
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: SB 1181
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Urgency: No
Consultant: Gabrielle Meindl
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Fiscal: Yes

SUBJECT: Used tires: sale and export

DIGEST: Requires the Department of Resources Recycling and Recovery (CalRecycle) to strengthen the California tire tracking system to quantify more precisely the number of used tires flowing from California, and from other states through California, into the State of Baja California and the nearby State of Sonora.

ANALYSIS:

Existing law:

- 1) Pursuant to the California Integrated Waste Management Act of 1989, establishes a state policy goal that 75% of solid waste generated be diverted from landfill disposal by 2020 (Public Resources Code (PRC) §40000 et seq.).
- 2) Establishes the California Tire Recycling Act (Act) (PRC §42860 et seq.), which:
 - a) Until January 1, 2024, requires a person who purchases a new tire to pay a California tire fee of \$1.75 for each new tire purchased in the state. One dollar of which is deposited into the Tire Recycling Fund for oversight, enforcement, and market development grants relating to waste tire management and recycling. The remaining \$0.75 is deposited into the Air Pollution Control Fund for programs and projects that mitigate or remediate air pollution caused by tires.
 - b) Reduces the fee on January 1, 2024 to \$0.75 per tire, to be deposited into the Tire Recycling Fund.
 - c) Authorizes CalRecycle to award grants, loans, subsidies, and rebates and pay incentives for various purposes related to reducing landfill disposal of

waste tires.

- d) Requires CalRecycle to adopt a Five-Year Plan, which must be updated every two years, that establishes goals and priorities for the waste tire program. Additionally, specifies the plan describe the effectiveness of each element of the program, including,
 - i) Border region activities, conducted in coordination with the California Environmental Protection Agency, including, but not limited to, all of the following:
 - a) Training programs to assist Mexican waste and used tire haulers to meet the requirements for hauling those tires in California.
 - b) Environmental education training.
 - c) In coordination with the California-Mexico Border Relations Council, development of a waste tire abatement plan, which may also provide for the abatement of solid waste, with the appropriate government entities of California and Mexico.
 - d) Tracking both the legal and illegal waste and used tire flow across the border and recommending revisions to the waste tire policies of California and Mexico.
 - e) Coordination with businesses operating in the border region and with Mexico, with regard to applying the same environmental and control requirements throughout the border region.
 - f) Development of projects in Mexico in the California-Mexico border region, as defined by the La Paz Agreement, that include, but are not limited to, education, infrastructure, mitigation, cleanup, prevention, reuse, and recycling projects, that address the movement of used tires from California to Mexico, and support the cleanup of illegally disposed waste tires and solid waste along the border that could negatively impact California's environment.
- e) Defines “waste tire generator” as any person whose act or process produces any amount of waste or used tires, or causes a waste or used tire hauler to transport those waste or used tires, or otherwise causes waste or used tires to become subject to regulation.
- f) Requires a person generating waste tires or used tires that are transported for offsite handling, altering, storage, or disposal to complete a California

Uniform Waste and Used Tire Manifest.

- g) Defines “California Uniform Waste and Used Tire Manifest” to mean a shipping document signed by a generator of waste or used tires, a waste and used tire hauler, or the operator of a waste or used tire facility or other destination that contains all of the information required by the board, including, but not limited to, an accurate measurement of the number of tires being shipped, the type or types of the tires, the date the shipment originated, and the origin and intended final destination of the shipment.

This bill:

- 1) Requires CalRecycle to strengthen the California tire tracking system to quantify more precisely the number of used tires flowing from California, and from other states through California, into the State of Baja California and the nearby State of Sonora.
- 2) Requires CalRecycle to work with United States Customs and Border Protection to obtain detailed data on California used tire exports to the State of Baja California, including, but not limited to, exports of wrecked vehicles for auto dismantlers.
- 3) Prohibits a person from selling an unsafe used tire, as defined, for use by a motor vehicle on a highway.

Background

- 1) *Tire Management.* California has more registered vehicles than any other state. As a result, California is faced with the challenge of diverting or safely managing more than 51 million reusable and waste tires generated annually in the state. CalRecycle’s goal, although not codified in statute, is that 75 percent of waste tires be recycled. CalRecycle staff estimates that of the approximately 51.1 million reusable and waste tires generated in 2018, approximately 42.1 million of the tires (82.3 percent) were diverted through various alternatives, including reuse, retreading, and combustion. On the other hand, the recycling rate (excludes alternative daily cover and tire-derived fuel) increased from 33.3 percent (16.2 million of the tires) in 2017 to 36.6 percent (18.7 million of tires) in 2018.

