

Approved

Date

3/1/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at
Chairperson

3:30 ~~xxx~~ p.m. on February 27, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research
Mary Torrence, Revisor of Statutes' Office
Pat Mah, Legislative Research
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Al Lane
Ron Hammerschmidt - Acting Director of Environment, Health & Environment
C.J. Poirier - Chairman, Toxic & Hazardous Substance & Environmental Law,
Committee of Torts & Insurance Practice Section of the American Bar Assn.
Mary Montello - Prairie Village Recyclers
Joyce Wolf - Kansas Audubon Council
Gary Custis - ChemLawn
Jim Johnson - Professional Lawncare Association of Mid America
F. E. Bliss - F. E. Bliss Solid Waste Disposal Company
Representative Jeff Freeman
John Irwin - Director, Bureau of Air and Waste Management
Jerry Glasgow - Kansas Tire Dealers Association
Robert Pickerell - President, Royal Tire Company; and, treasurer of the
Kansas Tire Dealers Association
Mike Sorcher - Tire Energy Corporation
John Shockley - Director, Shawnee County Refuse Department

Chairperson Grotewiel called the meeting to order and opened the hearing on HB 2262.

Representative Al Lane testified in support of HB 2262. He stated that we all need to take action now to adequately protect our environment and preserve it for future generations and that this bill is one small step in the right direction. (Attachment 1)

Ron Hammerschmidt, Acting Director of Environment, testified on HB 2262. He stated that the Department found the bill ambiguous on the application of the open burning ban. He also stated that the imposition of a state-wide ban on open burning or disposal could impose a financial and managerial burden on local governments. (Attachment 2)

C.J. Poirier testified in support of HB 2262. He stated that it makes both scientific and economic sense to dispose of organic solid waste like "yard waste" in compost heaps rather than putting them in landfills, which are becoming overburdened. An even further problem is raised by the bagging of these materials in plastic bags which do not degrade with the rapidity yard waste would degrade if it were simply composted in the back yard. (Attachment 3)

Mary Montello, Prairie Village Recyclers, testified in support of HB 2262, stating that landfilling yard wastes is unnecessary and inefficient, wasting precious landfill space. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,

room 526-S, Statehouse, at 3:30 ~~am~~/p.m. on February 27, 1991

Joyce Wolf, Kansas Audubon Council, testified in support of HB 2262. She stated that this bill addresses that part of the municipal waste stream which can be diverted easily and relatively inexpensively, yet in certain areas, yards wastes can make up a significant portion of the municipal solid waste stream. She suggested clarification in New Section 1, line 22, that language be added to allow composting facilities to be sited at landfills, and, if the composted materials are used as covering material at the landfill, it should also be made clear that would not be prohibited by the bill. (Attachment 5)

Gary Custis, Chemlawn, testified in support of HB 2262. He stated that his company has, for years, been a proponent of composting yard waste. He said that a university study shows that 60 percent of all the nutrients put on lawns can be returned back to the soil in two to three weeks. (Attachment 6)

Jim Johnson, Professional Lawn Care Association of Mid America, testified in support of HB 2262. He stated that his organization is trying to educate the public on the benefits of returning grass clippings back to the soil; thereby, reducing the amounts of yard waste being deposited in landfills.

F.E. Bliss, F.E. Bliss Solid Waste Disposal Company, testified in opposition to HB 2262. Mr. Bliss stated collecting yard waste separate from other solid waste will constitute a major expense and, on a small scale, will also add astronomical costs to tipping fees. (Attachment 7)

Written testimony in support of HB 2262 was submitted by Joe Pajor, Natural Resources Director, City of Wichita. (Attachment 8)

The Chair closed the hearing on HB 2262.

The Chair then opened the hearing on HB 2407.

Representative Freeman presented an overview of the Report of the Kansas Commission on Waste Reduction, Recycling, and Market Development to the Governor and 1991 Legislature. He then presented the Commission recommendations in regard to HB 2407, and mentioned the uses for waste tires, such as in highway surfaces, retreading, repaving parking lots, and for fuel such as used by the Monarch Cement Company. (Attachment 9)

John Irwin, Bureau of Air and Waste Management, testified in support of HB 2407. He stated that KDHE has encouraged counties to continue to be an active part of the waste tire management process. He also made recommendations for improving several sections of the Act as shown on (Attachment 10)

Jerry Glasgow, Kansas Tire Dealers Association, testified in support of HB 2407. He stated that they realize a need to address the scrap tire disposal problem, and support all reasonable efforts to remedy this environmental threat, but are concerned with the exemptions that resulted from the passage of SB 310 in 1990. (Attachment 11)

Robert Pickerell, Kansas Tire Dealers Association, testified in support of HB 2407. He stated that they are concerned with the exemptions from the \$.50 excise tax on tires allowed by current law, and emphasized the need to protect what funds are created by the \$.50 tax on tires from other solid waste producers. (Attachment 12)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~a.m.~~ p.m. on February 27, 1991

Mike Sorcher, Tire Energy Corporation, testified in support of HB 2407. He stated their concern with the Section 2, paragraph 3 exemption for waste tires in a truckload. He also recommended changes regarding grants to the cities and counties in Section 3, and a change in Section 8 of SB 310 to increase the funds to the Department of Environment from 5% to 12%. (Attachment 13)

John Shockley, Shawnee County Refuse Department, testified in support of HB 2407, stating that this bill is reasonable. He said that there is a need to cut some slack for the tires in household waste until the time comes that there is an ongoing program to use these tires. He stated that the Shawnee County Refuse Department would have no trouble monitoring tires in household waste. (Attachment 14)

Written testimony in support of HB 2407 was submitted by Joyce Wolf, Kansas Audubon Society. (Attachment 15)

Written testimony on HB 2407 was submitted by Mark Ciardullo, Bureau Chief, Business Tax Bureau, Department of Revenue. (Attachment 16)

The Chair closed the hearing on HB 2407.

The meeting adjourned.

COMMITTEE:

E&NR

DATE:

2/27/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jim Johnson	2730 SW 57 th Topeka, KS 66604	PLCAMA
GARY Custis CPA	9921 W 120 th TER OP KS 66213	Chemlawn Serv
JOHN SHOCKLEY	P.O. BOX 19229 TOPEKA, KS 66619	SHAWNEE CO. REUSE DEPT
PAUL SCHWARTING	TOPEKA	KDOT
TERRY HINES	2500 S. W 12 th Wichita KS	Mid-Continent Resource + recovery
MIKE SORCHER	51 CORPORATE WOODS 9293 W. 110 th - 5 th FLR	TIRE ENERGY CORP.
Jim Ludwig	Topeka	KPL Gas Service
Curt Carpenter	Great Bend	Centel
MARSHALL CLARK	TOPEKA	KEC
TREVA POTTER	"	PEOPLES NAT. GAS
Peggy Martin	Univ. of Kansas	student Intern
Jerry Coonrod	Lawrence	KCo&E
Joyce Wolf	Lawrence	Ks Audubon Council
F. E. Bliss	Longton	FE Bliss & W.
John Peterson	Topeka	
Jerry Childs	Topeka	Dept. of Commerce
Chiquita Cornelius	Topeka	Ks. B.I.R.P.
Randy Downing	11208 W. 120 ST Overland Park	Pepsi Cola
MARK GIARDILLO	TOPEKA	REV.
Charles Nicolay	Topeka	Ks Tire Dealers Assn
Shawn Harrelson	Topeka	Ks Tire Dealers Assn.
Jerry W. Glasgow	Topeka	KTDA
Robert M. Puckett	Salina	KTDA
STEVE YEARNER	TOPEKA	WASTE MANAGEMENT
E. J. POIRIER	MISSION HILLS	ATTORNEY

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—
HOUSE OF
REPRESENTATIVES

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MEMBER: EDUCATION
FEDERAL AND STATE AFFAIRS
LABOR AND INDUSTRY—
RANKING MINORITY MEMBER

TESTIMONY ON HB 2262

House Energy and Natural Resources Committee

February 26, 1991

Thank you Mr. Chairman. Thanks to you and to the members for permitting me to testify in favor of HB 2262.

I will leave the technical information regarding yard waste to the other conferees.

The 90's is the decade of the environment. We all need to take action now to adequately protect our environment and preserve it for future generations. Our air, land, and water need our immediate attention. We can no longer stand by and let our environment deteriorate.

This bill is one small step in the right direction. I urge your favorable consideration of this legislation.

Representative Al Lane

*E+NR
2/27/91
Attachment 1*



State of Kansas

Governor Joan Finney
Department of Health and Environment
Division of Environment

Acting
Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0001

Respond to:
FAX (913) 296-6247

Testimony presented to
House Energy & Natural Resources Committee
by
The Kansas Department of Health and Environment
House Bill 2262

According to a recent National Solid Waste Management Association publication*, eleven states and the District of Columbia now ban either leaves or all yard waste from disposal facilities. In some states, homeowners must devise their own methods to manage the material, such as leaving grass clippings on the lawn, while in other states the yard waste is collected for composting.

HB 2262 not only bans yard waste from solid waste disposal facilities but prohibits open burning of yard waste. The Department found the bill ambiguous on the application of the open burning ban. Exemptions are provided for in The Kansas Ambient Air Quality Standards and Air Pollution Control regulations contained in 28-19-47 and authorized by K.S.A. 65-3005 as amended. If it is the intent of the bill that all burning of yard waste should be banned whatever the source, then the Air Quality regulation allowing such burning will be amended or replaced to reflect the ban.

Yard waste comprises 10-18% of materials entering solid waste landfills. Removing yard waste from landfills could significantly extend the design life of these facilities. However, banning yard waste from landfills without comprehensive planning for alternative yard waste management is not a good public policy.

The department staff is supportive of efforts to remove yard wastes from landfill disposal. The imposition of a statewide ban on open burning or disposal could impose a financial and managerial burden on local governments which would have to plan for and implement a new system to handle these materials. Efforts should be made in a manner which will insure that an adequate analysis of the available alternatives is made and that the selected alternatives are in place at the local government level before the disposal ban takes effect.

E+NR
2/27/91
Attachment 2

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and Environmental Laboratory
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Since this bill appears to be an amendment to the Solid Waste Act, it would seem more appropriate to place the penalty section in that statute at 65-3409 rather than have it appear in Sec. 2. K.S.A. 1990 Supp. 65-3490 which regulates P.C.B. Disposal Facilities. The penalty provisions could be added to the Solid Waste Act and apply only to burning and disposal of yard waste.

The greatest impact of this bill if passed will fall upon units of local government. It will have little impact on KDHE.

*NSWMA, "Recycling in the States, Mid Year Update 1990", Washington, D.C., 1990.

Testimony presented by: Ronald F. Hammerschmidt
Acting Director
Division of Environment
February 27, 1991

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POSITIVE IMPACT OF HOUSE BILL NO. 2262

Remarks of C. J. Poirier before Kansas Legislature February 27, 1991: (see Resume attached):

INTRODUCTION

Two of your colleagues, Representatives Lane and Douville, have joined in introducing proposed House Bill No. 2262. The thrust of this Bill is straightforward:

- *Yard waste shall not be burned after January 1, 1993, and such waste shall not be disposed of at a solid waste disposal area in Kansas;*
- *The secretary may promulgate regulations to enforce these provisions;*
- *A penalty not to exceed \$10,000 may be imposed for violation.*

An increasingly higher percentage of the solid waste that is being disposed of in solid waste disposal areas consists of ordinary "yard waste" in the form of leaves, lawn cuttings, yard and garden debris, prunings and brush. As the United States, and specifically the State of Kansas, deals with the growing problems of disposal areas for solid waste, the proposed Bill is a valid attempt to reach a satisfactory partial solution to this ongoing problem.

