

[Assembly Bill 1239](#) (Gordon & Atkins)

Date: 05/05/15

Program: California Tire Regulatory Fee

Sponsors: Author

Public Resources Code 42885

Effective January 1, 2016

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This analysis only addresses the provisions that impact the Board of Equalization (BOE).

Summary: Imposes a California tire regulatory fee upon a waste tire generator.

Summary of Amendments: The amendments since the previous analysis limit the California tire regulatory fee to a waste tire generator that is a new tire retailer.

Purpose: To provide funding to CalRecycle for costs related to certain administrative and regulatory activities regarding waste tire generators.

Fiscal Impact Summary: Potential annual revenue of \$41.9 million at the upper level of proposed fee.

Existing Law: Under existing law, Public Resources Code (PRC) Section 42885 imposes a California tire fee of one dollar and seventy-five cents (\$1.75) per tire on every person who purchases a new tire, as defined. Beginning January 1, 2024, the tire fee decreases to seventy-five cents (\$0.75) per tire. The retail seller charges and collects the California Tire Fee from the retail purchaser at the time of sale.

After deducting 1½ percent of the total fees as reimbursement for costs associated with the fee collection, the law requires a retailer to remit the fees to the BOE for deposit in the California Tire Recycling Management Fund (Tire Fund). Beginning January 1, 2024, the reimbursement percentage for costs associated with the fee collection increases to 3 percent.

PRC Section 42889 requires the BOE to transfer an amount equal to seventy-five cents (\$0.75) per tire on which the fee is imposed to the Air Pollution Control Fund, administered by the State Air Resources Board. The annual Budget Act appropriates the remaining Tire Fund balance to the Department of Resources Recycling and Recovery (CalRecycle). As of January 1, 2024, all Tire Fund moneys will be appropriated to CalRecycle.

PRC Section 42882 authorizes CalRecycle to contract with an existing state agency, including the BOE, to carry out the California Tire Recycling Act. The section further provides that if CalRecycle contracts with the BOE to collect the California tire fee, the BOE may collect that fee pursuant to the Fee Collection Procedures Law.

Proposed Law: This bill amends PRC Section 42885 to impose a California tire regulatory fee upon a waste tire generator that is new tire retail seller according to a CalRecycle determined schedule.

CalRecycle establishes the California tire regulatory fee in an amount that is sufficient to generate revenues equivalent to the reasonable regulatory costs incurred by the CalRecycle incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory activities regarding these retail sellers as waste tire generators, but not to exceed one dollar and twenty-five cents (\$1.25) per new tire sold. CalRecycle may differentiate in setting fees between waste tire generators who are retail sellers of new tires depending upon the nature of the retail seller's activity generating waste tires, the number of waste tires generated, and other appropriate basis.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

The bill requires a waste tire generator that is a new tire retail seller to remit the California tire regulatory fees to the state on a quarterly basis for deposit into an unspecified account in the Tire Fund.

This bill defines a “waste tire generator” to have the same meaning as defined by [Section 18450 of Title 14 of the California Code of Regulations](#). Section 18450 of Title 14 of the California Code of Regulations defined “waste tire generator” to mean “any person whose act or process produces any amount of waste or used tires, 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.”

The bill becomes operative January 1, 2016.

Commentary:

1. The **May 5, 2015 amendments** limit the California tire regulatory fee to a waste tire generator that is a new tire retail seller. The **April 21, 2015 amendments** created the Tire Recycling Incentive Program Act, which awards payments to eligible recipients. These amendments do not impact the BOE.
2. **The BOE and CalRecycle contract does not include the California tire regulatory fee.** Pursuant to PRC Section 42882, CalRecycle contracts with the BOE to collect the California Tire Fee. The current contract specifically provides for the *California Tire Fee* collection. Accordingly, the current contract excludes additional fee collection, including the California Tire Regulatory Fee proposed by this measure.

If CalRecycle intends to contract with the BOE for the California Tire Regulatory Fee collection, BOE staff recommends the bill: 1) include a date by which the CalRecycle notifies the BOE of the established rate schedule, and 2) require CalRecycle to provide to the BOE waste tire generator names and addresses at least 90 days prior to the fee’s operative date.

3. **Time for direct collection responsibility?** SB 937 (Chapter 35, Statutes of 1990) enacted, among other things, the California Tire Fee.¹ CalRecycle has contracted with the BOE since July 1, 1991 to collect the California Tire Fee.

If CalRecycle anticipates contracting with the BOE for California Tire Regulatory Fee collection, the author may wish to amend the bill to *specifically* require the BOE to collect both the California Tire Fee and California Tire Regulatory Fee and appropriate funds to reimburse the BOE for the fee administration and collection. Currently, existing law authorizes CalRecycle to contract with a state agency for fee collection. The suggested amendment eliminates the need for that annual contract. The BOE staff is available to draft the suggested amendments.

Administrative Costs: This bill does not increase BOE administrative costs. The bill establishes a new California Tire Regulatory Fee, but does not require the BOE to collect that fee. However, if CalRecycle contracts with the BOE for the California Tire Regulatory Fee collection, the BOE costs would include feepayer identification, notification, and registration; return, payment, and refund claim processing; audit and collection tasks; computer programming; return and publication revisions; and public inquiry responses. A detailed cost estimate is pending.

Revenue Impact:

Background, Methodology, and Assumptions. According to the CalRecycle, an estimated 30.8 million tires were sold in fiscal year (FY) 2013-14. Based on industry forecast, tire sales are estimated to be 32.5 million in FY 2015-16 and 33.5 million in FY 2016-17.

¹ Previously known as the tire disposal fee.

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The bill allows CalRecycle to set the fee up to \$1.25 per tire. However, CalRecycle may differentiate between waste tire generators who are retail sellers of new tires depending upon the nature of the retail seller's activity generating waste tires, the number of waste tires generated, and other appropriate bases. For purposes of this estimate, the maximum \$1.25 per tire regulatory fee was used. The bill does not provide any other fees.

Revenue Summary. Based on a January 1, 2016 operative date, and adoption of the maximum allowable fee of \$1.25 per new tire, revenues are estimated to be:

- FY 2015-16 (half year) impact - \$20.3 million ($(\$1.25 \times 32.5 \text{ million tires})/2 = \20.3 million)
- FY 2016-17 - \$41.9 million ($\$1.25 \times 33.5 \text{ million tires} = \41.9 million)

Assuming that CalRecycle would set a range of fees, this estimate may be overstated to the extent that the calculation applies the maximum fee.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.