

1 [As Amended by House Committee of the Whole]

2
3 As Amended by House Committee

4
5 As Amended by Senate Committee

6 *Session of 2003*

7
8 **SENATE BILL No. 155**

9
10 By Committee on Natural Resources

11
12 2-5

13
14 AN ACT concerning solid ~~hazardous~~ waste; ~~relating to waste tires;~~
15 amending K.S.A. [65-3407,] 65-3424, 65-3424a, 65-3424b, 65-3424g,
16 65-3424k and 65-3426 and repealing the existing sections; also re-
17 pealing K.S.A. 65-3424m.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 [Section 1. K.S.A. 65-3407 is hereby amended to read as fol-
21 lows: 65-3407. (a) Except as otherwise provided by K.S.A. 65-
22 3407c, and amendments thereto, no person shall construct, alter
23 or operate a solid waste processing facility or a solid waste disposal
24 area of a solid waste management system, except for clean rubble
25 disposal sites, without first obtaining a permit from the secretary.

26 [(b) Every person desiring to obtain a permit to construct, alter
27 or operate a solid waste processing facility or disposal area shall
28 make application for such a permit on forms provided for such
29 purpose by the rules and regulations of the secretary and shall
30 provide the secretary with such information as necessary to show
31 that the facility or area will comply with the purpose of this act.
32 Upon receipt of any application and payment of the application
33 fee, the secretary, with advice and counsel from the local health
34 authorities and the county commission, shall make an investigation
35 of the proposed solid waste processing facility or disposal area and
36 determine whether it complies with the provisions of this act and
37 any rules and regulations and standards adopted thereunder. The
38 secretary also may consider the need for the facility or area in
39 conjunction with the county or regional solid waste management
40 plan. If the investigation reveals that the facility or area conforms
41 with the provisions of the act and the rules and regulations and
42 standards adopted thereunder, the secretary shall approve the ap-
43 plication and shall issue a permit for the operation of each solid

1 waste processing or disposal facility or area set forth in the appli-
2 cation. If the facility or area fails to meet the rules and regulations
3 and standards required by this act the secretary shall issue a report
4 to the applicant stating the deficiencies in the application. The
5 secretary may issue temporary permits conditioned upon correc-
6 tions of construction methods being completed and implemented.

7 [(c) Before reviewing any application for permit, the secretary
8 shall conduct a background investigation of the applicant. The sec-
9 retary shall consider the financial, technical and management ca-
10 pabilities of the applicant as conditions for issuance of a permit.
11 The secretary may reject the application prior to conducting an
12 investigation into the merits of the application if the secretary finds
13 that:

14 [(1) The applicant currently holds, or in the past has held, a
15 permit under this section and while the applicant held a permit
16 under this section the applicant violated a provision of subsection
17 (a) of K.S.A. 65-3409, and amendments thereto; or

18 [(2) the applicant previously held a permit under this section
19 and that permit was revoked by the secretary; or

20 [(3) the applicant failed or continues to fail to comply with any
21 of the provisions of the air, water or waste statutes, including rules
22 and regulations issued thereunder, relating to environmental pro-
23 tection or to the protection of public health in this or any other
24 state or the federal government of the United States, or any con-
25 dition of any permit or license issued by the secretary; or if the
26 secretary finds that the applicant has shown a lack of ability or
27 intention to comply with any provision of any law referred to in
28 this subsection or any rule and regulation or order or permit issued
29 pursuant to any such law as indicated by past or continuing viola-
30 tions; or

31 [(4) the applicant is a corporation and any principal, share-
32 holder, or other person capable of exercising total or partial con-
33 trol of such corporation could be determined ineligible to receive
34 a permit pursuant to subsection (c)(1), (2) or (3) above.

35 [(d) Before reviewing any application for a permit, the secre-
36 tary may request that the attorney general perform a comprehen-
37 sive criminal background investigation of the applicant; or in the
38 case of a corporate applicant, any principal, shareholder or other
39 person capable of exercising total or partial control of the corpo-
40 ration. The secretary may reject the application prior to conduct-
41 ing an investigation into the merits of the application if the sec-
42 retary finds that serious criminal violations have been committed
43 by the applicant or a principal of the corporation.

1 [(e) (1) The fees for a solid waste processing or disposal permit
2 shall be established by rules and regulations adopted by the sec-
3 retary. The fee for the application and original permit shall not
4 exceed \$5,000. Except as provided by paragraph (2), the annual
5 permit renewal fee shall not exceed \$2,000. No refund shall be
6 made in case of revocation. In establishing fees for a construction
7 and demolition landfill, the secretary shall adopt a differential fee
8 schedule based upon the volume of construction and demolition
9 waste to be disposed of at such landfill. All fees shall be deposited
10 in the state treasury and credited to the solid waste management
11 fund. A city, county, other political subdivision or state agency shall
12 be exempt from payment of the fee but shall meet all other pro-
13 visions of this act.

14 [(2) The annual permit renewal fee for a solid waste disposal
15 area which is permitted by the secretary, owned and operated by
16 the facility generating the waste and used only for industrial waste
17 generated by such facility shall be not less than \$1,000 nor more
18 than \$4,000. In establishing fees for such disposal areas, the sec-
19 retary shall adopt a differential fee schedule based upon the char-
20 acteristics of the disposal area sites.