*E+NR
2/27/91
Attachment 3*

BACKGROUND FOR REGULATION

The Federal Resource Conservation and Recovery Act (RCRA)^{1/} provides insightful background into the purpose for regulation of the disposal of solid waste materials. In enacting RCRA, the United States Congress expressed a concern that the continuing technological progress and improvements in the methods of manufacture, packaging and marketing of consumer products has resulted in an ever-increasing amount of solid waste being produced.

THE UNNECESSARY DISPOSAL OF YARD WASTE IN SOLID WASTE LANDFILLS

The American Bar Association Intersectional Committee on the Intergenerational Accords on the International Law of the Environment^{2/} has recognized several areas of concern for future generations, for example, biodiversity, soil degradation, conservation of climate, transboundary harm, and protection of the stratospheric ozone.

In our committee deliberations, we have also recognized the growing problem of solid waste. It makes both scientific and economic sense to dispose of organic solid waste like "yard waste" in compost heaps rather than putting them in landfills, which are becoming overburdened. An even further problem is raised by the bagging of these materials in plastic bags which do not degrade with the rapidity yard waste would degrade if it were simply composted in the back yard.

CLARIFICATION

It is suggested the term "yard waste"^{3/} only includes those materials which can be effectively composted. E.g., large tree or shrub limbs, or trees and shrubs themselves may have to be disposed of by burning or burying in a solid waste landfill.

^{1/} 42 U.S.C. §§6901, et seq.

^{2/} The Author is Committee Chair. However, the opinions of the Author stated herein are his alone, and do not purport to represent the official view of the Committee, the American Bar Association, or Shughart, Thomson & Kilroy.

^{3/} See attached Bill.

CONCLUSION

Accordingly, proposed House Bill No. 2262 represents a significant and easily-obtainable way to help solve a significant portion of the solid waste disposal problems that are being encountered by this and future generations of Kansans.

Thank you for allowing me to appear and present these brief remarks.

Session of 1991

HOUSE BILL No. 2262

By Representatives Lane and Douville

2-13

10 AN ACT concerning solid waste disposal; prohibiting certain acts
11 with regard to yard waste and providing penalties for violations;
12 amending K.S.A. 1990 Supp. 65-3490 and repealing the existing
13 section.
14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) As used in this section:

17 (1) Terms defined by K.S.A. 65-3402 and amendments thereto
18 have the meanings provided by that section.

19 (2) "Yard waste" means leaves, lawn cuttings, yard and garden
20 debris, prunings and brush.

21 (b) On and after January 1, 1993, no person shall burn yard
22 waste, or dispose of such waste at a solid waste disposal area, in
23 this state.

24 (c) The secretary may adopt such rules and regulations as nec-
25 essary to enforce the provisions of this section.

26 Sec. 2. K.S.A. 1990 Supp. 65-3490 is hereby amended to read
27 as follows: 65-3490. (a) The secretary or the director of the division
28 of environment, if designated by the secretary, upon a finding that
29 a person has violated any provision of this act or any rule and
30 regulation adopted by the secretary pursuant to this act or section
31 I may impose a penalty not to exceed \$10,000 which shall constitute
32 an actual and substantial economic deterrent to the violation for
33 which it is assessed and, in the case of a continuing violation, every
34 day such violation continues shall be deemed a separate violation.

35 (b) No penalty shall be imposed pursuant to this section except
36 after notice of violation and opportunity for hearing upon the written
37 order of the secretary or the director of the division of environment,
38 if designated by the secretary, to the person who committed the
39 violation. The order shall state the violation, the penalty to be im-
40 posed and, in the case of an order of the director of the division of
41 environment, the right to appeal to the secretary for a hearing
42 thereon. Any person may appeal an order of the director of the
43 division of environment by making a written request to the secretary

HB 2262

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1 for a hearing within 15 days of receipt of such order. The secretary
2 shall hear the person within 30 days after receipt of such request,
3 unless such time period is waived or extended by written consent
4 of all parties or by a showing of good cause, and shall give not less
5 than 10 days' written notice of the time and place of the hearing.
6 Within 30 days after such hearing and receipt of briefs or oral ar-
7 guments, unless such time period is waived or extended by written
8 consent of all parties or by a showing of good cause, the secretary
9 shall affirm, reverse or modify the order of the director and shall
10 specify the reasons therefor. Nothing in this act shall require the
11 observance of formal rules of evidence or pleading at any hearing
12 before the secretary or director.

13 (c) Any party aggrieved by an order under this section shall have
14 the right of appeal in the same manner provided by K.S.A. 65-3440,
15 and amendments thereto.

16 Sec. 3. K.S.A. 1990 Supp. 65-3490 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after
18 its publication in the statute book.

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RESUME

CONSTANT JOHN POIRIER, III (C.J.)



PERSONAL

Birthdate:	May 24, 1940
Spouse:	Brooke
Children:	Desmond

EDUCATION

Undergraduate:	University of Kansas, 1962
Law:	New York University; University of Kansas, 1968
Honors & Awards:	Root-Tilden Fellowship, New York University, School of Law

BAR AND FIRM AFFILIATION

Mr. Poirier is a member of The Missouri and Kansas Bars. Formerly an Assistant United States Attorney for the Western District of Missouri, he began his association with Shughart, Thomson & Kilroy in 1973 and was admitted as a Director in 1976.

PROFESSIONAL ENVIRONMENTAL EXPERIENCE

As an Assistant United States Attorney in the early 1970's, C.J. handled the environmental cases within the United States Attorney's office for the Western District of Missouri on behalf of the Department of Justice and Environmental Protection Agency. He was active in negotiating consent decrees with potentially responsible parties, was active in obtaining decrees from major corporations relating to reduction of their air pollution practices, by securing remediation for the government in those cases.

A member of the Shughart, Thomson & Kilroy Trial Department since 1973, he has been heavily involved since 1983 in the landmark environmental Superfund case of United States v. Conservation Chemical Company, et al. As one of the lawyers representing FMC Corporation, and for the most part in the Lead Attorney position, he has supervised up to 10 Shughart, Thomson & Kilroy lawyers at one time during the course of that litigation.

The litigation took many stages in 1980 through the present time, and resulted in 1987 in a consent decree where a treatment plant will be built at the site of Conservation Chemical Company on Front Street in Kansas City, Missouri, to pump and treat allegedly contaminated groundwater at that site at the estimated cost of \$71 million over the next 30 years. That was a multi-stage case in the Court of United States District Judge Scott O. Wright and in its most active era (1982 through 1987), it involved almost 300 companies. It is probably the most highly contested Superfund case in history, in the number of parties, the number of novel issues, and the amount of environmental law that was created.

Other major ongoing environmental projects have included organizing potentially responsible parties to do a clean up, prior to suit, at an Osceola, Missouri hazardous waste site; the clean up of a hazardous waste mining site in Kansas City, Missouri; the clean up of a Superfund site near St. Joseph, Missouri; the clean up of a gasoline spill in the Peculiar, Missouri area; and participated in other smaller environmental remediation sites on behalf of clients.

C.J. has also been involved in environmental audits, assisting companies in complying with environmental regulations. He has also been involved in the drafting of language for purchase/sale agreements representing both buyers and sellers concerning the liabilities relating to those real estate transactions. He has also written private placement language that deals with the environmental concerns, and has also been active in

determining the potential legal liability of recipients of bequests from estates to beneficiaries without their incurring legal liability for potential hazardous waste clean up. A description of other environmental cases involving other issues and problems C.J. has handled is available on request.

Poirier has also been involved in suits, both for and against insurance companies, on issues of insurance coverage matters for pollution and contamination. He is active in doing environmental assessments prior to the purchase of property. He has also acted as special counsel to bankruptcy courts in handling the environmental considerations pursuant to considerations of chapter 7 reorganization in bankruptcy.

In sum, as a practicing environmental attorney for both Government and private industry, C.J. has been involved in numerous on-the-scene, in-the-field environmental cases from 1970 through the present time. He is presently devoting 75 to 90 percent of his practice working on environmental cases, and heading the Shughart, Thomson & Kilroy Environmental Law Group composed of approximately 12 attorneys.

Related Professional Activities

- Chair, Toxic and Hazardous Substances and Environmental Law Committee of Torts and Insurance Practice Section (American Bar Association); August 1990 to August 1991 (approximately 1,500 to 2,000 member committee);
- 1989 - Head, American Bar Association Committee to draft an all-ABA International Environmental Accord, for ultimate presentation to ABA House of Delegates, United Nations and other nations and nongovernmental organizations of the work for approval.
- 1989 - Co-chairman of the American Bar Association Long Range Planning Committee for Toxic and Hazardous Substances and Environmental Law. In that capacity, involved in working with other lawyers, judges, and scientists, academicians, legislators and physicians throughout the United States, and the international legal scientific community to help attempt to resolve, on a national and international level, the problems facing the world in the areas of environmental law, disposal of hazardous substances, and resolution of toxic tort claims.
- (1987-) - member of the National Board of Advisors for the Bureau of National Affairs, Toxics Law Reporter, a select group of practicing attorneys, academicians and engi-

neering experts in environmental, hazardous waste and toxic tort law and author of numerous case reports and articles for the Reporter.

- Served on the Institute Planning Committee for the American Bar Association, Bureau of National Affairs National Institute on Pollution Liability November 10 and 11, 1988, in Washington, D.C. Also program faculty speaker and moderator.
- American Bar Association representative to "Global Change and International Law: The 'Greenhouse' Effect, Comprehensiveness and the Third World", February, 1989.
- Author for 1989 Symposium on the Legal and Scientific Issues in Causation, sponsored by the ABA and Northwest Center for Professional Education, March 28 and 29, San Francisco, California.
- The 1989 Missouri Bar Tort Law Project Committee to publish work in environmental areas, and speaking on those topics at various locations in Missouri in 1989.
- Speaker at program of University of Missouri and Lawyers Association of Kansas City on "A Practical Approach to Lender Liability (Environmental)", June 9, 1989.

Has also appeared, and will appear, in numerous recent local seminars. They include:

- "Environmental Issues in Business Transactions", UMKC/CLE (March 1988);
- National Business Institute, Inc.. "Hazardous Waste in Missouri", November 2, 1988;
- Introduction to Environmental Engineering Liability, presentation to East Central Kansas Group of the American Society of Mechanical Engineers (ASME);
- Chamber of Commerce Centurions, December 13, 1988: "This Fragile Earth, Our Island Home";
- University of Missouri-Kansas City, Kansas City Bar Association Environmental Seminar presently scheduled for March 31, 1989 in Kansas City, speaking on "The Universe of Environmental Law";

- "Toxic Blackacre" for STK Business Department (1988).

