
30 Section 42872.5 to encourage the use of rubberized asphalt concrete
31 technology in public works projects.

32 (8) Border region activities, conducted in coordination with the
33 California Environmental Protection Agency, including, but not
34 limited to, all of the following:

35 (A) Training programs to assist Mexican waste and used tire
36 haulers to meet the requirements for hauling those tires in
37 California.

38 (B) Environmental education training.

39 (C) Development of a waste tire abatement plan, with the
40 appropriate government entities of California and Mexico.

1 (D) Tracking both the legal and illegal waste and used tire flow
2 across the border and recommended revisions to the waste tire
3 policies of California and Mexico.

4 (E) Coordination with businesses operating in the border region
5 and with Mexico, with regard to applying the same environmental
6 and control requirements throughout the border region.

7 (F) Development of projects in Mexico in the California-Mexico
8 border region, as defined by the La Paz Agreement, that include,
9 but are not limited to, education, infrastructure, mitigation, cleanup,
10 prevention, reuse, and recycling projects, that address the
11 movement of used tires from California to Mexico that are
12 eventually disposed of in California.

13 (c) The board shall base the budget for the California Tire
14 Recycling Act and program funding on the plan.

15 (d) The plan may not propose financial or other support that
16 promotes, or provides for research for the incineration of tires.

17 SEC. 3. Section 42889 of the Public Resources Code, as
18 amended by Section 26 of Chapter 696 of the Statutes of 2008, is
19 amended to read:

20 42889. (a) Commencing January 1, 2005, of the moneys
21 collected pursuant to Section 42885, an amount equal to
22 seventy-five cents (\$0.75) per tire on which the fee is imposed
23 shall be transferred by the State Board of Equalization to the Air
24 Pollution Control Fund. The state board shall expend those moneys,
25 or allocate those moneys to the districts for expenditure, to fund
26 programs and projects that mitigate or remediate air pollution
27 caused by tires in the state, to the extent that the state board or the
28 applicable district determines that the program or project
29 remediates air pollution harms created by tires upon which the fee
30 described in Section 42885 is imposed.

31 (b) The remaining moneys collected pursuant to Section 42885
32 shall be used to fund the waste tire program, and shall be
33 appropriated to the board in the annual Budget Act in a manner
34 consistent with the five-year plan adopted and updated by the
35 board. These moneys shall be expended for the payment of refunds
36 under this chapter and for the following purposes:

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

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

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

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

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

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

32 (7) To assist in developing markets and new technologies for
33 used tires and waste tires. The board's expenditure of funds for
34 purposes of this subdivision shall reflect the priorities for waste
35 management practices specified in subdivision (a) of Section
36 40051.

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

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

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

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

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

13 SEC. 4. Section 42889 of the Public Resources Code, as
14 amended by Section 27 of Chapter 696 of the Statutes of 2008, is
15 amended to read:

16 42889. Funding for the waste tire program shall be appropriated
17 to the board in the annual Budget Act. The moneys in the fund
18 shall be expended for the payment of refunds under this chapter
19 and for the following purposes:

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

24 (b) To pay the costs of administration associated with collection,
25 making refunds, and auditing revenues in the fund, not to exceed
26 3 percent of the total revenue deposited in the fund, as provided
27 in subdivision (b) of Section 42885.

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

30 (d) To pay the costs associated with the development and
31 enforcement of regulations relating to the storage of waste tires
32 and used tires. The board shall consider designating a city, county,
33 or city and county as the enforcement authority of regulations
34 relating to the storage of waste tires and used tires, as provided in
35 subdivision (c) of Section 42850, and regulations relating to the
36 hauling of waste and used tires, as provided in subdivision (b) of
37 Section 42963. If the board designates a local entity for that
38 purpose, the board shall provide sufficient, stable, and
39 noncompetitive funding to that entity for that purpose, based on
40 available resources, as provided in the five-year plan adopted and

1 updated as provided in subdivision (a) of Section ~~42855.5~~ 42885.5.
2 The board may consider and create, as appropriate, financial
3 incentives for citizens who report the illegal hauling or disposal
4 of waste tires as a means of enhancing local and statewide waste
5 tire and used tire enforcement programs.

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

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

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