

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1059

 Session of
1989

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MARSICO, HECKLER, STABACK, MELIO AND BROUJOS, APRIL 10, 1989

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 2, 1990

AN ACT

1 ~~Prohibiting landfilling of whole waste tires; providing for~~ <—
2 ~~nuisance abatement; requiring permits for waste tire~~
3 ~~collectors and processors; encouraging use of recovered~~
4 ~~rubber and retread tires by State agencies; establishing a~~
5 ~~waste tire abatement fund; providing for waste tire grants;~~
6 ~~imposing additional powers and duties on the Department of~~
7 ~~Environmental Resources; providing penalties; making an~~
8 ~~appropriation; and making repeals.~~

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13 PROHIBITING LANDFILLING OF WHOLE WASTE TIRES; PROVIDING FOR <—
14 NUISANCE ABATEMENT; REQUIRING PERMITS FOR WASTE TIRE
15 COLLECTORS AND PROCESSORS; ENCOURAGING USE OF RECOVERED
16 RUBBER AND RETREAD TIRES BY STATE AGENCIES; PROVIDING FOR A
17 WASTE TIRE MANAGEMENT FEE AND RESPONSIBILITIES OF TIRE
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20 ADDITIONAL POWERS AND DUTIES ON THE DEPARTMENT OF
21 ENVIRONMENTAL RESOURCES; IMPOSING PENALTIES; AND MAKING
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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Short title.~~

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15 ~~This act shall be known and may be cited as the Waste Tire~~
16 ~~Abatement Act.~~

17 ~~Section 2. Legislative findings and declaration of policy.~~

18 ~~The General Assembly finds and declares as follows:~~

19 ~~(1) An estimated two billion old tires lie in the~~
20 ~~Nation's dumps, with more than 200 million added every year.~~

21 ~~(2) This Commonwealth scraps approximately 12 million~~
22 ~~tires annually. Many waste tires are stockpiled or dumped~~
23 ~~illegally because of the difficulty and expense involved in~~
24 ~~landfilling whole tires.~~

25 ~~(3) Tire dumps attract mosquitoes and are susceptible to~~
26 ~~fires which create hazardous liquids and noxious emissions,~~
27 ~~posing a threat to the public health and safety and the~~
28 ~~environment.~~

29 ~~(4) The existing interim Commonwealth policy for the~~
30 ~~storage of waste tires has never been adopted as regulation~~

~~and does not encourage the use of materials produced from waste tires. Furthermore, the General Assembly failed to address the waste tire disposal problem when it passed the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.~~

~~(5) To fulfill its obligation to promote the health, safety and welfare of its citizens and to protect the environment, the Commonwealth should establish a program for the proper collection and processing of waste tires and encourage the use of waste tire derived materials.~~

~~Section 3. Definitions.~~

~~The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Collection center" A permitted site, or a site exempted from permit, where waste tires are collected from the public prior to being offered for processing and where fewer than 1,000 tires are kept on site on any given day.~~

~~"Department." The Department of Environmental Resources of the Commonwealth.~~

~~"Fund." The Waste Tire Abatement Fund.~~

~~"Nuisance" An unreasonable danger to public health, safety or welfare or to the environment.~~

~~"Processing." Any technology used for the purpose of producing usable materials, energy or fuel from waste tires, including the cutting, shredding, burning or altering of waste tires so they are no longer whole.~~

~~"Retread tire" A worn automobile, truck or other vehicle tire on which the tread has been replaced~~

~~"Tire collector." The owner or operator of a site used for~~

~~the collection of tires from the public.~~

~~"Tire dump." Any location without a required tire collector or tire processor permit that is used for storing or disposing of waste tires.~~

~~"Tire processor." A person engaged in the processing of waste tires.~~

~~"Waste tire." A tire no longer suitable for its intended purpose because of wear, damage or defect.~~

~~"Waste tire site." A site that is used for the storage or disposal of 1,000 or more whole waste tires and which is operated in conjunction with a permitted waste tire processing facility.~~