Recent^{1/} published works on environmental law issues include:

- "Environmental Laws: Federal, Missouri, Kansas" (1988);
- "Allocation of Liability Among Potentially Responsible Parties" (November 1988); BNA Toxics Law Reporter;
- Co-editor: 562 page page course work materials "Pollution Liability: Strategies for Managing and Combined Challenges of Superfund and Toxic Tort Claims" ABA/BNA Institute (November 1988);
- Introduction to Engineering Liability: Professional, Products and Environmental, November 1988;
- International Aspects of Environmental Law, Kansas City Chamber of Commerce, November 1988;
- The Case for an Environmental Earth Covenant, BNA Toxics Law Reporter, April 19, 1989;
- The Bankruptcy Perspective of a Practical Approach to Lender Liability, June 1989;
- Various other articles in the Kansas City Business Journal, the Toxics Law Reporter, and the St. Louis-Post Dispatch featuring our firm's environmental work have appeared in 1988.

Appeared before various meetings of the local Kansas City organizations for Risk and Insurance Management Society, Inc. (RIMS) and Society of Chartered Property and Casualty Underwriters (CPCU) (1988), and Centurions Leadership Group of Kansas City Chamber of Commerce.

^{1/} Prior to 1988, I have co-authored and published articles in the University of Missouri-Kansas City Law Review, Case & Comment, Journal of the Missouri Bar and Missouri Bar Continuing Legal Education Deskbooks for practicing attorneys. Titles of major published works include: "Comparative Fault and Crashworthiness Cases"; "Products Liability"; "Computer-Based Litigation Support Systems: The Discoverability Issue"; "Tort and Contract Theories in Products Liability Cases"; "Products Liability Warranty Actions".

Former Chairman and Vice Chairman of the Kansas City Metropolitan Bar Association Environmental Law Committee (1986, 1987). Has also served as Vice Chairman of the Toxic and Hazardous Substances and Environmental Law Committee of the American Bar Association (1988-1989).

HEARING ON
HOUSE BILL No. 2262

by Representatives Lane and Douville

March 6, 1991

Testimony by Mary Montello for the Prairie Village Recyclers

Passage of Bill #2262 will be a significant contribution to the people of Kansas, this generation and the ones that follow. The bill introduced by Lane and Douville will require municipalities, in effect, to handle yard waste in ways that will benefit the environment instead of damaging it.

On July 1, 1990 Illinois became the first state to ban the disposal of all yard waste from disposal facilities. Since then 11 other states have legislated bans, including Missouri, Iowa, Illinois, and Minnesota.

Missouri has banned yard waste from landfills as of January 1, 1991. There is reason to believe that Missouri trash collectors will bring waste from that state to Kansas landfills. There is no way to stop this unless Kansas legislates its own ban, because the United States Supreme Court has ruled it legal, that stopping would be an obstruction of interstate commerce.

Landfilling and incineration are poorly suited to the management of leaves and grass. Since yard wastes are relatively clean and biodegradable material, landfilling them is unnecessary and inefficient, wasting precious landfill space. Also, their decomposition in a landfill can contribute to problems of methane gas and acidic leachate.

Yard waste accounts for 20 to 25% of municipal solid waste. It is an ideal target for programs destined to divert materials from landfills since it is already source-separated from the waste stream by homeowners, commercial landscape services, and municipal tree trimming programs.

A community of 30,000 population will generate about 15,000 bags of grass clippings per week, if every household sets out two bags. For the Midwest in general, average amounts are 750 lbs. of grass clippings and 200 lbs. of leaves per household per year.

There is no doubt that community-wide collection and processing of yard waste is necessary to handle the large volumes of material generated. It is also essential to incorporate source-reduction -- and education of citizens for it -- into any large-scale yard-debris program because it is the most cost-effective method of management. Reducing the generation of yard debris at its source, by the homeowner, should be the first priority in developing a comprehensive program. Material that does not have to be collected, transported, processed, and marketed quite simply saves money.

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Attachment 4

Revenue sources for composting programs include the value of the end-product and the avoided cost of yard waste disposal ("tipping fees") at the landfill. Finished compost is often used by local park districts, and is sold to local residents, landscape contractors, golf courses. Every municipal composting program surveyed by the Illinois Department of Natural Resources was able to distribute all of its finished products.

In my city, the Prairie Village Recyclers will introduce to the City Council, on March 18, our plan for municipal composting. We will propose that composting of yard waste be added to the Prairie Village trash collection contract, which already includes city-wide recycling. We hope to convince the City Council of the wisdom and necessity of a municipal composting program, and also of the need for an intensive education program, which we are developing, for source-reduction of yard waste. In ordinary language that means "Don't Bag Your Leaves And Grass". We anticipate the cost of municipal composting to be between 14¢ (as the accompanying page shows) and 50¢ per month per household, to be paid by the resident. The return on that small investment would be tremendous.

City of 30,000

<u>Annual Generation Rate:</u>	<u>Leaves</u>	<u>Grass</u>	<u>Total</u>
Pounds per Household	200	750	950
Cubic Yard per Household	0.5	5.5	6.0
	(Compacted)		

Total Yard Waste Collected:

Tons per Year	600	2,250	2,850
Cubic Yards per Year	3,200	32,800	36,000

<u>Expenses:</u>	<u>Rate</u>	<u>Amount</u>
Collection(1)	\$50/ton	\$142,500
Compost Operation	\$10/ton	28,500
Total		<u>\$171,000</u>

Revenue:

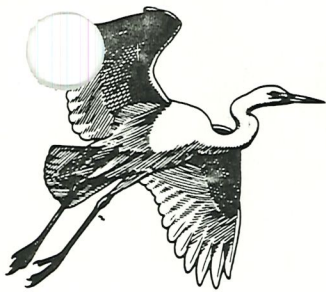
Compost Value(2)	\$12/yd.	\$ 86,400
Diversion Credit	\$24/ton	68,400
Total		<u>\$154,800</u>

ECONOMIC SUMMARY:

Net Program Cost(3)	\$16,200
Cost per Ton	\$5.69
Cost per Household:	
Per Year	\$1.62
Per Month	\$0.14

WASTE STREAM IMPACT:

Yard Waste Collected	2,850 tons/year
Total Residential Waste Stream(4)	11,500 tons/year
Percent of Waste Stream Recycled	25 %
Total Municipal Solid Waste Stream(5)	30,000 tons/year
Percent of Waste Stream Recycled	9.5 %



Kansas Audubon Council

HB 2262

February 26, 1991

House Energy and Natural Resources Committee

I appreciate this opportunity to express the support of the Kansas Audubon Council for HB 2262. This bill addresses that part of the municipal waste stream which can be diverted easily and relatively inexpensively, yet in certain areas, yard wastes can make up a significant portion of the municipal solid waste stream.

In a 1988 EPA study of composting in eight communities ranging in population from 2600 to 633,000 persons, a variety of methods and frequency of collection was used. Two-thirds of the communities, however, used minimal to low-level technology to produce the finished compost, that is, once collected the yard wastes were either placed in piles or windrows, then turned at different intervals.

In the eight study areas, volume reduction of yard wastes composted range between 50 and 85%; composting costs range from \$11 to \$105 per ton, and avoided landfill disposal fees range from \$5 to \$137 per ton. In several cases, revenues were generated through the sale of the finished compost (up to \$25 per ton), in other cases, costs were avoided by saving on costs for landfill cover, soil amendment products, or for private use in home gardens.

In a 1990 pilot composting project in Lawrence, 300 tons of yard wastes were diverted from the landfill for an avoided cost of tipping fees of approximately \$4200. The finished compost will be used by the City Park and Recreation Department in its plantings program for additional savings. The Lawrence Recycling Coordinator heartily agrees that composting is one of the easiest ways of avoiding landfill costs because most residents bag their grass clippings or leaves separately, making identification and collection of these wastes a relatively easy task. The possibility of making a significant difference in reducing the volume of municipal solid waste is given in the following instance. For an area in Lawrence, not in the pilot area, but where grass clippings were bagged separately from other trash, 11 of 34 tons of waste collected were yard wastes. If the area from which that trash was collected is typical of the entire city, up to 1/3 of the landfill tipping fees could be saved during the summer months. Those cost savings could potentially be used to help fund other recycling activities. We believe the experience in Lawrence is fairly typical of how a yard waste composting program would work in other parts of the state that receive enough rainfall to generate similar levels of grass and leaves.

We do have one suggestion to clarify the bill: In New Section 1, line 22, language should be added to allow composting facilities to be sited at solid waste disposal areas (landfills), and, if the composted materials are used as covering material at the landfill, it should also be made clear that would not be prohibited by the bill.

Thank you for this opportunity to share our comments with the committee, I would be happy to try to answer questions.

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Attachment 5



TESTIMONY ON HB2262
FEBRUARY 27, 1991
S. Gary Custis, CPAg
Chemlawn Services Corporation

I am the Regional Technical Manager, for the Chemlawn Services corporation. I am a Certified Professional Agronomist with the American Society of Agronomy, and have a Masters degree in turfgrass management.

The Chemlawn Services Corporation which is the nations largest professional lawn care company servicing over 1,000,000 customers nationally is in favor of House Bill 2262 in reference to the collection of lawn clippings.

It has long been a standard recommendation of our corporation to leave the clippings on the lawn. It is estimated that America generates 160 million tons of garbage each year. Grass clippings and leaves account for about 18 percent of the waste sent to landfills. During the growing season, the yard waste would account for as much as 50 percent.

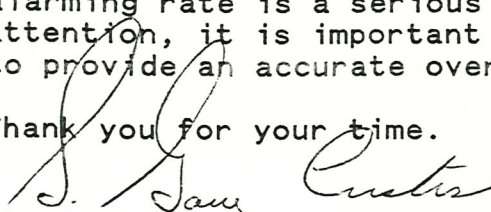
The clippings which can be returned to the lawn will return approximately two thirds of the nutrients which are applied to the lawn. Many homeowners believe that they will create thatch, a layer of organic matter that forms between the soil surface and the green grass, by returning the clippings to the lawn. This has been proven not to be true. The grass clippings decompose very quickly and do not cause thatch.

There are some issues with House Bill 2262 that need attention.

1. The bill does not provide an avenue for companies to dispose of debris which is removed during renovation work, or when a lawn is overseeded.
2. Companies which do pruning work will not have a site to dispose brush which is cleared.
3. In certain agricultural settings, the burning of grasslands is an accepted agricultural practice.

While the issue of yard waste filling our landfills at an alarming rate is a serious problem that needs immediate attention, it is important that industry impute is obtained to provide an accurate overview to this issue.

Thank you for your time.


Chemlawn Services Corporation
S. Gary Custis, CPAg
Regional Technical Manager

9921 W. 128th Terrace
Overland Park, KS 66213
(913) 681 2403

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Attachment 6

E. BLISS SOLID WASTE DISPOSAL CO.

"Our Business Is Picking Up"

BOX 198
LONGTON, KANSAS 67352
PHONE: (316) 642-6155

February 27, 1991

Mr. Chairman & Committee Members:

I appreciate the opportunity you have given for me to express my views in regard to HB 2262. I am F. E. Bliss of Longton, Kansas. I am principal owner of a family held corporation consisting of my wife and two children. We operate as F. E. Bliss Solid Waste.

I first obtained the Solid Waste hauling contract for Elk County, July 1, 1979, and secured the Greenwood County contract October 1, 1980.

As part of the contract I am also responsible for maintaining the Elk County landfill. The current landfill was started around July 1, 1974 on a twenty acre site in the corner of a rock quarry. At the present rate of about 8000 cubic yards of solid waste per year, it appears to be approximately 20% filled at this time.

As you can see volume is not a problem with the Elk County landfill. Also, as I understand, there are no pollution problems with "yard waste" in a landfill.