21 [(f) Plans, designs and relevant data for the construction of
22 solid waste processing facilities and disposal sites shall be prepared
23 by a professional engineer licensed to practice in Kansas and shall
24 be submitted to the department for approval prior to the construc-
25 tion, alteration or operation of such facility or area. In adopting
26 rules and regulations, the secretary may specify sites, areas or fa-
27 cilities where the environmental impact is minimal and may waive
28 such preparation requirements provided that a review of such
29 plans is conducted by a professional engineer licensed to practice
30 in Kansas.

31 [(g) Each permit granted by the secretary, as provided in this
32 act, shall be subject to such conditions as the secretary deems nec-
33 essary to protect human health and the environment and to con-
34 serve the sites. Such conditions shall include approval by the sec-
35 retary of the types and quantities of solid waste allowable for
36 processing or disposal at the permitted location.

37 [(h) As a condition of granting a permit to operate any proc-
38 essing facility or disposal area for solid waste, the secretary shall
39 require the permittee to: (1) Provide a trust fund, surety bond
40 guaranteeing payment, irrevocable letter of credit or insurance
41 policy, to pay the costs of closure and postclosure care; or (2) pass
42 a financial test or obtain a financial guarantee from a related en-
43 tity, to guarantee the future availability of funds to pay the costs

1 of closure and postclosure care. The secretary shall prescribe the
2 methods to be used by a permittee to demonstrate sufficient fi-
3 nancial strength to become eligible to use a financial test or a fi-
4 nancial guarantee procedure in lieu of providing the financial in-
5 struments listed in (1) above. Solid waste processing facilities or
6 disposal areas, except municipal solid waste landfills, may also
7 demonstrate financial assurance for closure and postclosure care
8 costs by use of ad valorem taxing power. In addition, the secretary
9 shall require the permittee to provide liability insurance coverage
10 during the period that the facility or area is active, and during the
11 term of the facility or area is subject to postclosure care, in such
12 amount as determined by the secretary to insure the financial re-
13 sponsibility of the permittee for accidental occurrences at the site
14 of the facility or area. Any such liability insurance as may be re-
15 quired pursuant to this subsection or pursuant to the rules and
16 regulations of the secretary shall be issued by an insurance com-
17 pany authorized to do business in Kansas or by a licensed insur-
18 ance agent operating under authority of K.S.A. 40-246b, and
19 amendments thereto, and shall be subject to the insurer's policy
20 provisions filed with and approved by the commissioner of insur-
21 ance pursuant to K.S.A. 40-216, and amendments thereto, except
22 as authorized by K.S.A. 40-246b, and amendments thereto. Noth-
23 ing contained in this subsection shall be deemed to apply to any
24 state agency or department or agency of the federal government.

25 [(i) (1) Permits granted by the secretary as provided by this act
26 shall not be transferable except as follows:

27 [(A) A permit for a solid waste disposal area may be transferred
28 if the area is permitted for only solid waste produced on site from
29 manufacturing and industrial processes or on-site construction or
30 demolition activities and the only change in the permit is a name
31 change resulting from a merger, acquisition, sale, corporate re-
32 structuring or other business transaction.

33 [(B) A permit for a solid waste disposal area or a solid waste
34 processing facility may be transferred if the secretary approves of
35 the transfer based upon information submitted to the secretary
36 sufficient to conduct a background investigation of the new owner
37 as specified in subsections (c) and (d) of K.S.A. 65-3407, and
38 amendments thereto, and a financial assurance evaluation as spec-
39 ified in subsection (h) of K.S.A. 65-3407, and amendments thereto.
40 Such information shall be submitted to the secretary not more than
41 one year nor less than 60 days before the transfer. If the secretary
42 does not approve or disapprove the transfer within 30 days after
43 all required information is submitted to the secretary, the transfer

1 shall be deemed to have been approved.

2 [(2) Permits granted by the secretary as provided by this act
3 shall be revocable or subject to suspension whenever the secretary
4 shall determine that the solid waste processing or disposal facility
5 or area is, or has been constructed or operated in violation of this
6 act or the rules and regulations or standards adopted pursuant to
7 the act, or is creating or threatens to create a hazard to persons
8 or property in the area or to the environment, or is creating or
9 threatens to create a public nuisance, or upon the failure to make
10 payment of any fee required under this act.

11 [(3) The secretary also may revoke, suspend or refuse to issue
12 a permit when the secretary determines that past or continuing
13 violations of the provisions of K.S.A. 65-3409, subsection (c)(3) of
14 K.S.A. 65-3407 or K.S.A. 65-3424b, and amendments thereto, have
15 been committed by a permittee, or any principal, shareholder or
16 other person capable of exercising partial or total control over a
17 permittee.

18 [(j) Except as otherwise provided by subsection (i)(1), the sec-
19 retary may require a new permit application to be submitted for
20 a solid waste processing facility or a solid waste disposal area in
21 response to any change, either directly or indirectly, in ownership
22 or control of the permitted real property or the existing permittee.

23 [(k) In case any permit is denied, suspended or revoked the
24 person, city, county or other political subdivision or state agency
25 may request a hearing before the secretary in accordance with
26 K.S.A. 65-3412, and amendments thereto.

27 [(l) (1) No permit to construct or operate a solid waste disposal
28 area shall be issued on or after the effective date of this act if such
29 area is located within ½ mile of a navigable stream used for inter-
30 state commerce or within one mile of an intake point for any public
31 surface water supply system.