Currently, the recycling markets in California do not consume all of the waste tires generated. Waste tires need to be stored safely until sufficient markets are in place to increase the consumption of waste tires. CalRecycle provides a waste tire management framework by enforcing waste tire facility and waste tire hauler regulations.

CalRecycle's tire management program is divided into two functional areas: 1) permitting and enforcement activities; and, 2) tire recycling and marketing development activities. The tire permitting and enforcement activities ensure that reusable and waste tires are stored and transported safely. CalRecycle coordinates with local and regional agencies to mitigate unsafe situations at existing abandoned tire pile sites and provide technical assistance. Tire recycling activities include offering financial assistance, engaging in recycling and marketing research, and technical assistance.

Waste tire management activities that CalRecycle has developed and funded to stimulate diversion of reusable and waste tires from landfill disposal include:

- Business development assistance to California enterprises;
 - Research to expand the use and recyclability of tires;
 - Assistance to local governments to manage waste tires;
 - Regulation of waste tire facilities and waste tire haulers, to help ensure the protection of public health, safety, and the environment; and,
 - Public education.
- 2) *Waste/used tire manifest program.* According to CalRecycle, PRC §42961.5 requires CalRecycle to develop a "California Uniform Waste and Used Tire Manifest." The intent is to "close the loop" on accountability by requiring copies of each manifest or comprehensive trip log to be submitted to CalRecycle for monitoring tire movement within the state. The law also allows for data to be submitted electronically to CalRecycle.

The Waste Tire Manifest System is a tracking mechanism used by CalRecycle to monitor the generation, transportation, and ultimate disposal of used/waste tires in California. The goal of the system is to help eliminate the illegal storage or disposal of used/waste tires by allowing CalRecycle to focus enforcement efforts on worst offenders. The waste tire manifest system program applies to all persons, businesses, nonprofits, and government agencies that generate, transport, or receive waste or used tires. CalRecycle and tire enforcement agency staff members inspect and investigate waste and used tire generators, end-use facilities, and haulers to ensure that manifests are

properly completed, handled, and submitted to CalRecycle.

The Tire Hauler Compliance Unit, which includes the Waste Tire Hauler Manifest System, continues to be successful in having tire haulers based in Mexico register with CalRecycle, who operate used tire transport businesses between the two countries on California roadways. All vehicles hauling 9 or more used or waste tires in California are required to be registered with the State. In 2018, there were 29 waste tire haulers from Mexico registered with the Tire Hauler Program. In 2020, 23 waste tire haulers from Mexico registered with the program. The compliance unit has Spanish-speaking staff, allowing easier and more receptive communications with the Spanish-speaking regulated community. Additionally, the unit has a separate toll-free waste tire hotline for the Spanish-speaking regulated community.

The manifest system tracks the movement of all waste and used tires throughout the state, documenting on average over 130 million tire pick-ups and drop-offs annually. The movement of 9 tires or more at a time requires completion of a manifest by a registered hauler. The hauler is responsible for creating manifests for all pickups and drop-offs to document disposal at an authorized facility. All manifests are entered into the central database, which is regularly analyzed to identify haulers who do not show balanced pickups and drop-offs, indicating potential improper hauling or disposal. These audits result in immediate identification of the business and follow up with a violation report or an inspection, or both.

- 3) *Waste Tire Enforcement Support Activities.* CalRecycle's inspection program includes integrated activities to: "Inspect tire businesses for compliance with permitting, storage, and movement laws; regulations; and state minimum standards; educate tire businesses and property owners about tire laws and regulations; survey for illegal dumping, storage, and movement of tires; and take enforcement actions as needed to correct violations."

CalRecycle utilizes its partnership with the CHP to carry out surveillance efforts in the border region. The CHP provides roadside checkpoints to assist CalRecycle with surveillance and enforcement support to monitor illegal activities related to tire exports through California ports in the border region. Tire hauling business are required to be registered with the State of California and in possession of a manifest documenting the amount, origin, and destination of used and waste tires being hauled. Haulers not complying with those requirements are cited with violations. Between 2017 and 2018, CHP conducted four (4) checkpoints with CalRecycle in the border region. No

violations were found during these checkpoints.