Collecting "yard waste" separate from other solid waste will constitute a major expense. Composting "yard waste" on such a small scale will also add astronomical costs to tipping fees.

As "yard waste" does not create a potential hazard, because of high costs of collecting yard waste separate from other solid wastes, and because composting is not feasible, I respectfully request this committee give consideration to small counties with a different need from larger counties. Please make an exception in this bill on our behalf.

F. E. Bliss
President

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Attachment 7

THE CITY OF WICHITA

**DEPARTMENT OF
PUBLIC WORKS**
OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

February 27, 1991

House Energy and Natural Resources Committee
Ken Grotewiel, Chairman
State Capitol Building
Topeka, Kansas 66612

RE: House Bill No. 2262 - Yard Waste Ban Bill

Ladies and Gentlemen:

I am Joe Pajor, the Natural Resources Director for the City of Wichita.

Thank you for this opportunity to present the position of the City of Wichita on House Bill No. 2262. This bill would ban yard wastes from solid waste disposal areas after January 1, 1993.

The City of Wichita strongly supports the concept of banning yard waste from landfills. The City sees benefits to this concept that include extending the useful life of landfills and encouraging the establishment of alternative processing systems for these wastes. These alternatives include composting, mulching, and firewood log production. Extension of the useful life of the Brooks Landfill is important to us as Brooks is the only public landfill available to serve the solid waste disposal needs of all of Sedgwick County.

Last summer, the City operated a pilot yard waste composting program. This program was offered in two neighborhoods that totaled some 1,100 households. As a part of the program questionnaires were sent to all households in the pilot neighborhoods. Of those households that participated in the pilot program, over half believe that yard waste should be banned from the landfill. Even among those not participating in the voluntary pilot program, one third support such a ban. These results demonstrate public understanding that it is not "the environmental right thing to do" to bury yard waste in sanitary landfills.

On a technical level, the timing of the effective date should take into consideration that for composting operations conventional wisdom is that it is necessary to start such a program in the

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early fall to have leaves available at compost sites prior to lawn waste arriving.

Conceptually the bill as proposed will extend landfill life. It will do so by forcing alternatives to be developed. We recommend that the State carefully consider how the State will assist those involved at the local level in solid waste management to assuring that these alternate systems are in place by the effective date of the ban and ensuring an orderly transition to such new systems.

Questions such a ban raises include:

- . Will the State provide technical assistance to communities in complying?;
- . Will the State provide start up grants or loans?;
- . Will new operating standards for community scale composting facilities be developed with sufficient lead time to allow public and/or private entities to develop their operations prior to the ban?;
- . Will funds be available to educate the public on the reasons for the ban and how to comply?;
- . Will additional resources be allocated by the State to allow for effective enforcement of the ban?
- . How will such a ban effect private haulers operating in competitive markets? Will the change to be anticompetitive?
- . How does such a ban impact other recycling activities?
- . Does the proposed effective date allow sufficient time for communities to operate pilot scale programs to work out the operating problems that might occur before full scale programs are undertaken?

The implementational confusion that followed passage of the tire bill in the last legislative session and the operational fixes that have needed to be offered in the current session need not be repeated here. With adequate planning, lead time, and commitment of resources the process can be orderly, made at the lowest possible cost, and as painless as possible.

The City of Wichita believes the actual impact of a yard waste ban should be fully considered before legislative action is taken. Consideration by an interim committee may even be needed.

Thank you for the opportunity to present this testimony. I would be happy to address any questions the committee members might have.

Very truly yours,


Joseph T. Pajor
Natural Resources Director
CITY OF WICHITA

JTP:sab

HB 2407

Rep. Freeman

**REPORT OF THE KANSAS COMMISSION ON WASTE REDUCTION,
RECYCLING, AND MARKET DEVELOPMENT TO THE
GOVERNOR AND 1991 LEGISLATURE**

During the 1990 Session of the Kansas Legislature, legislation was approved and signed by Governor Hayden that requires the Kansas Commission on Waste Reduction, Recycling, and Market Development to report its progress to the Governor and to the 1991 Legislature. The following report is in response to the statutory mandate.

BACKGROUND

During the 1990 Legislative Session, consideration and approval was given to S.B. 310. This bill, among other things, created the Kansas Commission on Waste Reduction, Recycling and Market Development. The 11-member Commission is comprised of the following members:

1. five members appointed by the Governor, of whom one each is to be representative of counties, persons experienced in solid waste processing or disposal facilities, businesses and industries using recycled materials, other businesses and industries, and environmental interests (one of whom the Governor chooses to be the chairperson of the Commission);
2. four members, of whom one each is to be appointed by the Speaker and Minority Leader of the House and by the President and Minority Leader of the Senate;
3. the Secretary of the Department of Health and Environment (or a designee); and
4. the Statewide Coordinator of Waste Reduction, Recycling and Market Development (a new, unclassified position that is created by the bill and appointed by the Secretary of Commerce).

Appointive members of the Commission are as follows: Walter Wulf, Jr. of Humboldt (Chairperson), Ronald Champlin of Concordia, John Shockley of Topeka, William Franklin of Prairie Village, Jan Garton of Manhattan, Senator Lana Oleen of Manhattan, Representative Joan Adam of Atchison, Representative Jeff Freeman of Burlington, and Joyce Wolf of Lawrence. Other members are Jim Power of the Department of Health and Environment and Kathlyn Parker, the Statewide Coordinator.

The Commission, which will terminate on July 1, 1992, is charged with making a report to the Governor and to the Legislature by the start of the 1991 Session and with making a final report by the start of the 1992 Session with regard to the following:

1. reducing the volume of solid waste generated in the state and expanding markets for recyclable materials;
2. developing markets for recycled and recyclable products;
3. encouraging and assisting local units of government in establishing waste reduction and recycling programs;

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4. changing state procurement practices to promote recycling; and
5. creating opportunities for recycling enterprises.

The bill also created the position of Statewide Coordinator of Waste Reduction, Recycling, and Market Development within the Department of Commerce. This position, which will be abolished July 1, 1995, is responsible for the following:

1. promoting the development of markets for recycled products;
2. acting as a statewide clearinghouse of information regarding waste reduction, recycling, and recycling markets; and
3. providing information to individuals, local governments, and other entities that wish to establish waste reduction and recycling programs.

Kathlyn Parker was named the Statewide Coordinator of Waste Reduction, Recycling and Market Development in August.

COMMISSION ACTIVITY

Due to the time at which the appointments to the Commission were made, the first meeting of the Commission did not take place until November 8, 1990. Subsequent meetings were held on November 21, 1990, December 5, 1990, December 19, 1990, and January 8 and 9, 1991.

At the first meeting, the Commission heard reports from a representative of Kansas Business and Industry Recycling Program (BIRP) regarding the history of recycling and where Kansas is in the process, and from a member of the Secretary of Health and Environment's Solid Waste Task Force (Jim Power of the Kansas Department of Health and Environment (KDHE)). Members of the Commission provided information on the Riley County Curbside Program. In addition, Bill Franklin gave a presentation on national solid waste management and a slide presentation on solid waste municipal management. Finally, Allen Truax, of the Asphalt Rubber Tire Association, and Kathlyn Parker gave a review of her current activities.

Much of the second meeting of the Commission was devoted to hearing information concerning the issue of composting. In this regard, the Commission heard from Dr. Pat Coyne of the Fort Hays Branch Experiment Station (Kansas State University (KSU)). Dr. Coyne discussed the research that is being conducted in the area of composting. Additionally, Dr. Bill Lamont and Dr. Walter Adam gave presentations on the composting issue and recycling. Specifically, Dr. Lamont discussed the economic development aspects of composting and Dr. Adam discussed the potential establishment of a recycling research center and asked for the Commission's support in this endeavor. Dan Hardin, of the Manhattan Department of Public Works, also discussed the issue of composting from a city's perspective. Finally, Dr. Larry Erickson, Director of the Center for Hazardous Substance Research at Kansas State University, gave a presentation on the safe handling of hazardous substances and discussed his development of a household hazardous product disposal guide.

During Commission discussion at the second meeting, significant concern was expressed about certain aspects of the legislation that was passed during the 1990 Legislative Session regarding the disposal of tires. Several Commission members expressed the belief that certain changes in the statute need to be made. The Chairperson of the Commission appointed a subcommittee to discuss the problems with the tire disposal legislation and make recommendations to the full Commission.

During the third meeting of the Commission, it heard from representatives of the following groups: the Kansas Chapter of the Sierra Club; the League of Women Voters of Kansas; the Kansas Natural Resource Council; the Mid-America Glass Recycling Program; the National Association for Plastic Container Recovery; the Anheuser Busch Companies, Inc.; the Council For Solid Waste Solutions; Dolco Packaging; and the Kansas Electric Utilities Research Program. The representative of the Mid-America Glass Recycling Program gave a presentation on the recycling of glass and the representative of the National Association for Plastic Container Recovery gave one on plastic recycling. The representative of the Kansas Electric Utilities Research Program gave a presentation on possible economic development advantages for electric companies in bringing recycling businesses to Kansas.

At the December 19, 1990 meeting, the Commission heard from the following individuals: Harland Priddle, Secretary of Commerce; Bill Franklin, representing the American Paper Institute; Reid Ashe of the *Wichita Eagle Beacon*; Carla Bishop and Nick Roach of the Kansas Department of Administration; Kathlyn Parker, the Statewide Coordinator for Recycling, Waste Reduction, and Market Development; Jim Power of the Kansas Department of Health and Environment; and Ronald Champlin of the Subcommittee that was appointed to discuss and make recommendations concerning the Kansas waste tire legislation.

Secretary Priddle encouraged the Commission to seize the opportunity to urge local units of government to use cost-effective avenues to solve the problems of waste management. In addition, he advised the Commission to look at 1990 S.B. 310, in regard to the specific assignments of responsibilities for support of the Commission.

Bill Franklin gave a report on the extent of the recycling effort in the paper industry. Specifically, he reported on the industry's goals for recycling particular types of paper products. He also reviewed some of the efforts that are made to use waste paper in rural areas of the nation, where recycling into new paper products is difficult due to transportation costs and other factors.

Reid Ashe of the *Wichita Eagle Beacon* discussed his newspaper's efforts in using newsprint containing recycled newspaper and encouraging subscribers to recycle newspaper. He informed the Commission that his paper is making every effort to use newsprint that contains recycled paper. Mr. Ashe stated that legislation mandating the use of recycled newsprint could encumber and impede the use of recycled newsprint and urged the Commission not to make such a recommendation.

Carla Bishop and Nick Roach reviewed what has happened in regard to the state purchase of paper with recycled content. Ms. Bishop reviewed the price differences for some of the 31 different types of paper that the state purchases. Ms. Bishop stated that the overall cost for the state for paper purchases in 1989 was a little over \$3 million. Mr. Roach stated that he would like to see cities and counties added to the cooperative arrangements for purchases of paper, including paper containing recycled paper, off of the state contract.

Kathlyn Parker, among other items, reviewed the preliminary study of survey results of waste reduction and recycling efforts by counties in Kansas. She also discussed with the Commission the issue of whether a \$2 per ton tipping fee should be imposed on solid waste deposited in Kansas

landfills. She suggested that a part of the money should go to cities and counties to help them with their solid waste management plans, to the Kansas Department of Health and Environment for additional staff to regulate solid waste law, to the Department of Commerce for additional staff for the recycling and market development effort, to support research efforts and to stimulate entrepreneurial activities.