32 [(2) Any permit, issued before the effective date of this act, to
33 construct or operate a solid waste disposal area is hereby declared
34 void if such area is not yet in operation and is located within ½
35 mile of a navigable stream used for interstate commerce or within
36 one mile of an intake point for any public surface water supply
37 system.

38 [(3) The provisions of this subsection shall not be construed to
39 prohibit: (A) Issuance of a permit for lateral expansion onto land
40 contiguous to a permitted solid waste disposal area in operation
41 on the effective date of this act; (B) issuance of a permit for a solid
42 waste disposal area for disposal of a solid waste by-product pro-
43 duced on-site; (C) renewal of an existing permit for a solid waste

1 **area in operation on the effective date of this act; or (D) activities**
2 **which are regulated under K.S.A. 65-163 through 65-165 or 65-**
3 **171d, and amendments thereto.**

4 [(m) (1) *No permit to construct or operate a solid waste disposal area*
5 *shall be issued on or after the effective date of this act if: (A) Such area*
6 *is located within five miles of a stream with an average annual mean*
7 *streamflow of more than 40 cubic feet per second, as measured at the*
8 *nearest United States geological survey gauging station; and (B) the sec-*
9 *retary, after consultation with the Kansas geological survey, determines*
10 *that within 15 miles of such area there is a location which would be*
11 *appropriate for a solid waste disposal area and which would have less*
12 *potential for water pollution.*

13 [(2) *Any permit, issued before the effective date of this act, to con-*
14 *struct or operate a solid waste disposal area is hereby declared void if:*
15 *(A) Such area is not yet in operation and is located within five miles of a*
16 *stream with an average annual mean streamflow of more than 40 cubic*
17 *feet per second, as measured at the nearest United States geological survey*
18 *gauging station; and (B) the secretary, after consultation with the Kansas*
19 *geological survey, determines that within 15 miles of such area there is a*
20 *location which would be appropriate for a solid waste disposal area and*
21 *which would have less potential for water pollution.*

22 [(3) *The provisions of this subsection shall not be construed to pro-*
23 *hibit: (A) Issuance of a permit for lateral expansion onto land contiguous*
24 *to a permitted solid waste disposal area in operation on the effective date*
25 *of this act; (B) issuance of a permit for a solid waste disposal area for*
26 *disposal of a solid waste by-product produced on-site; (C) renewal of an*
27 *existing permit for a solid waste area in operation on the effective date of*
28 *this act; or (D) activities which are regulated under K.S.A. 65-163 through*
29 *65-165 or 65-171d, and amendments thereto.*

30 [(n) *Before issuing any permit to construct or operate a solid waste*
31 *disposal area within four miles of a stream with an average annual mean*
32 *streamflow of more than 50 cubic feet per second, as measured at the*
33 *nearest United States geological survey gauging station, the secretary shall*
34 *contract for a hydrological evaluation of the proposed solid waste disposal*
35 *area to be performed by an independent professional geologist licensed to*
36 *practice in Kansas. The cost of the evaluation shall be paid by the*
37 *applicant.*

38 [~~(m)~~ (o) **Before reviewing any application for a solid waste proc-**
39 **essing facility or solid waste disposal area, the secretary shall re-**
40 **quire the following information as part of the application:**

41 [(1) **Certification by the board of county commissioners or the**
42 **mayor of a designated city responsible for the development and**
43 **adoption of the solid waste management plan for the location**

1 where the processing facility or disposal area is or will be located
2 that the processing facility or disposal area is consistent with the
3 plan. This certification shall not apply to a solid waste disposal area
4 for disposal of only solid waste produced on site from manufac-
5 turing and industrial processes or from on-site construction or
6 demolition activities.

7 [(2) If the location is zoned, certification by the local planning
8 and zoning authority that the processing facility or disposal area
9 is consistent with local land use restrictions or, if the location is
10 not zoned, certification from the board of county commissioners
11 that the processing facility or disposal area is compatible with sur-
12 rounding land use.

13 [(3) For a solid waste disposal area permit issued on or after
14 July 1, 1999, proof that the permittee owns the land where the
15 disposal area will be located, if the disposal area is: (A) A municipal
16 solid waste landfill; or (B) a solid waste disposal area that has: (i)
17 A leachate or gas collection or treatment system; (ii) waste con-
18 tainment systems or appurtenances with planned maintenance
19 schedules; or (iii) an environmental monitoring system with
20 planned maintenance schedules or periodic sampling and analysis
21 requirements. This requirement shall not apply to a permit for
22 lateral or vertical expansion contiguous to a permitted solid waste
23 disposal area in operation on July 1, 1999, if such expansion is on
24 land leased by the permittee before April 1, 1999.]

25 ~~Section 1.~~ [Sec. 2.] K.S.A. 65-3424 is hereby amended to read as
26 follows: 65-3424. As used in K.S.A. 65-3424 through 65-3424i, and
27 amendments thereto, unless the context otherwise requires:

28 (a) Terms have the meaning provided by K.S.A. 65-3402, and amend-
29 ments thereto.

30 (b) “Abatement” means the processing or removing to an approved
31 storage site of waste tires which are creating a danger or nuisance.