- 4) *Five-Year Plan for the Waste Tire Recycling Management Program*. SB 876 (Escutia, Statutes of 2000, Chapter 838) was enacted to provide a comprehensive measure to extend and expand California's regulatory program related to the management of waste and used tires. One of the key provisions of this measure requires CalRecycle to adopt and submit to the Legislature a five-year plan. The five-year plan establishes goals and priorities for the waste tire recycling program and includes programmatic and fiscal issues as well as performance objectives and measurement criteria.
- 5) *California/Mexico Border Waste Tire Activities and Support*. While the majority of tires managed by the CalRecycle are waste tires, each year a portion of the used tires generated in California are of sufficient quality to be reused within the state or exported abroad, primarily to Baja California, Mexico. These used tires are transported by private businesses through border ports of entry and are allowed on a Mexican-permitted quota basis.

Used tires in Baja California come from many sources, including from new tires sold in Baja California and used tires imported as commodities from California, Arizona, and other states. After tires have been used or reused and reach the end of their useful life, some of the tires end up as waste tires. Waste tires that are not properly disposed have caused environmental problems in the California-Mexico border region, impacting areas such as the Tijuana River estuary and the New River of the Imperial Valley in California. Illegal disposal and improper storage and use of waste tires in the California-Mexico border region contribute to environmental problems in California and Mexico.

To date, many entities including Mexican and United States federal agencies, state and local agencies, and non-profit organizations have sought to address the impacts of improperly managed waste tires in Mexico. These efforts have primarily focused on the cleanup and remediation of large legacy waste tire piles, as well as the removal of waste tires from the Tijuana River estuary and New River area. CalRecycle's efforts have included enforcement, waste tire hauler manifests, cleanups, research, and technical assistance. CalRecycle continues to support the development of a tire management program in Mexico by providing technical assistance when needed and intends to build on these efforts in the years to come.

CalRecycle has funded and engaged in a range of border-related activities over

the past several years in response to the environmental problems associated with waste tires in the border region, including:

- Tire flow studies in 2009 and 2017;
- California Highway Patrol surveillance work to identify legacy tire piles in the border region;
- Two CalRecycle-managed cleanups of the Goat Canyon debris basins in Border Field State Park;
- A University of California Berkeley report in 2012 on the development of an integrated waste management plan for the State of Baja California; and
- Training for approximately 50 Mexican tire haulers regarding California's waste tire hauler registration and manifest program.

- 6) *Border Check Point Cross-Training Workshop*. In CalRecycle's most recent Draft Five-Year Plan for the Waste Management Recycling Program, Report to the Legislature, dated July 1, 2021, CalRecycle reports plans to coordinate regular workgroups with government authorities from Mexico and the U.S. involved with international ports to exchange information about tire commodity import and export requirements and monitoring processes. According to the report,

“The workgroup could identify how the flow of tire commodities are tracked at international border check points by each country and evaluate if any additional opportunities exist to further monitor the flow of tires across the border. The workgroup could explore enforcement needs, identify issues relating to illegal flows of tires, and develop communication protocols to report to each other should any issues of concern arise that need to be further investigated. The workgroup could include CalRecycle, U.S. and Mexico Border Customs Agencies, California Highway Patrol, and registered tire hauler stakeholder representatives. This activity will be funded in the amount of \$10,000 from the existing Waste Tire Enforcement Support activity.”

- 7) *Recommendations to Improve Waste Tire Management in the Border Region*. In November 2017, Calrecycle released a report it commissioned, “The Flow of Used Tires from California to Mexico and Waste Tire Disposal Issues in Baja California and the Adjacent Areas of Sonora.” The report recommended that CalRecycle:

- Continue to strengthen the California manifest and tire tracking system so that it is possible to quantify the numbers of used tires flowing from California into Baja California as well as through California from other U.S. states into Baja California;

- Work with U.S. Customs and Border Protection to obtain detailed data on California used tire exports to Baja California, as well as exports of scrap vehicles for automobile dismantlers. This information will assist Baja California in managing the waste tire issues related to authorized imports of used tires; and
- Encourage the State of California to adopt standards for used tires that are equal to or better than the recommendations and standards of most other U.S. states, the U.S. federal government, and Canada to assure that only acceptable used tires are exported to Baja California.