~~Section 4. Land disposal of tires prohibited.~~

~~(a) General rule. The disposal of whole waste tires in the land is prohibited after July 1, 1990.~~

~~(b) Exemptions. This prohibition does not apply to the disposal of shredded waste tires at a permitted solid waste disposal facility, the use of shredded waste tire products as daily cover material at landfills, or to the storage of unprocessed waste tires at a permitted waste tire processing facility or collection center or at a waste tire site that is an integral part of a permitted waste tire processing facility.~~

~~(c) Waste tire sites. A person may not maintain a waste tire site unless the site is an integral part of a permitted waste tire processing facility.~~

~~Section 5. Waste tire nuisance; abatement.~~

~~(a) Nuisance. A tire dump unreasonably endangers the health, safety and welfare of the public and is a nuisance.~~

~~(b) Abatement. The department may abate a nuisance caused by improper tire disposal by providing for the removal and~~

~~processing of the tires. Before taking any action to abate the nuisance, the department shall give notice to the tire collector responsible for the nuisance that the tires constitute a nuisance and require that the tires be processed and removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of a departmental order to abate the nuisance.~~

~~Should the tire collector fail to abate the nuisance as required by the order, the department shall proceed to abate the nuisance and recover costs under subsection (c).~~

~~(c) Recovery of expenses. In addition to the assessment of a penalty pursuant to section 14, the department may recover any reasonable and necessary expense incurred by the department for abatement costs and administrative and legal costs in a civil action brought against any tire collector responsible for the nuisance. The department's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary.~~

~~Section 6. Permits required for tire collectors and processors.~~

~~(a) Permit required. A tire collector or tire processor with more than 250 tires shall obtain a permit from the department unless exempted under subsection (b)~~

~~(b) Exemptions. The following persons are not required to obtain a permit:~~

~~(1) A retail tire dealer for a retail sales site if no more than 500 waste tires are kept on the business premises.~~

~~(2) A retail tire dealer for a retail sales site which is serving as a waste tire collection center if no more than 1,000 tires are kept on the business premises~~

~~(3) An owner or operator of a tire retreading business~~

~~if no more than 1,000 waste tires are kept on the business premises.~~

~~(4) An owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises.~~

~~(5) A person using waste tires for agricultural purposes if the waste tires are kept on the site of use, provided that the waste tires are regularly used for agricultural purposes.~~

~~(c) Permit fee. The department shall establish reasonable permit fees. The revenue from permit fees shall be paid into the fund.~~

~~Section 7. Establishment of collection centers; incentive programs; market development study.~~

~~(a) Waste tire collection centers. The department shall encourage the voluntary establishment of waste tire collection centers where the public may deposit waste tires, at waste tire processing facilities, solid waste disposal facilities and retail tire sales businesses.~~

~~(b) Incentive programs. The department shall establish an incentive program to encourage the voluntary establishment of waste tire collection centers and encourage individuals to return waste tires to the centers. The department may enter into contracts for the development of incentive programs.~~

~~(c) Market study. The department shall initiate and periodically update a market development study to assess current and projected markets for waste tire derived materials and examine measures that can be taken to stimulate demand for these materials. The department may enter into contracts for the conduct of the required market study.~~

~~Section 8. Use of recovered rubber and retread tires by State agencies; encouragement of tire combustion technologies.~~

~~(a) Highway construction materials. The department, in cooperation with the Department of Transportation, shall encourage the use of rubber recovered from waste tires as surfacing material, structural material and fill for highway improvement projects, consistent with standard engineering practices.~~

~~(b) Preferential purchase program. The department, in cooperation with the Department of General Services, shall establish an affirmative procurement program for the preferential purchase of retread tires by State agencies when a purchase would be practicable, taking product specifications, performance, price, availability and maintenance into consideration.~~

~~(c) Research and demonstration projects. The department, in cooperation with the Pennsylvania Energy Office and the Pennsylvania Energy Development Authority, shall encourage research and demonstration projects related to the feasibility and use of tire combustion technologies for the production of fuel or energy.~~

