

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 380

INTRODUCER: Senator Mayfield

SUBJECT: Unsafe Tires

DATE: March 2, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 380 prohibits the installation, for compensation, of unsafe tires on an automobile or light truck. The bill provides conditions that deem a tire unsafe, including if the tire:

- Is worn to a 2/32-inch or less tread depth;
- Has damage that exposes the tire's reinforcing piles;
- Has been repaired in a specified manner, such as a repair to the tread shoulder, belt edge, sidewall, or bead area; or repair of a puncture larger than 1/4-inch; or
- Has its identification number defaced or removed.

A person who knowingly violates these provisions commits an unfair and deceptive trade practice under the Florida Deceptive and Unfair Trade Practices Act, punishable by a civil penalty with a fine of not more than \$10,000 for each violation.¹

II. Present Situation:

According to one estimate, approximately 10 percent of tires sold in the U.S. each year are used tires.² Used tires are generally a less expensive option for the consumer and provide a greater profit margin for the retailer.³ Although federal regulations require tire manufacturers to mark each new or retreaded tire with a tire identification number (TIN) that indicates the week and year the tire was manufactured,⁴ used tires that have not undergone any retreading or regrooving are not subject to any federal standards. Similarly, the sale of used tires for the purpose of

¹ See Part II, ch. 501, F.S.

² Safety Research & Strategies, *Used Tires: A Booming Business with Hidden Dangers* (2007), http://www.safetyresearch.net/Library/Used_Tires.htm (last visited Mar. 1, 2017).

³ *Id.*

⁴ 49 C.F.R. s. 571.139, s. 5.5.1 (2005).

placement on vehicles is not regulated in Florida. However, five other states, Kansas,⁵ Michigan,⁶ Maryland,⁷ Minnesota,⁸ and New Jersey,⁹ have adopted legislation that prohibits “unsafe tires” from being installed on a car.

The Rubber Manufacturers Association (RMA) issued a tire industry service bulletin that lists conditions under which it recommends that a used tire should not be installed on a vehicle.¹⁰ These conditions include:

- Any punctures or other penetrations to the tire, whether repaired or not. This does not include the proper repair of a tire installed on a consumer’s vehicle when the consumer is aware of the tire’s history;
- Any inner liner or bead damage;
- Indication of internal separation, such as bulges or areas of irregular treadwear;
- Indication of run-flat, under inflated, or overloaded damage (e.g., innerliner abrasion, mid-to-upper sidewall abrasion and stamping deterioration, delamination, discoloration, or excessive tread shoulder wear);
- Damage or wear that exposes the body material of the tire, such as cuts, cracks, bulges, impact damage, or punctures;
- Defaced or removed Department of Transportation (DOT) TIN, located on the tire sidewall;
- Involved in a recall or a replacement program;
- Inadequate tread depth, which is generally considered a tread depth of 2/32” or less;
- Mounted on a rim that is bent, dented, cracked or otherwise damaged;
- Evidence of improper storage;
- Chemical, fire, excessive heat damage, or other environmental damage;
- Designated as a “scrap tire” or otherwise not intended for continued highway service;
- Evidence of prior use of tire repair sealant;
- Altered to look like new tires (e.g., a regrooved tread); and
- Labeled on the sidewall as “Not For Highway Use,” “NHS,” “For Racing Purposes Only,” “Agricultural Use Only,” “SL” (service limited agricultural tire), or any other indication that the tire is barred from use on public thoroughfares.

The RMA also offers criteria for proper used tire repair,¹¹ including that:

- Repairs should be limited to the tread area only;
- Punctures cannot be greater than 1/4 inch (6mm) in diameter;

⁵ K.S.A. s. 8-1742a.

⁶ M.C.L.S. s. 257.710.

⁷ Md. Transportation Code Ann. s. 22-405.5.

⁸ Minn. Stat. s.169.723.

⁹ Dan Zielinski, *New Jersey Assembly Advances Bill to Protect Consumers from Unsafe Used Tires* (Nov. 21, 2016), <https://rma.org/news/new-jersey-assembly-advances-bill-protect-consumers-unsafe-used-tires> (last visited Mar. 1, 2017).

¹⁰ Rubber Manufacturers Association, *Tire Information Service Bulletin, Vol. 45, No. 4, Passenger and Light Truck Used Tires* (2011), <https://rma.org/sites/default/files/TISB-45-4-0611-Passenger%2520and%2520Light%2520Truck%2520Used%2520Tires.pdf> (last visited Mar. 1, 2017).

¹¹ Rubber Manufacturers Association, *Puncture Repair Procedures for Passenger and Light Truck Tires* (2011), https://rma.org/sites/default/files/prp_wallchart1111_0.pdf (last visited Mar. 1, 2017).

- Repairs must be performed by removing the tire from the rim or wheel assembly to perform a complete inspection to assess all damage that may be present;
- Repairs cannot overlap; and
- A rubber stem, or plug, must be applied to fill the puncture and a patch must be applied to seal the inner liner. A common repair unit is a one-piece unit with a stem and patch portion. A plug by itself is an unacceptable repair for a punctured tire.

