

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairman Senator Robert Tyson at 8:30 a.m. on February 17, 2003 in Room 423-S of the Capitol.

Members present: Senator Lee, Senator Tyson, Senator Huelskamp, Senator Corbin, Senator Taddiken, Senator Adkins

Committee staff present: Raney Gilliland, Legislative Research
Lisa Montgomery, Revisor of Statutes
Shannon Stone, Secretary

Conferees appearing before the committee:

Bill Bider, Bureau of Waste Management, Kansas Department of Health and Environment
Charlie Sedlock, Director of Waste Management, HAMM Incorporated
Chris Tymeson, Kansas Department of Wildlife and Parks
Shawn Herrick, Executive Director, Mid-America Tire Dealers Association

Others attending: No guest list

Hearing on Senate Bill 155

Raney Gilliland, Legislative Research Staff, presented an overview of **SB 155**. He noted the numerous changes in the bill and pointed out new definitions.

Bill Bider, Director of the Bureau of Waste Management, Kansas Department of Health and Environment (KDHE), highlighted key points of the bill. The bill was a cooperative effort between the Kansas Association of Counties, Mid-America Tire Association and KDHE. He provided insight on the scattering of changes throughout the law. Mr. Bider explained that one intent of the bill was to eliminate the concept of "pre-law/post-law" tire piles status because the law is nearly 13 years old and the former concept is outdated. He proposed the terms "legal/illegal" as more current and fitting language to describe tire piles. Additionally, KDHE would like to see the state maintain the authority to use waste tire management funds to clean up illegal waste tire piles. (Attachment 1)

Other proposed changes to the law were:

- 1) Modifications to permit exemptions as provided in K.S.A. 65-3424b(e) for the purpose of clarification
- 2) Added flexibility for waste tire transportation
- 3) Enhanced mosquito controls (to minimize the spread of the West Nile Virus)
- 4) Authorization for waste tire recycling grants using leftover funds from the preceding year

Charlie Sedlock, Solid Waste Division Manager of Hamm Inc., testified in support of **SB 155**. Hamm Inc, which operates a lined subtitle D sanitary landfill near Lawrence, Kansas says its customers are requesting cost effective tire disposal at their landfill. Mr. Sedlock reported that local government entities are anxious to reduce habitats favorable to mosquitos. Additionally, Hamm Inc. proposed adoption of language changes that would allow facilities to handle more tires and to process tires in the leachate system, and bypass certain testing standards and certification requirements. (Attachment 2)

Chris Tymeson of the Kansas Department of Wildlife and Parks voiced the Department's support for the bill. KDWP also requested an amendment that would include state wildlife areas and state fishing lakes as potential locations to conduct the activities described in the bill. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:30 a.m. on February 17, 2003 in Room 423-S of the Capitol.

Shawn Herrick of Mid-America Tire Dealers Association, was the final conferee. His organization supported the provisions of **SB 155**, in particular: the current fee, KDHE's clean-up authority and the proposed modifications to the record keeping provisions. They discouraged use of tire excise fees for purposes other than what was originally intended in the statute. (Attachment 4)

Committee Comments to Testimony

In response to a question put forth by Chairman Tyson, Mr. Bider informed the Committee that yearly operating costs for KDHE were around \$800,000 annually. He went on to say that approximately \$400,000 of the annual budget is needed to run KDHE's program.

Senator Lee had questions about KDHE's fee, currently \$0.25, (down from \$0.50) and if it was enough to meet their needs. Mr. Bider stated that the fee was indeed sufficient.

Senator Huelskamp asked for clarification on the current rules and regulations regarding "beneficial use" and possible changes in the law in the future. Of specific interest were changes in regulations that might negatively impact farmers, ranchers and feedlots. He requested a copy of the current regulations.

Adjournment

Senator Tyson closed the meeting with a reminder to Committee members about bill deadlines and informed members that bills would be voted on by process of roll call. The meeting was adjourned at 9:27 p.m.



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

Testimony on Senate Bill 155
presented to
Senate Energy and Natural Resources Committee
by
Bill Bider, Director, Bureau of Waste Management
February 17, 2003

The Department of Health and Environment appreciates this opportunity to present testimony in support of Senate Bill 155. This bill was cooperatively developed by KDHE, the Mid-America Tire Dealers Association, and the Kansas Association of Counties (KAC). Even though this bill was introduced by KAC, our testimony summarizes the major proposed changes to the law. Overall, this bill will update several sections of the tire law by deleting obsolete provisions, clarifying certain current provisions, and establishing a few new provisions to make our state waste tire regulatory program more flexible and effective. Hopefully, with these changes, the waste tire law will meet the needs of Kansas for many years into the future.