~~Section 9. Motor vehicle transfer fee.~~

~~(a) Fee charged. Beginning January 1, 1990, a waste tire abatement fee of \$2 shall be charged for the initial registration, and on each subsequent transfer of title within this Commonwealth other than transfers for resale purposes, of every motor vehicle weighing more than 1,000 pounds. The fee shall be collected by the Department of Transportation for a period of ten years, or until December 31, 2000, whichever first~~

~~occurs, unless the period of collection is extended by law.~~
~~Registration plates or certificates may not be issued for the~~
~~operation or ownership of a motor vehicle subject to the~~
~~transfer fee unless the fee is paid.~~

~~(b) Deposit of revenue. The revenue from waste tire~~
~~abatement fees, less administrative costs incurred by the~~
~~Department of Transportation which shall not exceed 3% of the~~
~~revenue, shall be deposited in the Waste Tire Abatement Fund.~~

~~Section 10. Waste Tire Abatement Fund.~~

~~(a) Establishment. All fees and penalties received pursuant~~
~~to this act, less administrative costs provided for in~~
~~subsection (c)(4) and in section 9(b), shall be paid into the~~
~~State Treasury into a special fund known as the Waste Tire~~
~~Abatement Fund, which is hereby established.~~

~~(b) Appropriation. All moneys placed in the fund, or as~~
~~much thereof as shall be necessary, are hereby appropriated to~~
~~the department for the purposes set forth in this section. The~~
~~department shall annually submit to the Governor for his~~
~~approval estimates of amounts to be expended under this act.~~

~~(c) Allocations. The department shall, to the extent~~
~~practicable, allocate the moneys in the fund, including interest~~
~~generated thereon, in the following manner over the life of the~~
~~fund:~~

~~(1) At least 70% shall be expended by the department for~~
~~the development and implementation of plans for the abatement~~
~~of waste tire nuisances and the collection and processing of~~
~~waste tires and for grants to counties to conduct such~~
~~activities pursuant to section 11. The department shall~~
~~expend funds in a manner consistent with the following~~
~~priorities:~~

~~(i) Abatement activities at tire dumps which are determined by the department to contain more than 500,000 tires.~~

~~(ii) Abatement of fire hazards related to waste tires.~~

~~(iii) Abatement of nuisances related to waste tires in densely populated areas.~~

~~(iv) Abatement activities at tire dumps which are determined by the department to contain fewer than 500,000 tires.~~

~~(v) Collection or processing of waste tires not inconsistent with privately operated waste tire collection and processing centers or with county facilities established under section 11(a)(4).~~

~~Collection or processing conducted in conjunction with abatement activities set forth in subparagraphs (i), (ii), (iii) and (iv) shall be given priority.~~

~~(2) Up to 10% may be expended by the department or allocated in the form of grants to counties for feasibility studies regarding the establishment of waste tire collection or processing facilities.~~

~~(3) Up to 25% may be expended by the department or allocated in the form of grants to counties for public education, incentive programs, marketing studies, research, and technical assistance programs concerning waste tire abatement, collection and processing.~~

~~(4) Up to 3% may be expended by the department for administrative purposes.~~

~~(d) Transfer of moneys. On January 1, 2001, all moneys in the fund that are not obligated shall be transferred to the~~

~~Solid Waste Abatement Fund and expended in the same manner as other moneys in the Solid Waste Abatement Fund. On January 1, 2003, all moneys in the fund that are not expended shall be transferred to the Solid Waste Abatement Fund and expended in the same manner as other moneys in the Solid Waste Abatement Fund.~~

~~Section 11. Waste tire grants to counties.~~

~~(a) Grants to counties. The department shall, by April 1, 1990, establish a program to make grants pursuant to section 10(c) to counties which desire, individually or collectively, to:~~

~~(1) remove or contract for the removal of waste tires from the county or region;~~

~~(2) establish waste tire collection centers at solid waste disposal facilities or waste tire processing facilities;~~

~~(3) provide incentives for establishing privately operated waste tire collection centers;~~