32 (c) “Beneficial use” means the use or storage of waste tires in a way
33 that:

34 (1) creates an on-site economic benefit to the owner of the tires ~~and~~,
35 including, but not limited to, bumpers for boat docks or boats,
36 playground equipment, silo covers, traffic control, feed bunks, wa-
37 ter tanks, windbreaks constructed of baled tires or in a manner
38 consistent with rules and regulations of the secretary, erosion con-
39 trol on the face of an earthen dam and stabilization of soil or sand
40 blow-outs caused by wind; and

41 (2) as determined by the secretary, causes no adverse impacts to human
42 health or the environment and complies with all applicable zoning
43 requirements.

1 (d) “Contaminated waste tire” means a tire which, as determined in
2 accordance with rules and regulations adopted by the secretary, is recov-
3 ered in a project to abate a waste tire accumulation and is so coated by
4 or filled with dirt, mud, sludge or other natural substances as to render
5 the tire substantially unsuitable for processing.

6 (e) ~~“Landfill” means a disposal site in which the method of disposing~~
7 ~~of solid waste is by landfill, dump or pit and which has a solid waste~~
8 ~~disposal area permit issued under K.S.A. 65-3401 et seq., and amend-~~
9 ~~ments thereto. “Illegal waste tire accumulation” means any waste tire pile~~
10 ~~containing more than 50 waste tires except the following:~~

11 (1) ~~A waste tire accumulation on the premises of a facility which has~~
12 ~~been issued a permit by the secretary pursuant to K.S.A. 65-3407, and~~
13 ~~amendments thereto, or K.S.A. 65-3424b, and amendments thereto,~~
14 ~~and managed in accordance with the conditions of such permit; or~~

15 (2) ~~a waste tire accumulation which is exempt from the waste tire~~
16 ~~collection center permit requirement listed in pursuant to K.S.A. 65-~~
17 ~~3424b, and amendments thereto.~~

18 (f) “Mobile waste tire processor” means a person who processes
19 waste tires at other than a fixed site.

20 (g) “Process” means: (1) Cut or otherwise alter whole waste tires so
21 that they are no longer whole; or (2) bale for disposal or beneficial use.

22 (h) “Store” or “storage” means the placing of waste tires in a manner
23 that does not constitute disposal of the waste tires. Storage includes the
24 beneficial use of waste tires as silo covers and such other beneficial uses
25 as the secretary determines do not create health or environmental risks.

26 (i) “Tire” means a continuous solid or pneumatic rubber covering
27 used to encircle the wheel of a vehicle or aircraft, or an innertube of such
28 a covering.

29 (j) “Tire retailer” means a person in the business of selling new or
30 used replacement tires at retail.

31 (k) “Used tire” means a tire that: (1) Has been removed from a wheel
32 following a period of use or remains on a wheel removed from a vehicle
33 or aircraft following a period of use; and (2) has been determined to have
34 value in accordance with rules and regulations established pursuant to
35 subsection (e)(7) of K.S.A. 65-3424b, and amendments thereto.

36 (l) “Vehicle” has the meaning provided by K.S.A. 8-1485 and amend-
37 ments thereto and includes implements of husbandry, as defined by
38 K.S.A. 8-1427 and amendments thereto.

39 (m) “Waste tire” means a whole tire that: (1) Has been removed from
40 a wheel following a period of use or remains on a wheel removed from a
41 vehicle or aircraft following a period of use; and (2) is no longer suitable
42 for its original intended purpose because of wear, damage or defect.

43 (n) “Waste tire collection center” means a site where used or waste

1 tires are collected from the public or from customers of a business prior
2 to being offered for recycling or disposal.

3 (o) “Waste tire processing facility” means a fixed site where equip-
4 ment is used to process waste tires.

5 (p) “Waste tire site” means a site at which 1,000 or more whole waste
6 tires are accumulated. “Waste tire site” does not include: (1) A site that
7 is an integral part of a permitted waste tire processing facility; (2) an
8 accumulation of tires on the premises of a tire retreading business, for
9 use in the business; (3) an accumulation of tires on the premises of a
10 business that, in the ordinary course of business, removes tires from mo-
11 tor vehicles; (4) an accumulation of tires on the premises of a tire retailer,
12 accumulated in the normal course of the tire retailer’s business; or (5) an
13 accumulation of tires which has a beneficial use approved by statute or
14 rules and regulations adopted by the secretary, or by the secretary pur-
15 suant to statute or rules and regulations.

16 Sec. ~~2~~ **[3.]** K.S.A. 65-3424a is hereby amended to read as follows:
17 65-3424a. (a) The owner or operator of any waste tire site shall provide
18 the department with information concerning the site’s location and size
19 and the approximate number of waste tires that are accumulated at the
20 site.

21 —(b) No person shall:

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

25 (2) ~~dispose of waste tires in the state unless the waste tires are dis-~~
26 ~~posed of for processing, or collected for processing, at a solid waste pro-~~
27 ~~cessing facility, a waste tire site which is an integral part of a waste tire~~
28 ~~processing facility, a waste tire processing facility or a waste tire collection~~
29 ~~center or are made available to: (A) The department of wildlife and parks~~
30 ~~for use by the department, or (B) a person engaged in a farming or ranch-~~
31 ~~ing activity, including the operation of a feedlot as defined by K.S.A. 47-~~
32 ~~1501, and amendments thereto, as long as the accumulation has a bene-~~
33 ~~ficial use to the person accumulating the tires and (i) the secretary~~
34 ~~determines that the use has no adverse environmental effects and (ii) the~~
35 ~~accumulation is in accordance with all applicable zoning regulations~~