The key proposed changes to the law are summarized below:

1. Eliminate "pre-law/post-law" concept and "waste tire site" and add a new definition for "illegal tire accumulation"

"Pre-law" status for a tire pile is no longer meaningful to determine when the state should pay for the clean-up of the pile because the law is nearly 13 years old. All known pre-law piles have been cleaned up. With this change, tire piles will either be "legal" because they are specifically allowed by law or under the conditions of a permit issued by KDHE, or they will be "illegal". The bill specifies that any tire pile containing more than 50 waste tires which is not allowed by law, regulations, or permits will be classified as an illegal accumulation. It is noteworthy that legal piles are still subject to storage standards, but illegal piles must be eliminated.

2. Maintain state authority to use waste tire management funds to cleanup illegal waste tire piles and eliminate county responsibility for such clean-up actions

Current state law provides limited KDHE authority to clean up waste tire piles after July 1, 2003 using the dedicated waste tire management fund. After this date, KDHE can only participate in the clean-up of illegal piles if a city or county contributes 25% of the clean-up costs. However, another provision currently exists in the law which is somewhat inconsistent with this shared clean-up provision. K.S.A. 65-3424m establishes that the complete cost for clean-up becomes the responsibility of the county after July 1, 2003. This bill proposes to delete this section of law because adequate revenue is

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collected through the tire excise tax (\$.25 per tire) to cover all costs of administering the department's regulatory program and all anticipated clean-up requirements.

3. Modify permit exemptions provided in K.S.A. 65-3424b(e) to clarify that only certain permit exemptions apply to various waste tire generating and handling activities

Current law does not specify that only certain permit exemptions should apply. For example, the law says none of the permitting requirements apply to a tire retailer who stores less than 1,500 waste tires on-site including a waste tire transporter permit or a waste tire landfill permit. Obviously, the intent of that permit exemption was to allow storage of waste tires generated through the normal course of business without a "collection center" permit. In this case, this bill also specifies an exemption for tire processing (cutting) may take place at a retail establishment without a permit.

4. Added flexibility for waste tire transportation

Several exemptions to the waste tire permitting requirements already exist in current law, but three new exemptions have been provided to add flexibility and improve overall waste tire management. K.S.A. 65-3424b(e)(8) (page 5 of bill) is amended to allow two new exemptions: (1) a person who has an *illegal* waste tire accumulation may receive permission from KDHE to transport the waste tires to a site that has received a waste tire permit from the department, and (2) anyone can transport a *legal* waste tire accumulation (less than 50 tires) to a permitted site provided it is a one time event rather than an ongoing practice. The third new exemption is established in paragraph (9) of this section. It allows a tire retailer that in its ordinary course of business also serves as a new tire distributor to smaller retailers to pick up waste tires during deliveries and bring them back to its facility where the tires will be consolidated with the retailers own waste tires for final disposal or recycling.

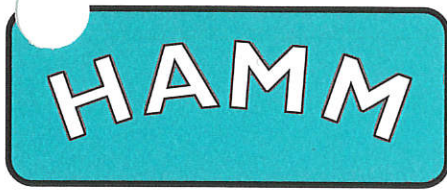
5. Enhanced mosquito controls

In accordance with national guidelines to minimize the spread of West Nile Virus, new paragraph (d) has been added to K.S.A. 65-3424b requiring the control of mosquito breeding or other disease vectors at every waste tire or new tire accumulation regardless of the size of the accumulation.

6. Authorize waste tire recycling grants using leftover funds from the preceding year

In Kansas, most waste tires are processed and landfilled because it is the most economical management method. To stimulate recycling, a new grant program is proposed, but it will only be activated if leftover funds are available from the preceding year based upon total revenue and total expenses including fund transfers. The only exception is in year one of the program which would begin in FY 2004 with a maximum grant amount of \$200,000. Possible grant projects which have been successful in other states include: the conversion of waste tires into chips suitable for drainage media in septic fields or other backfill areas; processing of waste tires into secure building blocks used for land embankments, overpass construction, or other engineered uses; and the conversion of waste tires into material suitable for burning in various boiler types for energy recovery. Waste tire grant applications will be reviewed by the governor's solid waste grants advisory committee which will receive one additional member to represent the interests of the tire industry.

Thank you for your time and consideration.



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Testimony

BEFORE: Senate Natural Resources Committee
BY: Charles Sedlock, Division Manager
DATE: February 17, 2003
RE: SB 155 – Waste Tire Management

Mr. Chairman and Members of the Committee:

My name is Charles Sedlock. I am currently the manager of the Hamm, Inc. Solid Waste Division. I appreciate the opportunity to appear before you today with our comments in support of SB 155.