~~(4) construct or operate, or contract for the construction or operation of, a waste tire processing facility and equipment purchases for the facility;~~

~~(5) contract for a waste tire processing facility service within or outside the county or State; or~~

~~(6) perform or contract for the performance of research designed to facilitate waste tire processing and the marketing of waste tire derived materials.~~

~~(b) Priorities for grants. The department shall award grants pursuant to the priority schedule established in section 10.~~

~~Section 12. Regulations; county responsibilities.~~

~~(a) Regulations.—The department may promulgate rules and regulations to administer and enforce this act~~

~~(b) County responsibilities.—Counties which desire to establish waste tire programs pursuant to this act shall adopt ordinances that conform with, but may be more restrictive than, department regulations.~~

~~Section 13.—Unlawful acts.~~

~~(a) Offenses defined.—It shall be unlawful for any person to:~~

~~(1) Dispose, collect, store or process waste tires within this Commonwealth unless the disposal, collection, storage or processing is in accordance with this act and any rules and regulations promulgated hereunder.~~

~~(2) Hinder, obstruct, prevent or interfere with the department or its personnel in the performance of any duty under this act.~~

~~(3) Hinder, obstruct, prevent or interfere with any county or its personnel in the performance of any duty related to its responsibilities under this act.~~

~~(b) Maximum amount of waste tires in possession.—No person or business establishment shall possess, in open storage, more than 250 waste tires. This provision shall not apply to any person who has more than 250 waste tires in his possession at the time this act become effective, provided that, within 60 days of the effective date of this act, the person submits a plan to the department for the disposition of the excess tires to a tire collection center or processing or recycling facility within two years after the effective date of this act. This subsection shall not apply to persons who qualify for an exemption pursuant to section 6(b).~~

~~Section 14. Fines and penalties; deposit of fines.~~

~~(a) Violations in general. Except as otherwise provided in subsection (b), a person who violates any provision of this act shall be subject to the following penalties:~~

~~(1) For the first violation, a person commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$1,000 and costs or, in default of the payment of the fine and costs, to imprisonment for not more than 30 days.~~

~~(2) For a second and subsequent violation, a person commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for not more than 90 days, or both.~~

~~(b) Public nuisance. A person who violates section 5 commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than \$2,500 nor more than \$10,000 or to imprisonment for not more than one year, or both.~~

~~(c) Deposit of fines. Fines and costs collected pursuant to this section shall be paid into the fund.~~

~~Section 15. Report to General Assembly.~~

~~The Secretary of Environmental Resources shall submit a report to the General Assembly concerning the implementation of this act and the success of waste tire abatement programs. The report shall be transmitted to the General Assembly not later than April 1, 1992, and shall be revised and modified, if necessary, at least once every two years thereafter.~~

~~Section 16. Appropriation.~~

~~The sum of \$125,000, or as much thereof as may be necessary,~~

~~is hereby appropriated to the Department of Environmental Resources for start up administrative costs associated with establishing a waste tire abatement program in this Commonwealth. Any funds not needed for start up administrative purposes shall be deposited in the fund.~~

~~Section 17. Inconsistent repeals.~~

~~(a) Specific. The act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, is repealed insofar as it is inconsistent with this act.~~

~~(b) General. All acts and parts of acts are repealed insofar as they are inconsistent with this act.~~

~~Section 18. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. SHORT TITLE.

<—

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE WASTE TIRE MANAGEMENT ACT.

SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) AN ESTIMATED TWO BILLION OLD TIRES LIE IN THE NATION'S DUMPS, WITH MORE THAN 200 MILLION ADDED EVERY YEAR.

(2) THIS COMMONWEALTH SCRAPS APPROXIMATELY 12,000,000 TIRES ANNUALLY. MANY WASTE TIRES ARE STOCKPILED OR DUMPED ILLEGALLY BECAUSE OF THE DIFFICULTY AND EXPENSE INVOLVED IN LANDFILLING WHOLE WASTE TIRES.

