

ASSEMBLY BILL

No. 1239

Introduced by Assembly Members Gordon and Atkins

February 27, 2015

An act to amend Section 42885 of the Public Resources Code, relating to tire recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1239, as introduced, Gordon. Tire recycling: California tire regulatory fee.

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 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 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.

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 42885 of the Public Resources Code, as
- 2 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
- 3 amended to read:
- 4 42885. (a) (1) For purposes of this section, “California tire
- 5 fee” means the fee imposed pursuant to *subdivision (b) of this*
- 6 *section.*
- 7 (2) *For purposes of this section, “California tire regulatory*
- 8 *fee” means the fee imposed pursuant to subdivision (c) of this*
- 9 *section.*
- 10 (b) (1) A person who purchases a new tire, as defined in
- 11 subdivision ~~(g)~~, (h), shall pay a California tire fee of one dollar
- 12 and seventy-five cents (\$1.75) per 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

1 included in, any other fee, charge, or other amount paid by the
2 retail purchaser.

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

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

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

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

38 (C) *The aggregate amount of California waste tire fees imposed*
39 *pursuant to subparagraphs (B) and (C) shall not exceed the*
40 *aggregate reasonable regulatory costs incurred by the department*

1 *incident to audits, inspections, administrative costs, adjudications,*
2 *manifesting, registration, and other regulatory costs for regulating*
3 *waste tire generators.*

4 (2) *A waste tire generator shall remit the fees assessed pursuant*
5 *to this subdivision to the state on a quarterly schedule for deposit*
6 *in a separate account in the California Tire Recycling Management*
7 *Fund.*

8 ~~(e)~~

9 (d) The department, or its agent authorized pursuant to Section
10 42882, shall be reimbursed for its costs of collection, auditing, and
11 making refunds associated with the California Tire Recycling
12 Management Fund, but not to exceed 3 percent of the total annual
13 revenue deposited in the fund.

14 ~~(d)~~

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

20 ~~(e)~~

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

28 ~~(f)~~

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

39 ~~(g)~~

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 ~~(h)~~

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

12 (1) A self-propelled wheelchair.

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

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

19 ~~(i)~~

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

23 SEC. 2. Section 42885 of the Public Resources Code, as
24 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
25 amended to read:

26 42885. (a) (1) For purposes of this section, “California tire
27 fee” means the fee imposed pursuant to *subdivision (b) of this*
28 *section.*

29 (2) *For purposes of this section, “California tire regulatory*
30 *fee” means the fee imposed pursuant to subdivision (c) of this*
31 *section.*

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

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

39 (3) The retail seller shall collect the California tire fee from the
40 retail purchaser at the time of sale and may retain 3 percent of the

1 fee as reimbursement for any costs associated with the collection
2 of the fee. The retail seller shall remit the remainder to the state
3 on a quarterly schedule for deposit in the California Tire Recycling
4 Management Fund, which is hereby created in the State Treasury.

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

9 *(A) For a waste tire generator that is a retail seller of new tires*
10 *to end user purchasers, the amount of the California tire regulatory*
11 *fee shall be established by the department in an amount that is*
12 *sufficient to generate revenues equivalent to the reasonable*
13 *regulatory costs incurred by the department incident to audits,*
14 *inspections, administrative costs, adjudications, manifesting,*
15 *registration, and other regulatory activities regarding these waste*
16 *tire generators, but not to exceed one dollar and twenty-five cents*
17 *(\$1.25) per new tire sold. The department may differentiate in*
18 *setting fees between retail sellers of new tires who are waste tire*
19 *generators depending upon the nature of the retail seller's activity*
20 *generating waste tires, the number of waste tires generated, and*
21 *other appropriate bases.*

22 *(B) For a waste tire generator that is not a retail seller, the*
23 *amount of the California tire regulatory fee shall be established*
24 *by the department in an amount that is sufficient to generate*
25 *revenues equivalent to the reasonable regulatory costs incurred*
26 *by the department incident to audits, inspections, administrative*
27 *costs, adjudications, manifesting, registration, and other regulatory*
28 *activities regarding these waste tire generators. The department*
29 *may differentiate between categories of waste tire generators that*
30 *are not retail sellers in setting fees depending upon the nature of*
31 *the activity generating waste tires, the number of waste tires*
32 *generated, and other appropriate bases.*

33 *(C) The aggregate amount of California waste tire fees imposed*
34 *pursuant to subparagraphs (B) and (C) shall not exceed the*
35 *aggregate reasonable regulatory costs incurred by the department*
36 *incident to audits, inspections, administrative costs, adjudications,*
37 *manifesting, registration, and other regulatory costs for regulating*
38 *waste tire generators.*

39 *(2) A waste tire generator shall remit the fees assessed pursuant*
40 *to this subdivision to the state on a quarterly schedule for deposit*

1 *in a separate account in the California Tire Recycling Management*
2 *Fund.*

3 ~~(e)~~

4 (d) The department, or its agent authorized pursuant to Section
5 42882, shall be reimbursed for its costs of collection, auditing, and
6 making refunds associated with the California Tire Recycling
7 Management Fund, but not to exceed 3 percent of the total annual
8 revenue deposited in the fund.

9 ~~(d)~~

10 (e) The California tire fee imposed pursuant to subdivision (b)
11 shall be separately stated by the retail seller on the invoice given
12 to the customer at the time of sale. Any other disposal or
13 transaction fee charged by the retail seller related to the tire
14 purchase shall be identified separately from the California tire fee.

15 ~~(e)~~

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

23 ~~(f)~~

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

34 ~~(g)~~

35 (h) For purposes of this section, “new tire” means a pneumatic
36 or solid tire intended for use with onroad or off-road motor
37 vehicles, motorized equipment, construction equipment, or farm
38 equipment that is sold separately from the motorized equipment,
39 or a new tire sold with a new or used motor vehicle, as defined in
40 Section 42803.5, including the spare tire, construction equipment,

1 or farm equipment. “New tire” does not include retreaded, reused,
2 or recycled tires.

3 ~~(h)~~

4 (i) The California tire fee may not be imposed on any tire sold
5 with, or sold separately for use on, any of the following:

6 (1) Any self-propelled wheelchair.

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

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

13 ~~(i)~~

14 (j) This section shall become operative on January 1, 2024.