For the past 20 years, Hamm, Inc. has operated a lined subtitle D sanitary landfill near Lawrence, with over 70 million cubic yards capacity. Hamm serves the non-hazardous waste disposal needs of thirteen Kansas Counties including Brown, Dickinson, Douglas, Franklin, Jefferson, Johnson, Leavenworth, Lyon, Marion, Marshall, Osage, Riley, and Washington. Additionally, the following city/military clients have designated Hamm exclusively to provide waste disposal solutions: Emporia, Lawrence, Leavenworth, Olathe, Fort Riley, and Fort Leavenworth. Services include waste transfer, transport, and disposal.

Over the past several years, each and every one of these Kansas clients have requested cost effective tire disposal at our landfill. The clients want to place tires in their waste shipments that are then transported and disposed of at our landfill.

There are several good reasons why are clients are demanding effective tire disposal. Tires and tire piles are excellent mosquito habitats due to their ability to retain water. Now that the West Nile virus has been confirmed in Kansas, the Kansas Department of Health and Environment (KDHE) and local governments are anxious to reduce habitats favorable to mosquitos. Cost-effective, reasonable disposal solutions are needed to fight this war. In our opinion passage of SB 155 will assist us in this fight.

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In order to meet this need KDHE is proposing to reduce untreated tire storage piles to 50 or less and this will increase the need for more disposal capacity and cost effective solutions. Hamm, Inc. believes the proposed amendments to K.S.A. 65-3423 et. seq. will assist in answering this need.

As a result of our review and analysis of this bill we would like to propose some amendments (see attached balloon) in an effort to improve it even further. First, by striking the word "processed" on page 3, line 26. Thus allowing us to handle, under the guidance of KDHE, more tires at our landfill. This would also relieve local units of government and private tire handlers of the need to process tires prior to shipment. Second, by inserting the words " or supplemental to " immediately behind the word "of" on page 3, line 30. This would allow us to use tires in the leachate system without the requirement for unnecessary and expensive testing and certification associated with the more technical components of the system.

We have reviewed these amendments with KDHE and understand they are supportive. Adoption of these changes will allow us to dispose of even more waste tires, a change that will work to the benefit of all Kansans.

I thank you for your attention and will be happy to respond to any questions you may have.

2-3

1 the approximate number of waste tires that are accumulated at the site.

2 ~~(b)~~ No person shall:

3 ~~(1)~~ (a) Maintain a waste tire site unless such person holds a valid
4 permit issued for such site pursuant to K.S.A. 65-3424b and amendments
5 thereto *an illegal waste tire accumulation*;

6 ~~(2)~~ dispose of waste tires in the state unless the waste tires are dis-
7 posed of for processing, or collected for processing, at a solid waste proc-
8 essing facility, a waste tire site which is an integral part of a waste tire
9 processing facility, a waste tire processing facility or a waste tire collection
10 center or are made available to: (A) The department of wildlife and parks
11 for use by the department, or (B) a person engaged in a farming or ranch-
12 ing activity, including the operation of a feedlot as defined by K.S.A. 47-
13 1501, and amendments thereto, as long as the accumulation has a benefi-
14 cial use to the person accumulating the tires and (i) the secretary
15 determines that the use has no adverse environmental effects and (ii) the
16 accumulation is in accordance with all applicable zoning regulations

17 (b) transfer ownership of waste tires to any person unless the recipient:
18 (1) Has been issued a permit by the secretary pursuant to K.S.A. 65-3407,
19 and amendments thereto, or K.S.A. 65-3424b, and amendments thereto;
20 (2) intends to use the waste tires for a beneficial use; or (3) is a tire retailer
21 who collects waste tires from the public or other tire retailers in the or-
22 dinary course of business;

23 ~~(3)~~ (c) deposit waste tires in a landfill as a method of ultimate disposal,
24 except that the secretary may authorize, by rules and regulations or by
25 permits issued pursuant to K.S.A. 65-3407, and amendments thereto: (A)
26 The final disposal of ~~processed~~ waste tires at permitted municipal solid
27 waste landfills and permitted waste tire monofills; (B) the final disposal
28 of contaminated whole, unprocessed waste tires at permitted municipal
29 solid waste landfills and permitted waste tire monofills; (C) the use of
30 waste tires in their original state as part of a proven and approved leachate
31 collection system at a landfill; or (D) the use of waste tires which have
32 been cut into two or more parts as daily cover material for a landfill; or

33 ~~(4)~~ (d) receive money in exchange for waste tires unless: (A) The per-
34 son holds a permit issued by the secretary pursuant to K.S.A. 65-3407,
35 and amendments thereto, or K.S.A. 65-3424b, and amendments thereto;
36 or (B) the person is a tire retailer who collects waste tires from the public
37 or from other tire retailers in the ordinary course of business.