36 (b) *transfer ownership of waste tires to any person unless the recip-*
37 *ient: (1) Has been issued a permit by the secretary pursuant to K.S.A. 65-*
38 *3407, and amendments thereto, or K.S.A. 65-3424b, and amendments*
39 *thereto; (2) intends to use the waste tires for a beneficial use; or (3) is a*
40 *tire retailer who collects waste tires from the public or other tire retailers*
41 *in the ordinary course of business;*

42 (3) (c) deposit waste tires in a landfill as a method of ultimate disposal,
43 except that the secretary may authorize, by rules and regulations or by

1 permits issued pursuant to K.S.A. 65-3407, and amendments thereto: (A)
2 The final disposal of processed waste tires at permitted municipal solid
3 waste landfills and permitted waste tire monofills; (B) the final disposal
4 of contaminated whole, unprocessed waste tires at permitted municipal
5 solid waste landfills and permitted waste tire monofills; (C) the use of
6 waste tires in their original state as part of *or supplemental to* a proven
7 and approved leachate collection system at a landfill; ~~or~~ (D) the use of
8 waste tires which have been cut into two or more parts as daily cover
9 material for a landfill; or (E) **the final disposal of small numbers of**
10 **whole, unprocessed waste tires in landfills if such tires are inter-**
11 **mingled with other solid waste and retrieval of such tires would**
12 **be hazardous; or**

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

18 Sec. ~~3~~ [4.] K.S.A. 65-3424b is hereby amended to read as follows:
19 65-3424b. (a) The secretary shall establish a system of permits for mobile
20 waste tire processors ~~and~~ waste tire processing facilities, ~~and permits for~~
21 waste tire transporters and *waste tire* collection centers. Such permits
22 shall be issued for a period of one year and shall require an application
23 fee established by the secretary in an amount not exceeding \$250 per
24 year.

25 (b) The secretary shall adopt rules and regulations establishing stan-
26 dards for mobile waste tire processors, waste tire processing facilities ~~and~~
27 ~~associated waste tire sites~~, waste tire collection centers and waste tire
28 transporters. Such standards shall include a requirement that the per-
29 mittee file with the secretary a bond or other financial assurance in an
30 amount determined by the secretary to be sufficient to pay any costs
31 which may be incurred by the state to process any waste tires or dispose
32 of any waste tires or processed waste tires if the permittee ceases business
33 or fails to comply with this act.

34 (c) Any person who contracts or arranges with another person to col-
35 lect or transport waste tires for storage, processing or disposal shall so
36 contract or arrange only with a person holding a permit from the secre-
37 tary. Any person contracting or arranging with a person, permitted by the
38 secretary, to collect or transport waste tires for storage, processing or,
39 disposal, transfers ownership of those waste tires to the permitted person
40 and the person contracting or arranging with the person holding such
41 permit to collect or transport such tires shall be released from liability
42 therefor. Any person contracting or arranging with any person, ~~permitted~~
43 ~~by the secretary~~, for the collection, transportation, storage, processing or,

1 disposal or beneficial use of such tires shall maintain a record of such
 2 transaction for a period of not less than ~~five~~ *three* years following the date
 3 of the transfer of such tires. *Record-keeping requirements for beneficial*
 4 *use shall not apply when tire retailers allow customers to retain their old*
 5 *tires at the time of sale.*

6 (d) *The owner or operator of each site that contains a waste tire, used*
 7 *tire or new tire accumulation of any size must control mosquito breeding*
 8 *and other disease vectors.*

9 (e) ~~Except for the following waste tire and used tire management ac-~~
 10 ~~tivities, no~~ **No** person shall:

11 —(1) own or operate a waste tire processing facility or waste tire collection
 12 center or act as a mobile waste tire processor or waste tire transporter
 13 unless such person holds a valid permit issued therefor pursuant to sub-
 14 section (a)~~2~~ or

15 —(2) ~~own or operate a waste tire processing facility or waste tire col-~~
 16 ~~lection center or act as a mobile waste tire processor or waste tire trans-~~
 17 ~~porter except in compliance with the standards established by the sec-~~
 18 ~~retary pursuant to subsection (b).~~

19 —(c) ~~The provisions of subsection (d)(1) shall not apply to, except~~
 20 **that:**

21 (1) A tire retreading business where fewer than ~~1,000~~ *1,500* waste
 22 tires are kept on the business premises *may operate a waste tire collection*
 23 *center on the premises;*

24 (2) a business that, in the ordinary course of business, removes tires
 25 from motor vehicles ~~if where~~ fewer than 1,500 of these tires are kept on
 26 the business premises *may operate a waste tire collection center or a waste*
 27 *tire processing facility or both on the premises;*

28 (3) a retail tire-selling business ~~which is serving as a waste tire col-~~
 29 ~~lection center if where~~ fewer than 1,500 waste tires are kept on the busi-
 30 ness premises *may operate a waste tire collection center or a waste tire*
 31 *processing facility or both on the premises;*

32 (4) the department of wildlife and parks *may perform one or more of*
 33 *the following to facilitate a beneficial use of waste tires: (A) Operate a*
 34 *waste tire collection center on the premises of any state park, **state wild-***
 35 ***life area, or state fishing lake;** (B) operate a waste tire processing fa-*
 36 *cility on the premises of any **state park, state wildlife area, or state***
 37 ***fishing lake;** or (C) act as a waste tire transporter to transport waste*
 38 *tires to any state park, **state wildlife area, or state fishing lake;***