(3) TIRE DUMPS ATTRACT MOSQUITOES AND ARE SUSCEPTIBLE TO FIRES WHICH CREATE HAZARDOUS LIQUIDS AND NOXIOUS EMISSIONS, POSING A THREAT TO THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT.

(4) TO FULFILL ITS OBLIGATION TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF ITS CITIZENS AND TO PROTECT THE

ENVIRONMENT, THE COMMONWEALTH SHOULD ESTABLISH A PROGRAM FOR THE PROPER DISPOSAL, COLLECTION AND PROCESSING OF WASTE TIRES AND ENCOURAGE THE USE OF WASTE TIRE-DERIVED MATERIALS AND PRODUCTS.

SECTION 3. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"COLLECTION CENTER." A PERMITTED SITE, OR A SITE EXEMPTED FROM PERMIT, WHERE WASTE TIRES ARE COLLECTED FROM THE PUBLIC PRIOR TO BEING OFFERED FOR PROCESSING AND WHERE FEWER THAN 1,000 WASTE TIRES ARE KEPT ON SITE ON ANY GIVEN DAY.

"DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF THE COMMONWEALTH.

"FUND." THE WASTE TIRE MANAGEMENT FUND.

"MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT." THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN AS THE MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT.

"NEW VEHICLE TIRE." AN ORIGINALLY MANUFACTURED TIRE FOR USE ON A "VEHICLE" AS DEFINED IN 75 PA.C.S. § 102 (RELATING TO DEFINITIONS), BUT NOT INCLUDING A PEDALCYCLE. THE TERM DOES NOT INCLUDE ANY REMANUFACTURED, RECAPPED, RETREADED OR OTHERWISE RESTORED TIRE.

"NUISANCE." AN UNREASONABLE DANGER TO PUBLIC HEALTH, SAFETY OR WELFARE OR TO THE ENVIRONMENT.

"PROCESSING." ANY TECHNOLOGY USED FOR THE PURPOSE OF REDUCING THE VOLUME OR BULK OF MUNICIPAL OR RESIDUAL WASTE OR ANY TECHNOLOGY USED TO CONVERT PART OR ALL OF SUCH WASTE MATERIALS FOR OFF-SITE REUSE. PROCESSING FACILITIES INCLUDE, BUT ARE NOT LIMITED TO, TRANSFER FACILITIES, COMPOSTING FACILITIES

1 AND RESOURCE RECOVERY FACILITIES. FOR THE PURPOSES OF THIS ACT,
2 THE TERM SHALL ALSO INCLUDE TECHNOLOGY SPECIFICALLY APPLICABLE
3 TO PRODUCING USABLE MATERIALS, ENERGY OR FUEL FROM WASTE TIRES,
4 SUCH AS CUTTING, SHREDDING, BURNING OR ALTERING OF WASTE TIRES
5 SO THEY ARE NO LONGER WHOLE.

6 "RETREAD TIRE." A WORN AUTOMOBILE, TRUCK OR OTHER VEHICLE
7 TIRE ON WHICH THE TREAD HAS BEEN REPLACED.

8 "SOLID WASTE MANAGEMENT ACT." THE ACT OF JULY 7, 1980
9 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.

10 "TIRE COLLECTOR." THE OWNER OR OPERATOR OF A SITE USED FOR
11 THE COLLECTION OF TIRES FROM THE PUBLIC.

12 "TIRE DUMP." ANY LOCATION WITHOUT A REQUIRED TIRE COLLECTOR
13 OR TIRE PROCESSOR PERMIT THAT IS USED FOR STORING OR DISPOSING
14 OF WASTE TIRES.

15 "TIRE PROCESSOR." A PERSON ENGAGED IN THE PROCESSING OF
16 WASTE TIRES.

17 "WASTE TIRE." A TIRE NO LONGER SUITABLE FOR ITS INTENDED
18 PURPOSE BECAUSE OF WEAR, DAMAGE OR DEFECT.