Jim Power of the Kansas Department of Health and Environment reviewed a draft of a proposed bill to amend solid waste management statutes. Among other things the proposed bill would establish a tipping fee of \$2 per ton or equivalent volume (\$4 for waste generated in another jurisdiction) after January 1, 1992. These moneys would be deposited in a Solid Waste Management Fund that also would be created by this proposed bill.

The final report of the December 19 meeting was the report by the subcommittee on the waste tire issue. The subcommittee had four recommendations: (1) eliminate the exemptions on the tire excise tax; (2) recommend a \$2 per ton solid waste fee; (3) address the situation where a mixed load of solid waste contains a few tires; and (4) encourage the use of retread tires particularly for truck and off-highway use.

The Commission spent the majority of its January 8-9, 1991, meeting discussing the issues and making its recommendations.

COMMISSION CONCLUSIONS AND RECOMMENDATIONS

The Commission discussed numerous topics that were potential items of recommendation to the Legislature and the Governor. Several of these were eliminated due to the short amount of time in which the Commission had to discuss various issues and reach a consensus. The following paragraphs discuss the recommendations to the Legislature and the Governor that the Commission was able to make.

The bill draft provided by the designee of the Secretary of the Department of Health and Environment will require that most cities and counties either amend or develop new solid waste management plans. The Commission recommends that, when developing these plans, that consideration be given to the hierarchy of considerations developed by the Kansas Solid Waste Advisory Task Force. This hierarchy is as follows: resource conservation; reduction; reuse/recycling; processing/treatment; and land disposal.

The Commission recommends that recycling goals be included in local solid waste management plans. These recycling goals should be appropriate to the local population density and local waste management practices.

The Commission, in past meetings, had heard testimony concerning the issue of composting. The Commission recommends that the proposed bill submitted by the designee of the Secretary of the Department of Health and Environment be amended so that when new solid waste management plans are developed by cities or counties, they consider including composting as a component of the plan and consider banning yard waste from their landfills if possible.

The Commission discussed the issue of a tipping fee at some length. After its discussion, the Commission voted to support the implementation of a statewide tipping fee. This fee would be in an amount of up to \$2 per ton or its equivalent volume for in-state solid waste. The out-

of-state fee would be up to \$4 per ton or its equivalent volume. This recommendation was included in a proposed bill draft that was provided to the Commission by the designee of the Secretary of the Department of Health and Environment.

The bill draft that the designee of the Secretary of the Department of Health and Environment provided to the Commission also would establish a Solid Waste Management Fund where the tipping fee would be deposited. A portion of the bill draft gives authority to the Secretary to expend the moneys and outlines the purposes for which the moneys may be spent. The Commission recommends that the use of the moneys in the bill draft be broadened to permit the Department of Commerce access to a portion of the Fund. The Commission recommends that the Department of Commerce be permitted to spend a portion of these moneys for administration, research, training for coordinators of local solid waste disposal facilities, grants to cities and counties, and loans to private enterprises. The Commission decided to add a proviso to this recommendation. This proviso is that any statewide tipping fee imposed would be reduced if the county or city has an approved solid waste management plan that includes as a part of it a functioning recycling program.

Additionally, the Commission recommends that local solid waste management plans require that information be collected to determine volume and weight of solid waste handled or disposed of to processing centers, recycling centers, and to landfills. This information would be maintained by counties.

The Commission recommends that the legislation passed by the 1990 Legislature regarding waste tires be amended to eliminate the exemption from paying the excise tax provided for certain types of tires. Specifically, this recommendation would involve amending the definition of "vehicle" in the legislation since the types of tires that have the tax imposed on them are keyed to vehicle tires.

The Commission also recommends that the legislation passed by the 1990 Legislature regarding waste tires be amended to eliminate the provisions which currently permit the Secretary of Health and Environment to encourage the voluntary establishment of waste tire collection centers at retail tire-selling businesses, permit the Secretary to establish an incentives program for individuals to encourage them to return their used or waste tires, and permit the Secretary to contract with a promotion company to administer any incentives programs. The Commission further recommends elimination of the section of the legislation which enables cities and counties to fund research and development with the grant moneys awarded by the Department of Health and Environment. Also, in regard to the grant moneys awarded by the Department, the Commission recommends that the moneys be granted to cities and counties to implement as well as develop their solid waste management plans for collection, recycling, and disposal of tires.

The Commission had extensive discussions concerning the issue of how to deal with the situation of tires being included with normal household waste. The Commission recommends amendment of the 1990 legislation dealing with waste tires to exempt waste tires disposed by residential customers in landfills. The Commission discourages the disposal of tires in landfills and encourages the recycling of tires. However, the Commission recognizes that many county and city landfills do not have the means in place to separate the tires arriving at the landfill site with other household waste.

The Commission recommends that legislation be adopted by the 1991 Legislature that requires plastic coding on plastic bottles and plastic containers. Enforcement provisions are contained in the proposed legislation as reviewed by the Commission, which is to be introduced by Senator Oleen and others in the 1991 Legislative Session.

The Commission further recommends that the Legislature memorialize Congress to pass federal law that would reduce the volume, weight, and toxicity of packaging. The Commission also recommends that the Legislature memorialize Congress to pass federal law to increase the desirability of products (this would reduce dependence on single-use items and make products easy to repair).

The Commission also recommends that the Director of Purchases, Department of Administration, be instructed to consider the purchase of retreaded tires for state vehicles when they are cost competitive. This recommendation only applies to off-highway and medium truck tires.

The Commission urges the 1991 Legislature to take the appropriate action so that political and taxing subdivisions will be able to purchase recycled products through state contracts. The Commission heard testimony that school districts currently have this ability. The Commission recognizes that it will be important for subdivisions to provide to the state some quantity amounts so that the bids can be properly let.

Finally, the Commission recommends that legislation be introduced that would codify some requirements dealing with state purchases. This legislation should include a provision that incorporates requirements for the purchase of products made from recycled or recovered materials if their use is technically and economically feasible. These specifications should be required for paper and paper products, plastic and plastic products, glass and glass products, motor oil and lubricants, construction materials, furnishings, and highway equipment. A second provision would require the establishment of specifications relating to the durability, recyclability, and ultimate disposition of products so as to minimize the amount of solid waste generated by the state. These specifications should discourage the purchase of single-use, disposable products and require, where practical, the purchase of multiple-use, durable products. The final provision should be a 1 percent price preference for products made from recycled or recovered materials. This legislation should require that the Director of Purchases annually report the amount of purchases to the Legislature; the Commission on Waste Reduction, Recycling, and Market Development; and the Statewide Coordinator of Waste Reduction, Recycling, and Market Development.

The Commission makes all of these recommendations without dissent from those members that were present at the time of the vote on each recommendation.

Attached to this report is the calendar year end report of the Statewide Coordinator of Waste Reduction, Recycling, and Market Development. The Commission accepted this report and includes it as a part of its report to the 1991 Legislature and Governor.

Tire recycler to build plant in Garden City

Harris News Service

GARDEN CITY — A tire recycling plant that will employ 100 people will soon be under construction in Garden City.

Steve Rosenbaum, president and chief executive officer of Environmental Recycling, said the company has purchased 51 acres of land and will construct three buildings — a tire grinding plant and two manufacturing buildings.

He expects operations to start within 120 days. The business will employ about 25 people initially and about 100 people within a year, Rosenbaum said. It will serve most of Kansas and Colorado and have the capability of processing a million tires a year.

Plant to employ 100 within a year

Environmental Recycling is based in Eufaula, Okla. The move into Finney County is an expansion for the company.

The plant will grind tires and recycle the material to make products such as mats for pickup trucks — and lumber.

Rosenbaum said the lumber made from tires can be used in the same way as wood lumber. He said it's particularly useful when people might use treated lumber, such as in areas where termites are a threat or for outdoor areas such as decks.

It can be manufactured in almost any color, he said, for example, to resemble aged cedar. The market for the product is mainly large lumber wholesalers.

Rosenbaum said the tire-grinding is an environmentally clean process. Ground tires will be kept in grain bins "so there's not the possibility of the Kansas wind carrying little bits of ground rubber around our town," he said.

Tire recycling is a fairly new technology. Rosenbaum has been involved with the process for 12

9-7
years. His background is in hydraulic engineering.

A new Kansas law that took effect July 1 banned burial of whole tires in landfills. County engineer Max Morgan said Finney County had been stockpiling tires since then, and had collected more than 10,000 by the end of 1990.

The tire industry estimates that a county can expect one discarded tire per resident per year, Morgan said.

He said tires didn't pose any particular health hazard when buried, but they did take up landfill space and he surmised the Legislature wanted to encourage recycling.

Lawrence man gets OK to shred tires

By ELICIA HILL
The Capital Journal

LAWRENCE — No one in Kansas is recycling old tires, but a Lawrence man hopes to change that.

Gary Unfred was granted permission by the Douglas County Commission Wednesday evening to use a site on his family's property for one year to see whether his idea would work.

The site, previously used for a rock quarry and salvage yard, is located 1½ miles northwest of Lawrence on Douglas County Road 438.

Unfred said the idea came to him while driving home from church with his son.

"I wanted to do something to help his world," he said.

"Everyone talks about recycling but talk is cheap. I started thinking that there is no way now to dispose

of old tires. The only way to get rid of them is to dig a hole and bury them. My question is — who is going to dig them up? Tires do not decompose."

Unfred, who is working on a mechanical engineering degree from the University of Kansas, is building his own tire shredder at a cost of \$5,000. A commercial version costs \$500,000. Unfred was tight-lipped about his machine, because a patent was pending.

He wants to shred the tires into three parts that could then be recycled into rubber asphalt. Grant Township has permitted him to experiment on a five-mile stretch of road. Adding rubber to asphalt has been shown to increase the life of a road by 40 percent, he said.

Allen Caldwell, an authority on

tire waste recycling and a consultant for the Environmental Protection Agency in Kansas City, said not much has been done in the political arena to find an end use for tires.

Only a handful of facilities in the United States are recycling tires. They include three crumb-rubber factories, a few companies that are experimenting with tire-derived fuels and a company that is experimenting with burning whole tires to make electricity.

"The problem is when you shred a tire, you waste more energy trying to get a clean product," he said. "When the tire manufacturers make a tire that is indestructible — it is."

Sam Sunderraj of the Kansas Department of Health and Environment said Kansas needs tire recycling. Kansas has five sites where tires are buried.



Nebraska will use tire tax to finance waste management

Nebraska is now charging a \$1 tax for every new motor vehicle tire sold in the state. The tax, which is expected to bring in about \$200,000 a year, will go into a fund to finance grants to local political subdivisions for solid waste management and recycling. Beginning in July, a new annual waste reduction and recycling fee of \$25 will be imposed on all retail businesses with sales of at least \$30,000 (\$50 for over \$199,000). A comprehensive state waste management plan is to be completed in July.