Comments

- 1) *Purpose of Bill.* According to the author, “In 2017, SR 57 called attention to the ongoing environmental and public health emergency caused by the transboundary flow of raw sewage, waste tires, trash, and sediment from the Tijuana River into the Tijuana River Estuary in the City of San Diego and requested the Governor to explore all available state resources to address the sewage crisis. Since then, the State of California has pledged millions of dollars toward studies and sewage clean-ups. The flow of waste tires into the Tijuana River Estuary has led to health complications for trash pickup volunteers and coastal residents. SB 1181 seeks to target the number of waste tires picked up by transboundary flows by increasing the minimum thread depth used tires must meet before being deemed eligible for sale for use on motor vehicles on highways. Additionally, SB 1181 calls on the California Department of Resources Recycling and Recovery to work with federal border agencies to make substantive improvements to their Waste Tire Manifest System to better monitor the flow of used tires through and from California to the neighboring Mexican states of Baja California and Sonora.”
- 2) *Ongoing Waste Tire Management Challenges in Border Region.* As mentioned previously, CalRecycle has funded and engaged in a range of border-related activities over the past several years in response to the environmental problems associated with waste tires in the border region. While modest progress and increased awareness of waste tires issues has been realized along the border region, the environmental problems associated with waste tires and much larger amounts of solid waste and sediment in the border region persist and continue to impact water quality in the Tijuana River estuary and New River area. Long-term resolution requires continued collaboration and coordination with interested parties in the border region, and any such efforts should be transparent to and involve other stakeholders, including local governments and nonprofit organizations.

- 3) *More clarity needed.* As previously mentioned, current law requires a person generating waste or used tires that are transported offsite for handling, altering, storage or disposal to complete a Uniform Waste and Used Tire Manifest. The manifest must include an accurate measurement of the number of tires being shipped, the type of tires, the date the shipment originated and the intended final destination of shipment. The manifest system tracks on average of 130 million tire pick-ups and drop-offs annually. All manifests are entered into a central database, which is regularly analyzed to identify haulers who do not show balanced pickups and drop-offs, indicating potential improper hauling or disposal. These audits result in immediate identification of the business and follow up with a violation report or an inspection, or both.

CalRecycle's Tire Hauler Compliance Unit also registers tire haulers based in Mexico, who operate used tire businesses between the two countries. The Unit has Spanish-speaking staff and operates a separate toll-free waste tire hotline in Spanish for this regulated community. Further, CalRecycle utilizes its partnership with the CHP to carry out surveillance efforts in the border region, providing roadside checkpoints to monitor activities related to tire exports through California ports.

SB 1181 would require CalRecycle to "strengthen" its tire tracking system to quantify more precisely the number of used tires flowing from California into Mexico.

Given CalRecycle's existing rather comprehensive tracking systems for monitoring tire movement, it is unclear what additional elements the author is seeking or are needed. Moving forward, the author should clarify what element of the current tracking system needs strengthening.

- 4) *CalRecycle plans for increasing collaboration at the border.* According to CalRecycle's recent Draft Five-Year Plan for the Waste Management Recycling Program mentioned above, the department plans to coordinate regular workgroups with government authorities from Mexico and the U.S. involved with international ports to exchange information about tire commodity import and export requirements and monitoring processes. It is anticipated that the workgroup, which would include CalRecycle, U.S. and Mexico Border Customs Agencies, California Highway Patrol, and registered tire hauler stakeholder representatives, will identify how the flow of tire commodities are tracked at international border check points by each country and evaluate if any additional opportunities exist to further monitor the flow of

tires across the border.

This planned workgroup seems consistent with intent of SB 1181, which is to direct CalRecycle to work with U.S. Customs and Border Protection on additional opportunities to better monitor the flow of tires going to Mexico. It should be noted that while CalRecycle can collaborate with the U.S. Customs and Border Patrol, it does not have the authority to direct a federal agency to do anything, thus, it should not be assumed that used tire export data will always be reported or in the form requested.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Transportation Committee.

Related/Prior Legislation

SB 690 (Hueso, Chapter 381, Statutes of 2019) encouraged the State Coastal Conservancy, when granting funds appropriated by Assembly Bill 74 (Ting), Chapter 23, Statutes of 2019 for the purposes of addressing transboundary flows and pollution in the Tijuana River Valley (TRV), to prioritize, to the extent feasible, those projects identified in statutorily required studies on the Tijuana River Valley.

SB 507 (Hueso, Chapter 542, Statutes of 2017) appropriated \$500,000 to the County of San Diego to conduct an update to the 2012 Tijuana River Valley Recovery Team's "Recovery Strategy: Living with the Water" to include issues related to wastewater and runoff and a study focused on the improvement and protection of natural lands, including the main river channel, in the TRV.

SCR 90 (Hueso, Resolution Chapter 80, Statutes of 2014) declared the Legislature's intent to work with the TRV Recovery Team to take various actions to protect and preserve the TRV, to encourage collaboration with the team to protect and enhance our natural resources through improved management of sediment and trash, flood control, and ecosystem management.

SB 876 (Escutia, Chapter 838, Statutes of 2000) provided a comprehensive measure to extend and expand California's regulatory program related to the management of waste and used tires.

SOURCE:

SUPPORT:

None received

OPPOSITION:

None received

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