

Senate Bill No. 167

Passed the Senate May 14, 2009

Secretary of the Senate

Passed the Assembly September 9, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 167, 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) According to the California Integrated Waste Management Board's Five Year Plan for the Waste Tire Recycling Management Program, Fourth Edition, issued on July 1, 2007, nearly 2.3 million reusable and waste tires were exported from California with many of the tires exported to Mexico.

(b) Many of the tires exported to Mexico have a very short life span and are illegally disposed of or are used inappropriately for

structural purposes in shanty towns and colonias in or near the City of Tijuana, Mexico.

(c) Illegally disposed tires on the Mexico side of the border have caused environmental issues in California, such as tires entering into the Tijuana Estuary and smoke from tire fires in Mexicali dispersing into Calexico.

(d) During the wet weather months, stormwater carries thousands of waste tires back across the border from Tijuana into California through the Tijuana River channel and open culverts in the border fence.

(e) Waste tires from Tijuana blanket the sensitive ecosystems of the Tijuana River Valley, Estuary, and Border Field State Park. Approximately 80,000 pounds of tires are removed by hand each year from the river, sediment basins, and the sensitive habitats of the Tijuana River Valley and the Tijuana River National Estuarine Research Reserve.

(f) Waste tires that cannot be removed serve as breeding grounds for mosquitoes, viruses, and rodents threatening the public health.

(g) Federal, state, and local agencies spend between five dollars (\$5) and thirteen dollars (\$13) to excavate each tire that is ultimately deposited in a California landfill.

(h) It is more efficient and cost effective to work directly with agencies in Baja California to invest in, and develop cooperative recycling and reuse projects, mirroring the effective waste tire programs in California.

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

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

(b) On or before July 1, 2001, and every two years thereafter, the board shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The board shall include in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the board to maximize productive uses of waste and used tires, and the performance objectives and measurement criteria used by the board to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's

effectiveness, based upon performance measures developed by the board, including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

(B) Environmental education training.

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

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

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

(F) Development of projects in Mexico in the California-Mexico border region, as defined by the La Paz Agreement, that include, but are not limited to, 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.

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

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

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

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

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

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

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

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

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the board designates a local entity for that

purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 2009

Governor