

Approved: Carl Dean Holmes
Date 4-24-96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:40 p.m. on March 18, 1996, in Room 526-S of the Capitol.

All members were present except: Representative Doug Lawrence - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Marcia Ayres, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairperson Holmes announced we may be getting a couple of Senate bills which will require some noon meetings later this week and on in to next week.

Action on SB 484: Storage tanks; abolishing the petroleum storage tank release compensation advisory board & SB 485: Storage tanks; department reports of receipts and disbursements from funds

Chairperson Holmes asked the committee to consider putting SB 485 into SB 484 to free up a shell bill in case it's needed.

Representative Don Myers moved to insert SB 485 into SB 484. Representative Joann Flower seconded the motion. The motion carried.

Representative Rich Becker moved to further amend SB 484 by amending a provision of SB 485, which the Committee had already inserted into SB 484. The motion was to strike "each member of the legislature" and insert "the Chair, Vice Chair, and ranking minority of the Senate and House Committees on Energy and Natural Resources . . ." Representative Laura McClure seconded the motion. Motion carried.

Representative Richard Alldritt moved that SB 484 be passed out favorably as amended. Representative Tom Sloan seconded the motion. The motion carried.

Action on SB 686: Liability of landowner for remedial action in accidental discharge of materials detrimental to water and soil of state

Representative Tom Sloan distributed a balloon to SB 686 and explained the changes. (Attachment #1)

Representative Tom Sloan moved the balloon to SB 686 be adopted. Representative Don Myers seconded the motion. Discussion followed. The motion carried.

Representative Dennis McKinney moved to amend the balloon to SB 686 on page 1, line 23, by striking subsection (b). Representative Bill Feuerborn seconded the motion. Discussion followed.

Representative Laura McClure moved to table SB 686. Representative Rich Becker seconded the motion. The motion carried.

Action on SB 520: Oil and gas; interest payments on proceeds from oil and gas production

Representative Tom Sloan moved that SB 520 be passed out favorably. Representative Steve Lloyd seconded the motion. Discussion followed. The motion carried.

Action on SB 399: Waste tires; regulation of processing and disposal; grants; tax

Representative Joann Freeborn distributed a new balloon for **SB 399** and reminded the committee that a balloon had been adopted last week, but the sub-committee met again to resolve questions on Section 8 and several other issues. She explained the additional amendments recommended by the sub-committee. (Attachment #2)

Representative Joann Freeborn moved to adopt the new balloon to **SB 399**. Representative Richard Alldritt seconded the motion. Discussion followed. The motion carried.

Representative Laura McClure moved to amend the new balloon to **SB 399** on page 7, line 12, by striking "shall" and inserting "may . . ." Representative Clay Aurand seconded the motion. Discussion followed. The motion carried.

Representative Laura McClure moved that **SB 399** be passed out favorably as amended. Representative Terry Presta seconded the motion. Discussion followed. The motion passed.

The meeting adjourned at 5:04 p.m.

Chairperson Holmes announced we may meet again on Thursday, March 21, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
COMMITTEE GUEST LIST

DATE: March 18, 1996

NAME	REPRESENTING
Ron Hammerschmidt	KDHE
Bill Bider	KDHE
Shawn Herrick	KTDA
Ken Peterson	KPC
DAVID B. SCHLOSSER	PETE MCGILL & Assoc.
Lynnda F. Clinger	Koch
J.P. Small	Koch Industries
JINA BROWN	Peterson Public Affairs
JAMIE CLOVER ADAMS	KS Fertilizer & Chemical Assn
DAVE HOLTHAUS	Western Resources
JOHN C. BOTTENBERG	BOTTENBERG & Assoc.
Tom Brund	Allen & Assoc.
Leslie Kaufman	Ks Farm Bureau
Anne Spiess	Ks. Assoc. of Counties
Bill Gaver	NRCC / Sierra
STEVE KEARNEY	WMA / KOMA

SENATE BILL No. 686

By Committee on Energy and Natural Resources

2-14

10 AN ACT relating to the accidental release or discharge of materials det-
11 rimental to the quality of the waters and soil of the state; concerning
12 the liability of landowners for correction or remedial action therefor.
13

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

15 Section 1. ~~It shall be the duty of the owner or owner-permitted~~
16 ~~occupant of any land upon which there has occurred~~ an accidental re-
17 lease or discharge of materials detrimental to the quality of the waters or
18 soil of the state ~~for person responsible for such release, which release~~
19 ~~or discharge occurred through no fault on the part of such owner,~~
20 ~~or owner-permitted occupant to comply~~ with all existing rules and reg-
21 ulations and requirements of the secretary of health and environment
22 designed to ensure the prompt correction of any such release or discharge
23 for the protection of the public health and environment.