Florida and several other states regulate the recycling and disposal of waste tires, also known as scrap tires. Florida law defines a waste tire as a tire that has been removed from a motor vehicle and has not been retreaded or regrooved.¹² Therefore, a tire classified as a waste tire may also be a used tire that may be placed on a vehicle.

A retreaded tire is different from a waste tire or used tire because it has been inspected, received an entirely new tread, and is marked with a new TIN before being re-released to the retail market.^{13,14,15} Retreaded tires have gained in popularity in recent years, largely because they are lower in price than new tires.¹⁶ Large markets for retreaded tires include commercial trucking, commercial airlines, and U.S. Department of Defense clients.¹⁷

III. Effect of Proposed Changes:

Section 1 makes it a violation of the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) for any person to install an unsafe tire on an automobile or light truck, for compensation. The bill defines an unsafe tire as that which has:

- Any area of tread worn to 2/32-inch tread depth or less;
- Damage to the tire, including a cut, crack, bulge, puncture, scrape, or wear, that exposes the tire's reinforcing plies;
- Been repaired in the following manners:
 - Has tread shoulder or belt edge repairs;
 - Has a cured rubber stem or plug to the outside of the tire as a repair for a puncture, as compared to the puncture being patched or sealed on the inside of the tire;
 - Has sidewall or bead area repairs; or
 - Has a repair to a puncture that is larger than 1/4-inch.
- Evidence of the use of a temporary tire sealant without a subsequent proper repair;
- A defaced or removed TIN;
- Inner liner or bead damage; or
- Evidence of internal separation, such as a bulge or an area of irregular tread wear.

¹² Section 403.717(1)(d), F.S.

¹³ Tire Retread and Repair Information Bureau, *About Retreading*, <http://www.retread.org/about-retreading> (last visited Mar. 1, 2017).

¹⁴ Tire Retread and Repair Information Bureau, *Retread Myths*, <http://www.retread.org/retread-myths> (last visited Mar. 1, 2017).

¹⁵ 49 C.F.R. s. 574 (1996).

¹⁶ Jim Park, *Are Retreaded Tires Gaining Market Share over Replacements?* (Feb. 2014), available at <http://www.truckinginfo.com/article/story/2014/02/are-retreaded-tires-gaining-market-share-over-replacements/page/1.aspx> (last visited Mar. 1, 2017).

¹⁷ See *supra* note 13.

An installer who knowingly violates this provision commits an unfair and deceptive trade practice under the FDUTPA, punishable as a civil penalty with a fine of not more than \$10,000 for each violation.¹⁸ Private consumers may still purchase and install their own tires, notwithstanding the above prohibition.

Section 2 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This legislation may result in a reduction of overall used tire inventory for the paid installation on cars. This may lead to fewer choices for consumers and a reduction in sales for those who install used tires. Additionally, used tire installers may see an increase in costs related to inspection of each tire to determine if it qualifies as “unsafe” under the law.

C. Government Sector Impact:

The Florida Office of the Attorney General may incur extra costs related to prosecution of this new prohibition.

VI. Technical Deficiencies:

It appears that a word is missing on line 21 of the bill. The bill may be clearer if amended to read “Damage to the tire, including any cut, crack, bulge, puncture, scrape, or wear, *that* exposes the reinforcing plies of the tire.”

¹⁸ Section 501.2075, F.S.

VII. Related Issues:

The terms “automobile tire” and “light truck tire” are not defined in Florida Statutes. This may lead to confusion in implementation. A statute must be sufficiently explicit to inform persons subject to its provisions what conduct will render them liable to penalties.¹⁹

While federal regulations define the term “light truck tire,”²⁰ Florida law does not. Additionally, neither federal nor state law defines “automobile tire.” The term “light truck tire” or “LT tire” appears to be an industry term used to signify a tire designed to be used on vehicles that can carry heavy cargo, or tow large trailers—including medium and heavy duty pickup trucks, sport utility vehicles, and full-size vans.²¹ However, it is unclear whether this industry term rises to common or ordinary usage.²²

VIII. Statutes Affected:

This bill substantially amends s. 501.977 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁹ *Brock v. Hardie*, 154 So. 690 (Fla. 1934); *State v. Fuchs*, 769 So. 2d 1006, 1008 (Fla. 2000).

²⁰ See 49 C.F.R. s. 571.139(3)(2005), which defines “light truck tire” as “a tire designated by its manufacturer as primarily intended for use on lightweight trucks or multipurpose passenger vehicles.”

²¹ Tirerack.com, *Tire Size Guide*, <https://www.tirerack.com/brakes/tech/techpage.jsp?techid=46> (last visited Mar. 1, 2017).

²² “When a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense. We have consistently held that it is appropriate to look to the ordinary definition of common words used in legislation.” *State v. Stewart*, 374 So. 2d 1381, at 1383 (Fla. 1979).