39 (5) a person engaged in a farming or ranching activity, including the
 40 operation of a feedlot as defined by K.S.A. 47-1501, and amendments
 41 thereto, ~~as long as the accumulation has a beneficial use~~ *may perform one*
 42 *or more of the following to facilitate a beneficial use of waste tires: (A)*
 43 *Operate ~~a~~ **an on-site** waste tire collection center ~~on the premises of the~~*

1 ~~feedlot; (B) operate **an on-site** waste tire processing facility on the~~
 2 ~~premises of the feedlot; or (C) act as a waste tire transporter to transport~~
 3 ~~waste tires to the **farm, ranch, or feedlot**;~~

4 **(6) a watershed district may perform one or more of the fol-**
 5 **lowing to facilitate a beneficial use of waste tires: (A) Operate a**
 6 **waste tire collection center on the premises of a watershed district**
 7 **project or work of improvement; (B) operate a waste tire process-**
 8 **ing facility on the district's property; or (C) act as a waste tire**
 9 **transporter to transport waste tires to the district's property;**

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

12 ~~—(7) a waste tire collection center a person with a used tire accumu-~~
 13 ~~lation where: (1) fewer than 1,500 or more (7) **a person may operate a**~~
 14 ~~**waste tire collection center if: (A) Fewer than 1,500 used tires are**~~
 15 ~~**kept on the premises; or (2) (B) 1,500 or more used tires are kept on the**~~
 16 ~~**premises, if the owner demonstrates through sales and inventory records**~~
 17 ~~**that such tires have value, as established in accordance with standards**~~
 18 ~~**adopted by rules and regulations of the secretary may operate a waste**~~
 19 ~~**tire collection center;**~~

20 ~~(8) (7) (8) local units of government ~~operating~~ managing waste tires at~~
 21 ~~solid waste processing facilities ~~and~~ or solid waste disposal areas permitted~~
 22 ~~by the secretary under the authority of K.S.A. 65-3407, and amendments~~
 23 ~~thereto *may perform one or more of the following in accordance with the*~~
 24 ~~*conditions of the solid waste permit: (A) Operate a waste tire collection*~~
 25 ~~*center on the premises of the permitted facility; (B) operate a waste tire*~~
 26 ~~*processing facility on the premises of the permitted facility; (C) act as a*~~
 27 ~~*waste tire transporter to transport waste tires to the permitted facility; or*~~
 28 ~~*(D) act as a mobile waste tire processor;*~~

29 ~~(9) (8) (9) a person ~~transporting~~ may act as a **waste tire** transporter~~
 30 ~~to transport: (A) Waste tires mixed with other municipal solid waste; (B)~~
 31 ~~fewer than five waste tires for lawful disposal; (C) waste tires generated~~
 32 ~~by the business, farming activities of the person or the person's employer;~~
 33 ~~or (D) waste tires for a beneficial use approved by statute or, rules and~~
 34 ~~regulations, or ~~adopted~~ by the secretary (E) waste tires from an illegal~~
 35 ~~waste tire accumulation to a person who has been issued a permit by the~~
 36 ~~secretary pursuant to K.S.A. 65-3407, ~~and amendments thereto, or K.S.A.~~~~
 37 ~~**or 65-3424b, and amendments thereto, provided approval has been ob-**~~
 38 ~~**tained from the secretary; or (F) five to 50 waste tires for lawful disposal,**~~
 39 ~~**provided the transportation act is a one time occurrence to abate a legal**~~
 40 ~~**accumulation of waste tires ; or**~~

41 ~~(10) (9) (10) a business engaged in processing, for resource recovery~~
 42 ~~purposes, only waste tires generated by the business a tire retailer that~~
 43 ~~in the ordinary course of business also serves as a tire wholesaler to other~~

1 *tire retailers may act as a waste tire transporter to transport waste tires*
2 *from those retailers back to a central location owned or operated by the*
3 *wholesaler for consolidation and final disposal or recycling.*

4 (f) All fees collected by the secretary pursuant to this section shall be
5 remitted to the state treasurer in accordance with the provisions of K.S.A.
6 75-4215, and amendments thereto. Upon receipt of each such remittance,
7 the state treasurer shall deposit the entire amount in the state treasury
8 to the credit of the waste tire management fund.

9 Sec. ~~4~~ [5.] K.S.A. 65-3424g is hereby amended to read as follows:
10 65-3424g. (a) There is hereby established in the state treasury the waste
11 tire management fund.

12 (b) Money from the following sources shall be credited to the waste
13 tire management fund:

14 (1) Revenue collected from the excise tax by K.S.A. 65-3424d and
15 amendments thereto;

16 (2) permit application and renewal fees provided for by K.S.A. 65-
17 3424b and amendments thereto;

18 (3) interest provided for by subsection (e);

19 (4) additional sources of funding such as reimbursements and appro-
20 priations intended to be used for the purposes of the fund;

21 (5) any recoveries from abatement and enforcement actions provided
22 for by K.S.A. 65-3424k and amendments thereto; and

23 (6) any other moneys provided by law.