24 Sec. 2. Any owner or subsequent purchaser of land, upon which
25 there has occurred an accidental release or discharge of materials detri-
26 mental to the quality of the waters or soil of the state, which occurred
27 through no fault or by reason of any neglect on the part *without any*
28 *contribution to the contamination and without any causal connec-*
29 *tion to the release or discharge by any action* of the owner of the
30 property *at the times or the owner-permitted occupant* ~~such release or~~
31 ~~discharge~~, shall not be liable for any costs of subsequent remedial action
32 required as a result of changes in standards adopted after the time of
33 such accident, if such owner or purchaser can demonstrate that the per-
34 ties responsible for the correction of the release utilized the best available
35 demonstrated technology in the correction or remedial process and the
36 secretary of health and environment has *approved the corrective action*
37 *and certified that the action taken has met all requirements and standards*
38 *prescribed by rules and regulations of the secretary* ~~or conditions of~~
39 ~~administrative orders or agreements~~ which were in effect at the time
40 of the accidental release or discharge. *The provisions of this section*
41 *shall apply to both releases and discharges and remedial actions*
42 *taken prior to the effective date of this act and releases and dis-*
43 *charges and remedial actions taken hereafter.*

(a)

any person responsible for

to: (1) Comply

; and (2) reimburse the owner or owner-
permitted occupant of the land where the
release or discharge occurred for any expenses
incurred by such owner or occupant as a result
of the release or discharge, or as a result of
correction of the release or discharge, if the
release or discharge occurred without any
causal connection to any act of such owner
or occupant.

(b) It shall be the duty of the owner or
owner-permitted occupant of land where there
has occurred an accidental release or discharge
of materials detrimental to the quality of the
waters or soil of the state to permit access to
the site of the release or discharge for pur-
poses of repair, containment, remediation or
other activities required for performance of
the duty imposed by subsection (a)

, owner-permitted occupant

persons responsible for the correction of the
release or discharge were allowed timely and
adequate access to the location of the release
or discharge to perform the duty imposed by
subsection (a) of section 1 and

or conditions of administrative orders or
agreements, and the person responsible for such
release or discharge shall be liable for all
such costs

House ENR
3-18-96
Attachment 1

- 1 Sec. ~~3.~~ The secretary of health and environment ~~is hereby authorized~~
- 4. 2 ~~to~~ adopt rules and regulations necessary for the administration of the
- 3 provisions of this act
- 4 Sec. ~~4.~~ This act shall take effect and be in force from and after its
- 5. 5 publication in the statute book.

Sec. 3. The state, nor any officer, employee or department of the state, shall: (a) Incur any liability by reason of approval of any corrective action plan or any certification pursuant to section 2; or (b) be liable pursuant to this act for correction of any release or discharge if the person responsible is not found or fails to perform the duties imposed by this act.

shall

, including but not limited to definitions of "accidental release or discharge" and "materials detrimental to the quality of the waters or soil of the state."

8-1

Additional Amendments
Recommended by Subcommittee

1 ner that does not constitute disposal of the waste tires. Storage includes
2 the beneficial use of waste tires as fences, silo covers and erosion control,
3 and such other beneficial uses as the secretary determines do not create
4 health or environmental risks.

5 (g) (k) "Tire" means a continuous solid or pneumatic rubber covering
6 encircling the wheel of a vehicle or aircraft, or an innertube of such a
7 covering.

8 (h) (l) "Tire retailer" means a person in the business of selling new
9 or used replacement tires at retail.

10 (i) (m) "Vehicle" has the meaning provided by K.S.A. 8-1485 and
11 amendments thereto.

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

14 (k) (o) "Waste tire collection center" means a site where used or
15 waste tires are collected from the public/prior to being offered for recy-
16 cling and where fewer than 1,000 tires are kept on the site on any given
17 day.

18 (l) (p) "Waste tire processing facility" means a fixed site where equip-
19 ment is used to cut, burn or otherwise alter whole waste tires so that they
20 are no longer whole process waste tires.

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

23 Sec. 2. K.S.A. 1995 Supp. 65-3424a is hereby amended to read as
24 follows: 65-3424a. (a) The owner or operator of any waste tire site, within
25 six months after the effective date of this act, shall provide the department
26 with information concerning the site's location and size and the approx-
27 imate number of waste tires that are accumulated at the site and shall
28 initiate steps to comply with subsection (b).