COMMISSION ON WASTE REDUCTION, RECYCLING, AND MARKET DEVELOPMENT

Representative Joan Adam
305 North Terrace
Atchison, Kansas 66002

Representative Jeff Freeman
302 Sanders, Apartment 7
Burlington, Kansas 66839

Senator Lana Oleen
1631 Fairchild Avenue
Manhattan, Kansas 66502

Joyce Wolf
Kansas Audubon Council
2535 Arkansas
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Humboldt, Kansas 66748

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4121 West 83rd Street
Prairie Village, Kansas 66208

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Kansas Department of Commerce
400 Southwest 8th Street, 5th Floor
BUILDING MAIL

John Irwin
Department of Health and Environment
Building 740 Forbes Field
BUILDING MAIL

SENATE BILL No. 310

AN ACT concerning solid waste; relating to disposal of vehicle tires; creating the position of statewide coordinator of waste reduction, recycling and market development and the commission on waste reduction, recycling and market development; concerning state procurement practices with relation to recycled and recyclable materials; prohibiting certain acts and providing penalties for violations; amending K.S.A. 75-3740 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in sections 1 through 9, unless the context otherwise requires:

(a) "Person" means any individual, association, partnership, limited partnership, corporation or other entity.

(b) "Secretary" means the secretary of health and environment.

(c) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle.

(d) "Vehicle" means any motor vehicle, as defined by K.S.A. 8-1437 and amendments thereto, other than a traction engine, road roller or farm tractor or trailer.

(e) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(f) "Waste tire collection center" means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

(g) "Waste tire processing facility" means a site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.

(h) "Waste tire site" means a site at which 1,000 or more whole tires are accumulated.

New Sec. 2. (a) The owner or operator of any waste tire site, within six months after the effective date of this act, shall provide the department with information concerning the site's location and size and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (b).

(b) On or after July 1, 1990, no person shall:

(1) Maintain a waste tire site unless: (A) such site is an integral part of the person's permitted waste tire processing facility; or (B) the tires accumulated at such site are for use in the person's tire retreading business;

(2) dispose of waste tires in the state unless the waste tires are disposed of for processing, or collected for processing, at a permitted solid waste processing facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility or a waste tire collection center or are made available to: (A) The department of wildlife and parks for use by the department; or (B) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 14-5701, and amendments thereto, as long as accumulation or disposal of such tires is in accordance with all applicable zoning regulations; or

(3) deposit waste tires in a landfill as a method of ultimate disposal, except that the secretary, by rules and regulations, may: (A) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal or are utilized as part of a proven and approved leachate collection system in their original state; and (B) allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

(c) Violation of subsection (b) is a class C misdemeanor.

New Sec. 3. (a) The secretary shall establish a system of permits for waste tire processing facilities and permits for waste tire collectors and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall establish standards for waste tire processing facilities and associated waste tire sites, waste tire collection centers and waste tire collectors.

(c) On and after July 1, 1990 no person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a waste tire collector except in compliance with the standards established by the secretary pursuant to subsection (b).

(d) The provisions of subsection (c)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises;

(4) the department of wildlife and parks; or

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 14-5701, and amendments thereto.

(e) Violation of subsection (c) is a class C misdemeanor.

New Sec. 4. (a) The secretary shall encourage the voluntary establishment of waste tire collection centers at retail tire-selling businesses, waste tire processing facilities and solid waste disposal facilities, to be open to the public for the deposit of used and waste tires.

(b) The secretary is authorized to establish an incentives program for individuals to encourage them to return their used or waste tires to a waste tire collection center. The incentives established by the secretary may involve the use of discount or prize coupons, prize drawings, promotional giveaways or other activities the secretary determines will promote collection, reuse, volume reduction and proper disposal of used or waste tires.

(c) The secretary may contract with a promotion company to administer the incentives program.

New Sec. 5. (a) In addition to any other tax imposed upon the retail sale of new tires, there is hereby imposed an excise tax on retail sales of new tires at the rate of \$.50 per tire sold. Such tax shall be paid by the purchaser of such tires and collected by the retailer thereof.

(b) The tax imposed by this section collected by the retailer shall become due and payable monthly, or on or before the last day of the month immediately succeeding the month in which the tire is sold, but any person filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607 and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax imposed by this act on the same basis and at the same time the person pays such retailers' sales tax. Each person collecting the tax imposed pursuant to this section shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts of taxes due and payable hereunder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of sales of new tires shall be kept separate and apart from the records of other retail sales made by the person charged to collect the tax imposed pursuant to this section in order to facilitate the examination of books and records as provided herein.

(c) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the person required to collect the tax imposed pursuant to this section as may be necessary to determine the accuracy of such reports required hereunder.

(d) The secretary of revenue is hereby authorized to administer and collect the fees imposed hereunder and to adopt such rules and

regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any person liable to collect the taxes imposed hereunder refuses or neglects to pay them, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617 and amendments thereto.

(e) The secretary of revenue shall remit daily to the state treasurer all revenue collected under the provisions of this act. The state treasurer shall deposit the entire amount of each remittance in the state treasury and credit it to the waste tire management fund.

(f) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any taxes, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person charged with the collection of such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

New Sec. 6. (a) If any person fails to pay taxes when required by section 5, there shall be added to the unpaid balance of the fees interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968 and amendments thereto from the date taxes were due until paid.

(b) If any person due to negligence or intentional disregard fails to file a report or pay the taxes due at the time required by or under the provisions of section 5, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of taxes due.

(c) If any person fails to make a report, or to pay any taxes, within 60 days from the date the report or taxes were due, except in the case of an extension of time granted by the secretary of revenue, there shall be added to the taxes due a penalty equal to 25% of the amount of such tax.

(d) If any person, with fraudulent intent, fails to pay any tax or make, render or sign any report, or to supply any information, within the time required by or under the provisions of section 5, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of the tax due.

(e) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other.

(f) Whenever, in the judgment of the secretary of revenue, the failure of a person to comply with the provisions of subsection (b) or (c) was due to reasonable causes and not willful neglect, the secretary of revenue may waive or reduce any of the penalties upon making a record of the reasons therefor.

(g) In addition to all other penalties provided by this section, any person who willfully fails to make a report or to pay over any tax imposed under section 5, who makes a false or fraudulent report, who fails to keep any books or records necessary to determine the accuracy of the person's reports, who willfully violates any rules and regulations of the secretary of revenue for the enforcement and administration of the provisions of section 5 or this section, who aids and abets another in attempting to evade the payment of any tax imposed by section 5 or who violates any other provision of section 5 or this section shall, upon conviction thereof, be fined not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than one month nor more than six months or be both so fined and imprisoned, in the discretion of the court.

New Sec. 7. (a) On or before July 1, 1991, the secretary shall establish a program to make grants to cities and counties which, individually or collectively, submit to the secretary plans, approved by the secretary, to:

- (1) Enforce laws relating to collection and disposal of tires;
- (2) encourage recycling of tires;
- (3) develop management plans for collection, recycling and disposal of tires; or

(4) fund research and development for recycling and use of waste tires.

(b) Each city, county or group of cities or counties, or both, submitting a plan approved by the secretary shall be eligible for grants pursuant to this section on the basis of priority as determined by the secretary. No recipient shall be eligible to receive such grants for more than two consecutive fiscal years.

(c) Cities and counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (a).

(d) The secretary may provide technical assistance, upon request, to a city, county or group of cities or counties, or both, desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

New Sec. 8. (a) There is hereby established in the state treasury the waste tire management fund.

(b) Moneys in the waste tire management fund shall be used only for the purpose of:

(1) Making grants as provided by section 7; and

(2) paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to sections 1 through 9, but not more than 5% of the moneys credited to the fund during the fiscal year shall be used for such purpose.

(c) All expenditures from the waste tire management fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

New Sec. 9. The secretary shall adopt such rules and regulations as necessary to administer and enforce the provisions of this act.

New Sec. 10. (a) There is hereby established in the department of commerce the position of statewide coordinator of waste reduction, recycling and market development. The coordinator shall be appointed by the secretary of commerce. The coordinator shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the secretary of commerce with the approval of the governor. The secretary of commerce shall provide to the coordinator such clerical and other staff as necessary to carry out the duties of the coordinator.

(b) (1) The duty of the statewide coordinator of waste reduction, recycling and market development shall be to promote actively the development of markets for recycled products by working with industry and public entities to maximize current markets and explore the possibilities of new markets. In addition, the statewide coordinator shall:

(A) Act as a statewide clearinghouse of information regarding waste reduction, recycling and recycling markets; and

(B) provide information to individuals, local governments or other entities wishing to establish and implement waste reduction and recycling programs.

(2) Nothing in this subsection shall be construed to relieve the department of health and environment of its duty to provide technical information and assistance relating to solid waste management.

(c) The position of statewide coordinator of waste reduction, recycling and market development shall be and is hereby abolished on July 1, 1995.

New Sec. 11. (a) There is hereby established the commission on waste reduction, recycling and market development, which shall consist of 11 members as follows:

(1) Five members appointed by the governor, one representing counties, one experienced in solid waste processing or disposal facilities, one representing environmental groups, one representing businesses and industries using recycled materials and one representing other businesses and industries;

(2) one member appointed by the speaker of the house of representatives;

(3) one member appointed by the minority leader of the senate;

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- (4) one member appointed by the president of the senate;
- (5) one member appointed by the minority leader of the house;
- (6) the secretary of health and environment or the secretary's designee; and
- (7) the statewide coordinator of waste reduction, recycling and market development.

(b) Vacancies on the commission shall be filled for the unexpired term in the same manner as the original appointment.

(c) The commission shall meet at least monthly.

The governor shall designate one member of the commission to serve as chairperson of the commission. The commission may elect such other officers as it determines necessary.

Members of the commission shall receive amounts provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto, upon vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(d) The commission shall evaluate and recommend specific actions which the governor and the legislature may take to:

- (1) Reduce the volume of solid waste generated in the state and to expand markets for recyclable materials;
- (2) develop markets for recycled and recyclable products;
- (3) encourage and assist local units of government that wish to establish and implement waste reduction and recycling programs;
- (4) change state procurement practices to promote recycling; and
- (5) create opportunities for recycling enterprises.

(e) The commission shall make a report to the governor and the legislature on or before the first day of the regular legislative session in 1991. Such report shall include a report on progress in reduction of waste and development of markets for recycled materials and specific recommendations to the governor and legislature. The commission shall make its final report and recommendations to the governor and legislature on or before the first day of the regular legislative session in 1992.

(f) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the commission and authorized by the legislative coordinating council.

(g) For the purposes of this act and within the limits of appropriations and resources available therefor, all agencies and officers of the state and political subdivisions thereof shall cooperate fully with the commission.

(h) The commission shall be and is hereby abolished on July 1, 1992.

New Sec. 12. (a) As used in this section:

- (1) "Newsprint," "printing paper" and "writing paper" have the meanings provided by 40 CFR 250.4 (53 Fed. Reg. 23562-23563).
- (2) "Waste paper" means waste paper, as defined by 40 CFR 250.4 (53 Fed. Reg. 23562-23563), containing not less than 10% postconsumer material by weight.

(b) Subject to the provisions of subsection (c), the state shall spend on newsprint or high grade bleached printing or writing paper containing not less than 50% waste paper by weight, if sufficient amounts of such paper are available:

(1) For the fiscal years beginning July 1, 1991, and July 1, 1992, an amount equal to not less than 10% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year;

(2) for the fiscal year beginning July 1, 1993, an amount equal to not less than 15% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year;

(3) for the fiscal year beginning July 1, 1994, an amount equal to not less than 20% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year; and

(4) for fiscal years beginning on and after July 1, 1995, an amount equal to not less than 25% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by

the state during the immediately preceding fiscal year.

