

[Assembly Bill 509](#) (Frazier)

Date: Introduced

Program: California Tire Regulatory Fee

Sponsor: Californians Against Waste

Public Resource Code Sections 42885 and 42889

Effective: January 1, 2018 until January 1, 2024

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

**Summary:** Imposes an up-to-\$1 California tire regulatory fee upon a waste tire generator.

**Purpose:** According to the author, the purpose of this bill is to expand the state's tire recycling infrastructure to reduce greenhouse gases, create jobs, and cut the statewide and local costs associated with cleanup of illegally dumped tires.

**Fiscal Impact Summary:** Potential annual revenue of \$38 million.

**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 1.5% 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%.

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 a new tire retail seller according to a CalRecycle determined rate schedule.

Prior to establishing or adjusting the tire regulatory fee rate, CalRecycle must review the fee at a public hearing and then establish the fee by regulation. The fee amounts and any adjustments must ensure there are sufficient revenues equivalent to the reasonable regulatory costs incurred by 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 (\$1) per new tire sold. In setting fees, CalRecycle may differentiate between waste tire generators who are retail sellers of new tires based upon the nature of the retail seller's activity in generating waste tires, the number of waste tires generated, and other appropriate basis. Fee adjustments are effective January 1 of the following year.

A waste tire generator that is a new tire retail seller shall remit the fees to the state on a quarterly basis, due for deposit into the Tire Fund on the 15<sup>th</sup> of the month following the period.<sup>1</sup> CalRecycle will track the tire regulatory fee revenue separately.

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<sup>1</sup>Part 3 (commencing with Section 42886) of Division 30 of the PRC.

Consistent with the current California Tire Fee, the tire regulatory fee will not be imposed on a tire sold with, or separately for use on a self-propelled wheelchair, a motorized tricycle or motorized quadricycle, or used on a vehicle that is similar to a motorized tricycle or motorized quadricycle, as specified.

The bill becomes operative January 1, 2018. This bill also repeals the current California tire fee and the proposed California tire regulatory fee on January 1, 2024.

**Legislative History:** Last year, [AB 1239](#) (Gordon and Atkins) also proposed a tire regulatory fee up-to-\$1 per new tire sold at retail to end users upon waste tire generators. The Assembly did not pass the bill with amendments made in the Senate.

### Commentary:

1. **Effect of the bill.** From January 1, 2018 to January 1, 2024, this bill would establish a California tire regulatory fee up-to-\$1 per new tire sold at retail to end users upon waste tire generators. CalRecycle must adopt regulations in order to establish the fee. Fee adjustments would be effective January 1, the following year. Therefore, the earliest anticipated fee effective date would be January 1, 2019.

2. **The BOE/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 *California Tire Fee* collection. Accordingly, the current contract excludes additional fee collection, including the fee proposed by this measure.

If CalRecycle intends to contract with the BOE for California Tire Regulatory Fee collection, BOE staff recommends the bill include a date by which CalRecycle must notify the BOE of the established rate schedule to provide BOE with adequate time to inform the public.

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

If CalRecycle anticipates contracting with the BOE for California Tire Regulatory Fee collection, the author may wish to amend the bill to require the BOE to collect both the California Tire Fee and California Tire Regulatory Fee and appropriate funds to reimburse the BOE for 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 an annual contract. The BOE staff is available to draft the suggested amendments

4. **Lead time needed to implement direct collection of fees.** BOE currently collects the California Tire Fee. If the CalRecycle contracts with BOE to collect the California Tire Regulatory Fee, sufficient lead time is required to enter into a contract and implement the fee.

5. **A clearer definition of waste tire generator is suggested.** The bill imposes the California Tire Regulatory Fee on a "waste tire generator" that is a retail seller of new tires to end user purchasers. PRC Section 42950 (m) defines waste tire generator as a person whose act or process produces waste tires, causes a waste tire hauler to transport those waste tires, or otherwise causes waste tires to become subject to regulation. The definition specifically excludes a person who transports 10 or fewer waste tires at any one time. Under this definition car manufacturers and car dealer who sell only new cars to end users and don't offer replacement tire services would be exempt from this fee since the fee is imposed on the retailer and not the purchaser. In this case no one would be liable to remit the fee.

Unlike the tire fee, which is imposed upon the purchaser (generally collected by the retailer), the proposed tire regulatory fee would be imposed only on the waste tire generator that is a retail seller of new tires. Based on the current definition of waste tire generator, some retailers of new tires will not be required to collect the fee.

**Costs:** This bill does not increase BOE administrative costs. The bill establishes a new fee, but does not require the BOE to collect that fee. However, if CalRecycle contracts with the BOE for fee collection, 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.

**Revenue Impact: Background, Methodology, and Assumptions:** BOE staff estimates that 35 million tires were sold in fiscal year (FY) 2015-16. Based on industry forecast, tire sales are estimated to be 37 million in FY 2017-18 and 38 million in FY 2018-19.

For the purposes of providing an estimate, staff used the proposed maximum regulatory fee of \$1 per tire. The bill does state that 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.

**Revenue Summary.** Assuming an operative date of January 1, 2018, and the imposition of the maximum fee of \$1 per new tire, fee revenue is estimated to be:

- FY 2017-18 half year impact: \$18.5 million ( $(\$1 \times 37 \text{ million tires})/2$ )
- FY 2018-19: \$38 million ( $\$1 \times 38 \text{ million tires}$ )

Assuming that there would be a range of fees set by CalRecycle, staff acknowledges that this estimate may be overstated given the maximum fee is used in the calculation. This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.