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

26 (1) Paying compensation and other expenses of employing personnel
27 to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through
28 65-3424h, and amendments thereto, but not more than \$250,000 ~~or 36%~~,
29 ~~whichever is less, of the moneys credited to the fund during the preceding~~
30 ~~fiscal year;~~

31 (2) ~~action by the department before July 1, 2003, to abate waste tires~~
32 ~~accumulated prior to July 1, 1990;~~

33 ~~—(3) action by the department to implement interim measures to min-~~
34 ~~imize nuisances or risks to public health or the environment that are or~~
35 ~~could be created by waste tire accumulations, until the responsible party~~
36 ~~can fully abate the site or until a state clean-up occurs pursuant to K.S.A.~~
37 ~~65-3424k, and amendments thereto;~~

38 ~~(4) (3) action by the department, with the consent of the city or~~
39 ~~county, to pay for the removal and disposal or on-site stabilization of waste~~
40 ~~tires which have been illegally accumulated after July 1, 1990, or, with~~
41 ~~respect to the conditions of a permit issued by the department pursuant~~
42 ~~to K.S.A. 65-3407 or 65-3424b, and amendments thereto, or illegally~~
43 ~~managed, when the responsible party is unknown or unwilling or unable~~

1 to perform the necessary corrective action, ~~provided moneys in the fund~~
 2 ~~shall only be used to pay up to 75% of the costs of the required abatement~~
 3 ~~action and the city or county shall pay the remaining 25% of such costs,~~
 4 ~~and;~~

5 ~~(5)~~ (4) the costs of using contractors to provide: (A) Public education
 6 regarding proper management of waste tires; (B) technical training of
 7 persons on the requirements of solid waste laws and rules and regulations
 8 relating to waste tires; and (C) services described in subsection (i) of
 9 K.S.A. 65-3424k, and amendments thereto; and

10 (5) *grants to public or private entities for up to 75 percent % of the*
 11 *cost to start-up or enhance projects to recycle waste tires or recover energy*
 12 *through waste tire combustion. In the fiscal year beginning July 1, 2003,*
 13 *waste tire grants may not exceed \$200,000. In subsequent fiscal years,*
 14 *waste tire grants may not exceed the amount of unspent excise tax revenue*
 15 *from the preceding year calculated by subtracting all program expenses*
 16 *and indirect transfers for department overhead from excise tax revenue.*
 17 *All grant applications received for waste tire recycling grants shall be*
 18 *reviewed by the solid waste grants advisory committee established pur-*
 19 *suant to K.S.A. 65-3426, and amendments thereto. Waste tire recycling*
 20 *grants shall be subject to the requirements set forth in ~~K.S.A. 65-3415(g)~~*
 21 **subsection (g) of K.S.A. 65-3415**, *and amendments thereto, related to*
 22 *the misuse of grant funds with the exception that any grant funds recov-*
 23 *ered by the secretary shall be deposited to the waste tire management*
 24 *fund. Waste tire management funds shall be used only for waste tire re-*
 25 *cycling grants. Waste tire grants shall not be awarded, nor shall waste*
 26 *tire funds be disbursed to a grant recipient, if the department determines*
 27 *that the grant applicant or recipient is operating in substantial violation*
 28 *of applicable environmental laws or regulations administered by the*
 29 *department.*

30 (d) All expenditures from the waste tire management fund shall be
 31 made in accordance with appropriations acts upon warrants of the direc-
 32 tor of accounts and reports pursuant to vouchers approved by the
 33 secretary.

34 (e) On or before the 10th of each month, the director of accounts
 35 and reports shall transfer from the state general fund to the waste tire
 36 management fund interest earnings based on: (1) The average daily bal-
 37 ance of moneys in the waste tire management fund for the preceding
 38 month; and (2) the net earnings rate for the pooled money investment
 39 portfolio for the preceding month.

40 Sec. ~~5~~ **[6.]** K.S.A. 65-3424k is hereby amended to read as follows:
 41 65-3424k. (a) ~~Before July 1, 2003,~~ The secretary may undertake appro-
 42 priate abatement action and may enter into contracts for the abatement
 43 of ~~illegal waste tires accumulated before July 1, 1990,~~ accumulations or

1 *illegally managed waste tires* utilizing funds from the waste tire manage-
2 ment fund.

3 (b) Any authorized representative of the secretary may enter, at rea-
4 sonable times and upon written notice, onto any property or premises
5 where an accumulation of waste tires is located to conduct: (1) An in-
6 spection and site assessment to determine whether the accumulation cre-
7 ates a nuisance or risk to public health and safety or to the environment;
8 or (2) interim measures to minimize risk to public health and safety or to
9 the environment.

10 (c) Whenever the secretary has reason to believe that an accumula-
11 tion of waste tires creates a nuisance or risk to public health and safety
12 or to the environment or is in violation of rules and regulations adopted
13 by the secretary or conditions of a permit issued by the secretary, the
14 secretary may require the person or persons responsible for the accu-
15 mulation to carry out abatement activities. Such abatement activities shall
16 be performed in accordance with a plan approved by the secretary. The
17 secretary shall give notice, by letter, to the property owner and respon-
18 sible parties that the waste tires constitute a nuisance or risk to public
19 health or the environment, and that the waste tire accumulation must be
20 abated within a specified period. The secretary may undertake abatement
21 action utilizing funds from the waste tire management fund if *the re-*
22 *sponsible parties fail to take the required action within the time period*
23 *specified in the notice: (1) The waste tires were accumulated before July*
24 *1, 1990, and abated before July 1, 2003; or*
25 ~~— (2) the waste tires were accumulated after July 1, 1990, and the re-~~
26 ~~sponsible parties fail to take the required action within the time period~~
27 ~~specified in the notice.~~

28 (d) The department and its representatives are authorized to enter
29 private property to perform abatement activities if the responsible party
30 fails to perform required clean-up work, but no entry shall be made with-
31 out the property owner's consent except upon notice and hearing in ac-
32 cordance with the Kansas administrative procedure act.