38 Sec. 3. K.S.A. 65-3424b is hereby amended to read as follows: 65-
39 3424b. (a) The secretary shall establish a system of permits for mobile
40 waste tire processors and, waste tire processing facilities, and permits for
41 waste tire transporters and waste tire collection centers. Such permits
42 shall be issued for a period of one year and shall require an application
43 fee established by the secretary in an amount not exceeding \$250 per

Strike process

[or supplemental to]



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

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SENATE BILL NO. 155
Testimony provided to
Senate Committee on Natural Resources
17 February 2003

SB 155 as proposed would permit the Department to conduct, for beneficial use, operation of a waste tire collection center, a waste tire processing facility or as a waste tire transporter to transport waste tires to or within the premises of any state park.

This proposal contains permissive language that allows the Department to conduct occasional operational activities such as collection of tires for building reefs and fishing habitat structures as well as erosion control barriers without the necessity of a permit.

The Department would request an amendment to page 5, lines 8-12, to include state wildlife areas and state fishing lakes as potential locations to conduct the activities described in the bill.

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Attachment 3

Nebraska • Kansas • Oklahoma



Mid-America Tire Dealers Association

STATEMENT
OF THE
MID-AMERICA TIRE DEALERS ASSOCIATION

Before the
Senate Natural Resources Committee
February 17, 2003

Presented by Shawn Herrick
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Good morning, my name is Shawn Herrick. I am the Executive Director of the Mid-America Tire Dealers Association. I appreciate the opportunity to present our position to this committee on Senate Bill 155.

Over the last several months our association has been communicating with the Kansas Department of Health and Environment and the Kansas Association of Counties on the issues presented in SB 155. Our members feel that the bill, as presented, sets forth a solid program for waste tire management. We feel past experience illustrates that the work done by KDHE and the tire dealers of Kansas has resulted in a relatively clean state and a foundation for maintaining good stewardship of the environment.

We support keeping this fee in place at the current level of 25¢ per new tire sold because it is our belief that there is potential for future tire problems and the means for funding needs to be left intact. The public has accepted this fee and it would be difficult to reinstate or increase a fee should the need arise. Changing the fee would also create the need for point of sale adjustments.

- Eliminating the "pre-law" and "post-law" pile distinction is a logical progression for the program. The state has been involved in the clean-up process now for over ten years and at this point determining the age of a waste tire pile beyond ten years would be cumbersome, if not impossible.
- Maintaining ongoing KDHE clean-up authority will protect the states past success of waste tire abatement. If this provision is not passed, waste tire clean-up responsibilities would fall on the counties. It is our belief that cities and counties, who have been hit hard by recent budget crisis', would not have the resources to follow-up on waste tire problems. In a list of priorities in a tight county budget, a waste tire pile might not make the cut.
- Our members are receptive to some increased authority for KDHE on mosquito control. The West Nile virus poses substantial threats, especially if it is allowed to spread unchecked. Our members are certainly willing to participate in the efforts to control the threat by eliminating breeding grounds in the stagnate water in tires.
- SB 155 proposes several modifications to permitting and recordkeeping provisions that MATDA supports. The changes mainly provide common sense clarifications and logical requirements for the waste being monitored.
- Tire dealers remember that this tire excise tax was established 12 years ago to manage a problem waste stream in our state. Initially, customers protested. After a lengthy educational process the fee was accepted and our members and their customers understood the need. However, this state is being deceitful and violating state statute when the fee is robbed for use in the general state budget. Our members feel strongly that the funds from this tax should be used to manage waste tires and not as a revenue source for unrelated debts.

For the years when the tire fund is not depleted by clean-up needs, any remaining funds should not be devoured by the state coffers but be available for waste tire grants. An ultimate goal for our industry is to see people getting waste tires out of ditches and pastures to turn them in for money, much like aluminum cans. This can be achieved if growth is promoted in the tire-derived products industry by allowing grants that will bridge the gap between current products available and those made of waste tires.

The natural course of free enterprise can take over once expensive educational groundwork is laid and customers realize the benefits of using recycled tire products. Eventually, costs of recycling may be lowered or extra expenses justified by superior products. Competition and new methods of processing will make more and more products available and affordable. We need only to stimulate the process with this grant program. Kansas is and can continue to be looked on with envy by other states that are just beginning to get a handle on their waste tire problem. Common sense should prevail; stopping or lowering the expense of tire disposal is the only way to eliminate tire "dumping." A successful recycling industry will discourage disposal, not to mention create industry that may employ many and bring money into the state.

As proposed in SB155, our membership is supportive of using the existing solid waste grant advisory committee for reviewing and awarding grants. This would eliminate the added expense of developing a new committee. However, we can support using this committee only if the bill is passed as written. SB 155 provides for representation by our industry on the solid waste committee and dedicates the revenue from the waste tire tax to grants related to waste tire recycling.

Thank you for allowing me to express our support for SB 155. I will stand for any questions that you may have.