(c) In determining the lowest responsible bidder for any purchase of newsprint or high grade bleached printing or writing paper, the director of purchases of the department of administration, or any other state officer or employee authorized to make purchases directly for a state agency, shall give the following price preferences to any bidder whose bid is for newsprint or high grade bleached printing or writing paper containing not less than 50% waste paper by weight unless the requirements of subsection (b) have been met:

(1) For the fiscal years beginning July 1, 1991, and July 1, 1992, 20%;

(2) for the fiscal year beginning July 1, 1993, 15%;

(3) for the fiscal year beginning July 1, 1994, 10%; and

(4) for fiscal years beginning on and after July 1, 1995, 5%.

(d) The director of accounts and reports and the director of purchases of the department of administration, and any other state officer or employee authorized to make purchases directly for a state agency, shall cooperate to implement the provisions of this section.

(e) Annually, on or before the first day of the regular legislative session, the director of the division of purchases of the department of administration shall submit to the legislature a report on progress in implementing the provisions of this section.

New Sec. 13. The director of purchases of the department of administration shall review all state procurement practices and specifications and modify any such practices or specifications so as to eliminate any discrimination against purchases of products made from recycled materials.

Sec. 14. K.S.A. 75-3740 is hereby amended to read as follows: 75-3740. (a) *Except as provided by section 12*, all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but ~~in cases where~~ if:

(1) The dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state;

(2) *in the case of bids for paper products specified in section 12, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recyclable materials; and*

(3) *in the case of bids for paper products specified in section 12, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.*

(c) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bidder on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider: (1) The criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the

basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available, and (2) the recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law.

(d) Before the awarding of any contract for construction of a building or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(e) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(f) As used in this section and in K.S.A. 75-3741, and amendments thereto, "project architect" shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.

Sec. 15. K.S.A. 75-3740 is hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.

9-15



State of Kansas

Governor Joan Finney
Department of Health and Environment
Division of Environment

Acting
Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0001

Respond to:
FAX (913) 296-6247

Testimony presented to
House Committee on Energy and Natural Resources
by
The Kansas Department of Health and Environment
House Bill 2407

KDHE believes that there are several outstanding issues remaining to be addressed in the waste tire problem. As the provisions of K.S.A. 65-3424 et seq are implemented; these are: (1) a need to eliminate abandoned tire piles to meet health and environmental considerations, (2) a need to regulate tire flow from the tire dealer to a permitted processing or disposal facility; (3) a need to regulate the processing of waste tires including a system for tracking tire movement and regulating tire processing through permits, bonds, and licenses; and (4) a need to encourage tire recycling and reuse through various funded, local or state mechanisms.

There are five basic perspectives on waste tire management: (1) The consumer, not the tire dealer, is the generator of waste tires. It is the consumer who wears the tire out, and it is the consumer who must eventually pay for processing and disposal. (2) Tire dealers have become tire disposers by tradition. Dealers are the last persons to have a tire before it is disposed of. (3) The waste tire problem is not a technology problem. The technology exists to do many useful and innovative things with waste tires. The primary problem is economic viability. Our goal in the department is to overcome the attitude that scrap tires are a waste and to replace it with the idea that used tires are a resource to be used beneficially. (4) Contrary to popular belief, tires do not need extensive and expensive processing before burial once the decision is made to landfill them. Tires buried in the bottom of a refuse lift tend to stay there. The occasional tire remaining on the top of a refuse lift at the end of the working day does need to be picked up and placed at the toe of the fill for burial under the next day's solid waste. Tires left on top of a fill have a tendency to work their way up through earth cover and must be picked up prior to commencing application of soil. Tire movement ceases when active work on the fill stops. Frankly, the Department is uncomfortable with the concept of spending substantial sums of money to process a tire only to have that processed tire buried in a landfill. (5) We have found the tire industry to be an environmentally responsible industry who seeks to be an active part of the solutions for managing waste tires.

E+NR
2/27/91
Attachment 10

PRINTED ON RECYCLED PAPER

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The department fully supports the concepts outlined in K.S.A. 65-3424 et seq; unfortunately, the lead times placed in these statutes upon the counties (the final receivers of the waste tires), the tire dealers (the principal isposers of waste tires) and KDHE were unrealistic. The amount of time required to write and adopt regulations is 9-12 months. Judging from the number of inquiries the Department has had the department is confident that the private sector will respond to the demand for waste tire services created by this new law and establish new waste tire collection and processing operations. It takes time, however, for equipment to be ordered and facilities sited. During this interim period, we are encouraging tire retailers to continue to accept responsibility for the management of waste tires even at additional expense to the customer. We do not recommend that waste tires be returned to the new tire buyer since the public, in general, is ill equipped to lawfully dispose of waste tires.

KDHE has encouraged the counties to continue to be an active part of the waste tire management process. Most counties had large stockpiles of waste tires for which they had not received sufficient revenue to enable them to be processed in accordance with the proposed standards. Understandably they are quite upset because many new demands are or will be made on landfills and most are inadequately funded.

The department wishes to continue with the program that has begun. We would also like to make you aware of several developments which are pending across the state.

- (1) The Monarch Cement company in Humboldt, Kansas recently announced a program to burn an approximate one million tires per year as a fuel supplement. Monarch has received the necessary air quality and solid waste approvals to proceed.
- (2) Osage Tire Recyclers has recently acquired a facility in Leavenworth County to process tires for crumb rubber for asphalt blending and other uses for ground rubber.
- (3) An announcement was recently made that a facility will be built in Garden City to manufacture consumer products made from rubber processed from tires. Among the products expected to be made are roofing, truck bed liners, a lumber substitute for severe service and guard rail posts.
- (4) Plans are being made to locate similar facility in Wichita.
- (5) KDHE is working with several other parties interested in doing similar things.

KDHE urges the legislature to maintain the land burial ban. There is no way that these fledgling industries can survive if they must compete with landfill burial. We believe the uncertainty of proven markets will make the funding received as a disposal fee necessary for the foreseeable future.

KDHE would, however, like to comment on the amendments proposed and make recommendations for improving other sections of the Act.

1. K.S.A. 65-3424 Section 1 paragraph (d) lines 23, 24 and 25. KDHE supports this amendment because it does two things (1) brings these tires into the regulatory program and (2) removes the exemption for the excise tax which we understand has proved troublesome to the Department of Revenue.

2. KDHE suggests adding the following definitions to section 1:

"Abatement" means the processing or removing to an approved storage site of waste tires which are creating an danger or nuisance.

"Beneficial use" means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.

"Landfill" means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal site permit issued under K.S.A. 65-3401 et seq and the regulations adopted there under.

"Store" or "storage" means the placing of waste tires in manner that does not constitute disposal of the waste tires. "Storage" includes the beneficial use of waste tires as fences, silo covers, erosion control or other uses with a potential to cause health or environmental risks. Storage does not include beneficial uses except when the Department determines such uses create environmental risks.

"Tire retailer" means a person in the business of selling new or used replacement tires at retail.

3. Section 2 (b) (B) page 2 lines 13, 14 and 15. The amendment on line 13 is a housekeeping amendment to correct a typographical error. The department points out that the same citation appears in K.S.A. 65-3424(b) subsection (d)(5). KDHE has concern over the use of the term "farming or ranching activity". We believe this creates a huge loophole. A literal interpretation of this subsection would indicate all one has to do to dispose of waste tires is to make them available to a farming or ranching activity. "Farming or ranching" is not defined nor is "activity". The only requirement placed on possession of tires is compliance with applicable zoning laws. People who want to manage tires always look for counties that are not zoned. These practices are proposed to be defined in the definition of "beneficial use."

KDHE suggests rewording as follows:

Page 2 line 14 after the word "as" add the word "the", after the word "accumulation" delete the phrase "or disposal of such tires is in accordance with all applicable zoning regulations" and add the phrase "has a beneficial use to the person accumulating the tires and (i) the secretary determines that the use has no adverse environmental effects and (ii) the accumulation is in accordance with all applicable zoning regulations".

4. Lines 18, 19 and 20. The department agrees that as written the landfill prohibition would prove difficult to implement at sites where an occasional tire is collected with mixed loads of municipal solid wastes. KDHE in proposing regulations to implement the Act makes provision for this exemption both in licensing tire collectors and the disposal site.
5. K.S.A. 1990 Supplement 65-3424(b) as follows:
 - a) Section (c) should be amended to change the July 1, 1990 deadline for permits to December 31, 1991.
 - b) Section d(5) should be deleted in its entirety because this practice is defined in the "beneficial use" definition.
6. Section 2; K.S.A. 65-3424a, as amended, should be amended to delete the term "permitted" from lines 3, 7 and 9 on page 2.
7. KDHE has received several inquiries from individuals who complain that tire retailers are refusing to take their old tires when they purchase new tires. Although we doubt that the practice is wide spread there is an easy way to fix it, KDHE suggests a new amendment as follows:

Add the following new section:

No tire retailer shall refuse to accept waste tires from customers or offer any discount or other monetary inducement to customers to encourage customers to remove their old tires from the premise at the time or point of transfer. A tire retailer may ask customers if they wish to retain their old tires at the time of sale. Nothing in this section shall be construed to require any retailer to accept more tires from a customer than purchased by that customer at the time of sale.

8. Page 2 Section 3 line 36. After the word "collection" add the word "abatement".
9. Violations are a class C misdemeanor, however, criminal sanctions are a last resort for an administrative agency. KDHE administers a number of environmental statutes which have administrative procedures which have proven effective since the tire act is closely related to the solid waste management. We recommend that enforcement mechanism found in K.S.A. 65-3409 and K.S.A. 65-3419 be used to enforce this Act. This applies to K.S.A. 65-3424a and K.S.A. 65-3424b.

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10. K.S.A. 65-3424f should be amended to delay the date for the grant program to be established to December 31, 1991.

Testimony presented by: John C. Irwin
Director
Bureau of Air and Waste Management
February 27, 1991

STATEMENT
OF THE
KANSAS TIRE DEALERS ASSOCIATION

BEFORE THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
FEBRUARY 27, 1991

HOUSE BILL NO. 2407

E+NR
2/27/91
Attachment 11

Mister Chairman and Members of the Committee:

My name is Jerry Glasgow. I'm President of Performance Tire and Wheel, a small company here in Topeka. As President and on behalf of the Kansas Tire Dealers Association, I appreciate the opportunity to be here today in support of House Bill 2407.

Tire Dealers in Kansas realize a need to address the scrap tire disposal problem, and support all reasonable efforts to remedy this environmental threat.

Our main concern are the exemptions that resulted from the passage of SB 310 in 1990. The vagueness of this current statute has made it difficult to determine who is and who is not exempted from the excise tax. This puts the tire dealer in the position of an enforcer without any authority, a situation which could damage valued customer relations; something no small business-person can afford to violate. A tire dealer may be forced to take the word of the purchaser, putting himself/herself at risk when the State Revenue Department asks for the taxes that should have been collected.

Tire dealers also may interpret the exemptions differently, thereby creating inequities not only for the customer, but also in fair competition among tire dealers.

Additionally, if the exemptions are lifted, as proposed by HB 2407, the State of Kansas may realize enough revenue to fund efforts to resolve waste tire problems, while eliminating the need to increase the \$.50 excise tax.