33 ~~(d)~~ (e) All costs incurred by the secretary in *the* abatement of *illegal*
34 ~~waste tires accumulated after July 1, 1990, accumulations or illegally man-~~
35 ~~aged waste tires~~ or in performing interim measures, including adminis-
36 trative and legal expenses, are recoverable from a responsible party or
37 parties and may be recovered in a civil action in district court brought by
38 the secretary. ~~If~~ Any abatement costs ~~are~~ recovered under this section,
39 ~~the city or county that shared in the cost of the abatement action shall be~~
40 ~~reimbursed its costs not to exceed 25% of the amount recovered. The~~
41 ~~remaining amount recovered~~ shall be remitted to the state treasurer in
42 accordance with the provisions of K.S.A. 75-4215, and amendments
43 thereto. Upon receipt of each such remittance, the state treasurer shall

1 deposit the entire amount in the state treasury to the credit of the waste
2 tire management fund. An action to recover abatement or interim meas-
3 ures costs may be commenced at any stage of an abatement.

4 ~~(e)~~ (f) In performing or entering contracts for abatement actions un-
5 der this section, the secretary shall give preference to actions that recycle
6 waste tires or burn waste tires for energy recovery. Direct abatement
7 expenditures may include landfilling when waste tires are contaminated
8 or when feasible in-state markets cannot be identified.

9 ~~(f)~~ (g) Permits granted by the secretary pursuant to K.S.A. 65-3424b,
10 and amendments thereto, shall not be transferable and may be revoked
11 or suspended whenever the secretary determines that the permit holder
12 is operating in violation of this act or rules and regulations adopted pur-
13 suant to the act; is creating or threatens to create a hazard to persons,
14 property or the environment; or is creating or threatens to create a public
15 nuisance. The secretary may also revoke, suspend or refuse to issue a
16 permit when the secretary determines that past or continuing violations
17 of the provisions of K.S.A. 65-3409, and amendments thereto, have been
18 committed by the applicant or permit holder.

19 ~~(g)~~ (h) Neither the state of Kansas nor the waste tire management
20 fund shall be liable to any owner, operator or responsible party for the
21 loss of business, damages or taking of property associated with any abate-
22 ment or enforcement action taken pursuant to this section.

23 ~~(h)~~ (i) The secretary shall enter into contracts with one or more as-
24 sociations of tire retailers to: (1) Assist in disseminating information to all
25 tire retailers on the requirements of solid waste laws and rules and reg-
26 ulations relating to waste tires; (2) establish a point of contact for persons
27 requesting information on solid waste laws and rules and regulations rel-
28 ating to waste tires; (3) assist in planning and implementing conferences,
29 workshops, and other requested training events for persons involved in
30 the generation, transportation, processing, or disposal of waste tires; and
31 (4) assemble and analyze data on waste tire management by tire retailers
32 in Kansas.

33 Sec. ~~6~~ [7.] K.S.A. 65-3426 is hereby amended to read as follows: 65-
34 3426. (a) There is hereby established within the department of health and
35 environment the solid waste grants advisory committee, which shall be
36 composed of ~~seven~~ eight members as follows:

37 (1) ~~Six~~ Seven members appointed by the governor, two of whom shall
38 represent the interests of regional solid waste management entities, two
39 of whom shall represent the interests of counties, one of whom shall
40 represent the interests of cities, one of whom shall represent the interests
41 of waste tire generators or handlers and one of whom shall represent the
42 interests of the private sector;

43 (2) the secretary of health and environment or the secretary's

1 designee.

2 (b) Appointive members of the solid waste grants advisory committee
3 shall serve terms of two years. The secretary of health and environment
4 or the person designated by the secretary shall serve as chairperson of
5 the advisory committee.

6 (c) Members of the solid waste grants advisory committee shall re-
7 ceive amounts provided by subsection (e) of K.S.A. 75-3223 and amend-
8 ments thereto for each day of actual attendance at any meeting of the
9 advisory committee or any subcommittee meeting authorized by the ad-
10 visory committee.

11 (d) The secretary of health and environment shall provide technical
12 support related to the activities of the solid waste grants advisory com-
13 mittee, including but not limited to establishing project selection criteria,
14 performing technology evaluations, assessing technical feasibility and de-
15 termining consistency with the statewide solid waste management plan,
16 the applicable county or regional solid waste management plan and re-
17 gional activities.

18 (e) In accordance with schedules established by the secretary of
19 health and environment, the solid waste grants advisory committee shall
20 meet to review competitive grant applications submitted pursuant to sub-
21 section (b) of K.S.A. 65-3415, and amendments thereto. The advisory
22 committee shall establish a project priority list for each fiscal year based
23 upon the availability of funds as estimated by the secretary and shall make
24 recommendations regarding the selection of grantees and the disburse-
25 ment of moneys.

26 Sec. ~~7~~ [8.] K.S.A. [~~65-3407~~,] 65-3424, 65-3424a, 65-3424b, 65-
27 3424g, 65-3424k, 65-3424m and 65-3426 are hereby repealed.

28 Sec. ~~8~~ [9.] This act shall take effect and be in force from and after
29 its publication in the statute book.

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