29 (b) No person shall:

30 (1) Maintain a waste tire site ~~unless (A) such The site is an integral~~
31 ~~part of the person's waste tire processing facility, or (B) the tires accu-~~
32 ~~culated at such site are for use in the person's tire retreading business~~
33 ~~or a tire retailer.~~

34 (2) dispose of waste tires in the state unless the waste tires are dis-
35 posed of for processing, or collected for processing, at a solid waste proc-
36 essing facility, a waste tire site which is an integral part of a waste tire
37 processing facility, a waste tire processing facility or a waste tire collection
38 center or are made available to: (A) The department of wildlife and parks
39 for use by the department; or (B) a person engaged in a farming or ranch-
40 ing activity, including the operation of a feedlot as defined by K.S.A. 47-
41 1501, and amendments thereto, as long as the accumulation has a bene-
42 ficial use to the person accumulating the tires and (i) the secretary
43 determines that the use has no adverse environmental effects and (ii) the

(m) "Used tire" means a tire that has been removed from a wheel following a period of use and has been determined by its owner to have reuse potential as a tire.

Reletter remaining subsections

or from customers of a business

or disposal

waste

"Waste tire site" does not include: (1) A site that is an integral part of a permitted waste tire processing facility; (2) an accumulation of tires on the premises of a tire retreading business, for use in the business; (3) an accumulation of tires on the premises of a business that, in the ordinary course of business, removes tires from motor vehicles; or (4) an accumulation of tires on the premises of a tire retailer, accumulated in the normal course of the tire retailer's business.

House ENR
3-18-96
Attachment 2

2-2

1 of such tires shall maintain a record of such transaction for a period
2 of not less than five years following the date of the transfer of such
3 tires.

4 (e) (d) On and after December 31, 1991, No person shall:

5 (1) Own or operate a waste tire processing facility or waste tire col-
6 lection center or act as a mobile waste tire processor or waste tire collector
7 unless such person holds a valid permit issued therefor pursuant to sub-
8 section (a); or

9 (2) own or operate a waste tire processing facility or waste tire col-
10 lection center or act as a mobile waste tire processor or waste tire collector
11 except in compliance with the standards established by the secretary pur-
12 suant to subsection (b).

13 (4) (e) The provisions of subsection (c)(1) shall not apply to:

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

16 (2) a business that, in the ordinary course of business, removes tires
17 from motor vehicles if fewer than 1,000 1,500 of these tires are kept on
18 the business premises.

19 (3) a retail tire-selling business which is serving as a waste tire col-
20 lection center if fewer than 1,000 1,500 waste tires are kept on the busi-
21 ness premises;

22 (4) the department of wildlife and parks, ~~or~~

23 (5) a person engaged in a farming or ranching activity, including the
24 operation of a feedlot as defined by K.S.A. 47-1501, and amendments
25 thereto, as long as the accumulation has a beneficial use

26 (e) (f) All fees collected by the secretary pursuant to this section shall
27 be remitted to the state treasurer. The state treasurer shall deposit the
28 entire amount of the remittance in the state treasury and credit it to the
29 waste tire management fund.

30 Sec. 4. K.S.A. 1995 Supp. 65-3424d is hereby amended to read as
31 follows: 65-3424d. (a) In addition to any other tax imposed upon the retail
32 sale of new vehicle tires, there is hereby imposed an excise tax on retail
33 sales of new tires at the rate of \$.50 per tire sold vehicle tires (excluding
34 inertubes), including new tires mounted on a vehicle sold at retail for
35 the first time, an excise tax at the following rate: (1) Before July 1, 1999
36 2001, \$.50 per vehicle tire; and (2) on or after July 1, 1999 2001, \$.25.
37 Such tax shall be paid by the purchaser of such tires and collected by the
38 retailer thereof.

39 (b) The tax imposed by this section collected by the retailer shall
40 become due and payable as follows: When the total tax for which any
41 retailer is liable under this act does not exceed the sum of \$80 in any
42 calendar year, the retailer shall file an annual return on or before January
43 25 of the following year, when the total tax liability does not exceed \$1,600

;

(6) a waste tire collection center when fewer than 1,500 used tires are kept on the premises;

(7) a waste tire collection center when 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with standards adopted by rules and regulations of the secretary;

(8) . . . (other exceptions adopted in first balloon)

2-3

1 in any calendar year, the retailer shall file returns quarterly on or before
 2 the 25th day of the month following the end of each calendar quarter;
 3 when the total tax liability exceeds \$1,600 in any calendar year, the retailer
 4 shall file a return for each month on or before the 25th day of the follow-
 5 ing month. Each person collecting the tax imposed pursuant to this sec-
 6 tion shall make a true report to the department of revenue, on a form
 7 prescribed by the secretary of revenue, providing such information as may
 8 be necessary to determine the amounts of taxes due and payable hereun-
 9 der for the applicable month or months, which report shall be accom-
 10 panied by the tax disclosed thereby. Records of sales of new tires shall be
 11 kept separate and apart from the records of other retail sales made by
 12 the person charged to collect the tax imposed pursuant to this section in
 13 order to facilitate the examination of books and records as provided
 14 herein.