Finally, let me state that KTDA feels that all tires create disposal problems. Those tires that have been exempted from the excise tax, such as large tractor tires and semi-trailer tires, are just as much, if not more, a part of the recycling process. Therefore, users of those types of tires should be held responsible for helping to keep waste tire piles under control by paying the \$.50 excise tax.

For these reasons, our association supports House Bill 2407.

Thank you for allowing me to address this issue. I will try to answer any questions you may have.



Kansas Tire Dealers Association

February 28, 1991

TO: All Members of the House Energy and Natural Resources Committee

FROM: Robert Pickrell
President of Royal Tire Co.

RE: House Bill 2407

As the president of a small business and as treasurer of the Kansas Tire Dealers Association, I appreciate the opportunity to submit, in writing, my testimony in support of House Bill 2407.

My first concern relates to the exemptions from the \$.50 excise tax on tires allowed by current law. The independent tire dealers have been put in an awkward position. Unfair competition, increased illegal dumping, confusion regarding who to collect from and other problems have become more evident. Therefore, I believe it would be helpful to eliminate those exemptions, requiring the fee be paid on all forms of new tires sold in Kansas.

On behalf of the KTDA, I would like to state that we have no position on the concept of allowing waste tires from residential trash to be landfilled. Although we do understand the source of this amendment, tire dealers aren't viewing it as an "out" for disposal of tires.

Also, I would like to emphasize the need to protect what funds are created by the \$.50 excise tax on tires from other solid waste producers. If the exemptions are removed, there may be enough revenue to take care of waste tire disposal problems, but not enough to clean up other forms of solid waste. Also, if state funds are expended for this effort, I believe there should be provisions to insure that the Kansas waste tires are indeed "Kansas tires" and not an influx from bordering states that have the same problems.

In addition, I believe that it is not necessary to expend additional money for research and development when volumes of data are now available.

ELNR
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Attachment 12

Page 2

Finally, tire dealers fear any legislation that mandates that they accept waste tires while not providing a legal, affordable means of disposing of them later. Please keep in mind the implications of passing statutes that create a situation in which small business in Kansas is at risk. Our concern is that new laws will leave only one avenue of disposal, which will allow companies to charge exorbitant amounts to pick up retailers waste tires. Many enterprising marketing individuals see a new method of getting paid to pick up raw materials for their product.

For these reasons, I urge the support and passage of House Bill 2407.

Thank you for allowing me to express my thoughts on this issue.

Tire Energy Corporation

Corporate Office
51 Corporate Woods
9383 W. 110 Street - 5th Floor
Overland Park, Kansas 66210
(913) 451-8829
Fax (913) 451-6750

Plant Office
7400 N. E. Birmingham Rd.
Kansas City, MO 64161
1-800-487-7057
(816) 458-7044
Fax (816) 458-8521

March 1, 1991

Representative Ken Grotewiel
State of Kansas
Room 426-S
Topeka, KS 66612

Dear Representative Grotewiel,

Over the last year we have been working with The Monarch Cement Company located in Humboldt, KS to use scrap tires as a fuel. Tire Energy Corporation is now the exclusive scrap tire supplier to Monarch. They will burn the tires as a supplemental fuel in an environmentally sound manner in accordance with all state air quality regulations. Monarch has the ability to burn over 1 million tires per year. This is over 50% of the tires discarded each year by the citizens of Kansas.

Tire Energy Corporation has its main collection facility in Kansas City but will be picking up scrap tires throughout the state of Kansas. We also have the ability to "clean-up" any illegal tire piles. The fee we will charge is a function of the location of the scrap tire pickup.

In reference to HB 2407, we are in agreement with most of the changes it imposes on the original scrap tire bill (SB 310). However, we are very concerned about the following:

1. Section 2, paragraph 3 has an exemption for waste tires in a truckload. Please realize that this is a large loophole, that could easily be abused. Landfills might take the already separated waste tires and throw them in with each load of residential waste. Since companies like ours will have the ability to make routes and pick up these separated tires, we see no need for this exemption.
2. Section 3 deals with grants to the cities and counties. I has been clearly shown in other states that distributing funds to the cities and counties is not effective in disposing of the small and large waste tire stockpiles. We suggest that all funds collected be solely distributed by the secretary. This has been shown to be very effective in states like Oregon and Minnesota that have "cleaned up" 70%-90% of the waste tire stockpiles in their states.

E+NR
2/27/91

Attachment 13

3. One additional change would be in Section 8 of SB 310. Enforcement of this law will determine the success of Tire Energy Corporation's business. If people still put whole tires in landfills, farm fields or ravines, companies like ours will never have a chance of collecting the necessary quantities of tires to satisfy our end users. We propose increasing the funds to the Department of Environment from 5% to 12%. When the waste tire management fund has substantial revenues, the percentage going to the Department of Environment can be reduced.

We hope that the above comments are helpful to your committee in developing the proper tire legislation.

Sincerely,



Michael Sorcher
Tire Energy Corporation

cc: House Energy and Natural Resource Committee

d5260

John F. Shockley
Director, Shawnee County Refuse Department
Shawnee County, Kansas
Testimony, HB2407
March 5, 1991

I volunteered to be considered as a member of the Governors Commission on Waste Reduction, Recycling, and Market Development because I believe my experience would be an asset in pursuing the objectives of this commission.

Previous testimony has been a fair assessment of HB2407 and I generally agree with what has been stated.

Contents of HB2407 were thoroughly discussed by the commissions sub-committee before presenting it to the commission as a whole. The commission voted on and approved the sub-committee proposal prior to publication of HB2407.

Vehicle tires make up approximately 1% of the waste stream. Since proposed federal regulations do not require 100% recycling of other products, I believe the residential mixed load (4 tire limit) cuts enough slack until 100% compliance is required and will allow basements and garages to be cleaned out until a cost effective alternative use of tires is developed.

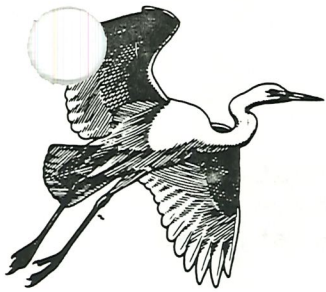
Refuse collection crews can easily monitor and report tire collection for fair and equitable collection. Shawnee County Refuse collection crews now monitor and report suspicious material. This material is inspected before collection.

Honesty cannot be legislated. With a basic system of checks and balance I would not expect abuse of HB2407 to be more flagrant than other laws that are not fully complied with.

I believe HB2407 is reasonable and I ask that you consider it based on its merits. Although other disposal facilities may not have an immediate space problem, the future must also be considered.

EXNR
2/27/91

Attachment 14



Kansas Audubon Council

HB 2407

February 27, 1991

House Energy and Natural Resources Committee

My name is Joyce Wolf and I am here on behalf of the 5000 Kansas members of the National Audubon Society who support the wise use and protection of our natural resources.

The Kansas Audubon Council supports the general intent of HB 2407, to refine the regulations governing the disposal of wastes tires in Kansas. We would like to offer the following comments:

1) Section 1 (d): we support the inclusion of all vehicle tires. Some tires which are currently exempt from the fee are from very large vehicles and they cause the same kind of disposal problems as do passenger tires. As a matter of fact, it could be argued that the larger the tire, the greater the amount that should be paid, to reflect the true costs of disposal.

2) The Council believes we should not be paying to landfill materials which have secondary uses. Tires can be retreaded, sold for reuse, incorporated into rubberized asphalt, used as railroad ballast, or burned as fuel in cement kilns. Therefore, we offer the following amendment on page 2, line 20 after the word "truckload" insert:

until January 1, 1993;

We offer this amendment for two reasons: a) it will give adequate time for cities and counties to implement section 3 (2 and 3) lines 35-37. The waste tire fee fund provides grants to cities and counties to actually recycle waste tires, our amendment sets a deadline for this to happen; and b) the current version of the bill provides too easy an opportunity for tire dealers, gas stations etc. to routinely take tires home and dispose of them there, thereby eliminating the costs to their business to dispose of the tires elsewhere.

3) On page 3, line 5 after the word secretary insert:

,in cooperation with the state coordinator of waste reduction, recycling, and market development,

*E+NR
2/27/91*

Attachment 15

This amendment merely gives recognition to the fact that the state coordinator is the entity that should already have much of the information on where markets for used tires exist, and what systems are working well across the state.

If the committee agrees to this last suggestion, the bill should probably also be amended to provide some funding for the coordinator's time spent on recycling tires. We would suggest that 1.0%, not to exceed \$25,000, from the waste tire management fund be credited to the Department of Commerce for that purpose.

We appreciate this opportunity to make these suggestions and would be happy to try to answer questions.



KANSAS DEPARTMENT OF REVENUE

Division of Taxation

Robert B. Docking State Office Building
Topeka, Kansas 66625-0001

MEMORANDUM

TO: The Committee on Energy and Natural Resources

From: Mark D. Ciardullo, Bureau Chief
Business Tax Bureau

Date: February 27, 1991

Subject: H.B. 2407

The tire tax receipts received during the following months:

August 1990:	\$ 46,151.30	(Receipts are for month of July)
September 1990:	50,677.69	(Receipts are for month of August)
October 1990:	88,788.87	(Receipts are for month of September)
November 1990:	81,243.81	(Receipts are for month of October)
December 1990:	54,455.96	(Receipts are for month of November)
January 1991:	113,159.67	(Receipts are for month of December)

The fiscal impact of House Bill 2407 will be \$40,000 to \$50,000 to agricultural and trailer tires.

ENR

2/27/91

Attachment 16

MEMORANDUM

TO: Mr. Louis Chabira, Deputy Director
Division of Budget

DATE: February 27, 1991

FROM: Kansas Department of Revenue

RE: House Bill 2407
As Introduced

BRIEF OF BILL:

House Bill 2407, as introduced, amends several statutes relating to the recycling and disposal of vehicle tires.

Section 1, amending K.S.A. 1990 Supp. 65-3424, changes the definition of "vehicle" eliminating the exception for traction engines, road rollers and farm tractor or trailers.

Section 2, amending K.S.A. 1990 Supp. 65-3424a, allowing residential waste containing tires to be deposited in landfills if the waste contains no more than four tires in any one truckload.

Section 3, amending K.S.A. 1990 Supp. 65-3424f, eliminating the funding of research and development for recycling and use of waste tires from a program to be established by July 1, 1991 by the Secretary of Health and Environment.

The effective date of this bill would be July 1, 1991.

FISCAL IMPACT:

It is estimated that the Waste Tire Management Fund would realize approximately \$40,000 to \$50,000 in additional revenue in fiscal year 1992 if House Bill 2407 is enacted.

ADMINISTRATIVE IMPACT:

Passage of House Bill 2407 would result in minimal additional administrative costs for the Department. These costs could be absorbed.

ADMINISTRATIVE PROBLEMS AND COMMENTS:

It is the understanding of the Department that the objective of the amendment to section 1 is to include all tires sold in the State under the tire excise tax imposed under K.S.A. 1990 Supp. 65-3424d. It is the Department's belief that this amendment does not accomplish that objective. In section 1 on lines 23 and 24 K.S.A. 8-1437 is cited for the definition of "vehicle". K.S.A. 8-1437 requires a "motor vehicle" to be self-propelled. Perhaps a better reference for this definition would be K.S.A. 8-1485 which defines "vehicle" as "every device in, upon or by which any person or property is or may be transported or drawn upon a highway,...".

APPROVED BY:

Mark Beshears
Secretary of Revenue

16-2