15 (c) The secretary of revenue or the secretary's authorized represen-
 16 tative shall have the right at all reasonable times during business hours
 17 to make such examination and inspection of the books and records of the
 18 person required to collect the tax imposed pursuant to this section as may
 19 be necessary to determine the accuracy of such reports required hereun-
 20 der.

21 (d) The secretary of revenue is hereby authorized to administer and
 22 collect the fees tax imposed hereunder by this section and to adopt such
 23 rules and regulations as may be necessary for the efficient and effective
 24 administration and enforcement of the collection thereof. Whenever any
 25 person liable to collect the taxes imposed hereunder refuses or neglects
 26 to pay them, the amount, including any penalty, shall be collected in the
 27 manner prescribed for the collection of the retailers' sales tax by K.S.A.
 28 79-3617 and amendments thereto.

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

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

40 Sec. 5. K.S.A. 1995 Supp. 65-3424f is hereby amended to read as
 41 follows: 65-3424f. (a) The secretary shall establish a program to make
 42 base and abatement grants to private companies, cities and counties
 43 which, individually or collectively, submit to the secretary plans; approved

(g) The secretary of revenue and the secretary of health and environment shall cooperate to: (1) Ensure that retailers required to collect the tax imposed by this section collect such tax on sales of tires for all vehicles, as defined by K.S.A. 65-3424 and amendments thereto; and (2) develop and distribute to tire retailers educational materials that emphasize appropriate waste tire management practices.

2-4

1 approved by the secretary and conditioned on the use of the grant in
2 accordance with the plan approved by the secretary.

3 (d) *the secretary shall establish a competitive private sector*
4 *grant program to stimulate the development of in-state waste tire*
5 *recycling or energy recovery markets. The secretary shall solicit*
6 *proposals in fiscal year 1997 from private entities which demon-*
7 *strate the long-term technical and economic feasibility of waste tire*
8 *recycling or energy recovery projects based upon the receipt of star-*
9 *tup funds only through this grant program. One or more grant*
10 *awards may be made to applicants in fiscal years 1997 and 1998 to*
11 *pay up to 75% of the cost of constructing a new facility or modifying*
12 *an existing facility to process, and burn or recycle, waste tires.*

13 (e) ~~(d)~~ (e) Private companies, cities and counties may join together,
14 pooling their financial resources, when utilizing their grants for the pur-
15 poses described in subsection (a).

16 ~~(d)~~ (e) (f) The secretary, in cooperation with the statewide coordi-
17 nator of waste reduction, recycling and market development, may provide
18 technical assistance, upon request, to a private company, city, county or
19 group of private companies, cities or counties desiring assistance in ap-
20 plying for waste tire grants or choosing a method of waste tire manage-
21 ment which would be an eligible use of the grant funds.

22 (f) (g) *The secretary shall submit to the legislature, on or before the*
23 *first day of the regular legislative session each year, a report of all grants*
24 *made pursuant to this section. The report shall include: (1) The total*
25 *contract amounts awarded for each type of grant in each fiscal year and,*
26 *of those amounts, the total amount awarded to individual counties, groups*
27 *of counties and private entities; and (2) with respect to each grant*
28 *awarded, the contract amount and type of grant, the recipient, a descrip-*
29 *tion of the project for which the grant was awarded, the number of tires*
30 *involved and the amount actually spent. The secretary shall submit the*
31 *report by filing it with the secretary of the senate, the chief clerk of the*
32 *house of representatives and the chairperson and ranking minority mem-*
33 *ber of each of the senate and house committees on energy and natural*
34 *resources.*

35 New Sec. 6. (a) The county official, or the official of a designated
36 city, responsible for solid waste management in each county shall report
37 to the secretary any known waste tire accumulation within the county not
38 later than: (1) October 1, 1996, if the accumulation is known before July
39 1, 1996; or (2) three months after the accumulation becomes known, if
40 unknown before July 1, 1996.

41 (b) After July 1, ~~1999~~ 2001, each county shall be responsible for
42 abatement of any waste tire accumulation within the county.

43 Sec. 7. K.S.A. 1995 Supp. 65-3424g is hereby amended to read as

In awarding grants pursuant to this subsection
the secretary shall give preference to project
that do not directly compete with existing re-
cycling and energy recovery projects.

Sec. 8. K.S.A. 65-3424i is hereby amended to read as follows: 65-3424i. (a) Except as provided by subsection (b), 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--tire--retailer's--premises--at--the--time--or--point--of--transfer.~~

(b) A tire retailer may: (1) Ask customers if they wish to retain their old tires at the time of sale; (2) refuse to accept more tires from a customer than purchased by that customer at the time of sale; or (3) refuse to accept waste tires from a customer purchasing replacement tires for commercial use if the tire retailer does not mount such replacement tires.

(c) Tire retailers shall prominently display or make available to customers educational materials provided by the department of health and environment and department of revenue relating to proper waste tire management practices.