19 "WASTE TIRE SITE." A SITE THAT IS USED FOR THE STORAGE OR
20 DISPOSAL OF 1,000 OR MORE WHOLE WASTE TIRES AND WHICH IS
21 OPERATED IN CONJUNCTION WITH A PERMITTED WASTE TIRE PROCESSING
22 FACILITY.

23 SECTION 4. POWERS AND DUTIES OF DEPARTMENT.

24 THE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

25 (1) TO ADMINISTER A WASTE TIRE MANAGEMENT PROGRAM
26 PURSUANT TO THE PROVISIONS OF THIS ACT, THE SOLID WASTE
27 MANAGEMENT ACT, THE MUNICIPAL WASTE PLANNING, RECYCLING AND
28 WASTE REDUCTION ACT, AND ANY OTHER ACTS GOVERNING SOLID WASTE
29 MANAGEMENT, MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE
30 REDUCTION AND POLLUTION.

1 (2) TO ADMINISTER THE WASTE TIRE MANAGEMENT FUND
2 ESTABLISHED PURSUANT TO THIS ACT.

3 (3) TO DEVELOP AND IMPLEMENT A WASTE TIRE MANIFEST
4 SYSTEM, WHICH MAY INCLUDE REGISTRATION OF WASTE-TIRE HAULERS,
5 TO DOCUMENT TRANSPORTATION AND DELIVERY OF WASTE TIRES TO
6 PERMITTED COLLECTION SITES OR PROCESSING FACILITIES.

7 (4) TO ENCOURAGE THE ESTABLISHMENT OF WASTE TIRE
8 COLLECTION CENTERS WHERE THE PUBLIC MAY DEPOSIT WASTE TIRES
9 AT WASTE TIRE PROCESSING FACILITIES, SOLID WASTE DISPOSAL
10 FACILITIES AND AT TIRE RETAIL AND WHOLESALE ESTABLISHMENTS.

11 (5) TO ESTABLISH PUBLIC EDUCATION AND INCENTIVE PROGRAMS
12 TO ENCOURAGE INDIVIDUALS TO DEPOSIT WASTE TIRES AT WASTE TIRE
13 COLLECTION CENTERS, TO SUPPORT WASTE-TIRE RECYCLING, AND TO
14 USE WASTE-TIRE DERIVED PRODUCTS.

15 (6) TO COMPLETE A STUDY WITHIN 12 MONTHS OF THE
16 EFFECTIVE DATE OF THIS ACT TO DETERMINE THE FOLLOWING:

17 (I) THE NUMBER AND GEOGRAPHICAL DISTRIBUTION OF
18 WASTE TIRES IN THIS COMMONWEALTH;

19 (II) THE LOCATION AND SIZE OF EXISTING WASTE TIRE
20 DISPOSAL SITES, INCLUDING DUMPS;

21 (III) CURRENT AND ALTERNATIVE METHODS OF COLLECTING
22 WASTE TIRES;

23 (IV) CONTINGENCY PLANS, FINANCIAL ASSURANCE AND
24 REPORTING REQUIREMENTS WHICH MAY BE NECESSARY FOR WASTE
25 TIRE SITES, COLLECTION CENTERS, PROCESSORS AND
26 TRANSPORTERS;

27 (V) OPTIONS FOR WASTE TIRE RECYCLING, CURRENT USE
28 AND FUTURE FEASIBILITY OF USE OF WASTE-TIRE DERIVED
29 PRODUCTS, INCLUDING BY NOT LIMITED TO, REMANUFACTURED
30 RUBBER PRODUCTS, ASPHALT ADDITIVES AND TIRE-DERIVED FUEL;

1 AND

2 (VI) FACILITIES CURRENTLY EXISTING IN THE
3 COMMONWEALTH THAT CAN PROCESS, RECYCLE OR USE WASTE
4 TIRES, AND INCENTIVES WHICH MAY BE REQUIRED TO ENCOURAGE
5 THE ESTABLISHMENT OR IMPROVEMENT OF SUCH FACILITIES.

6 A REPORT OF THE RESULTS OF THE STUDY, INCLUDING ANY
7 RECOMMENDATIONS PURSUANT THERETO, SHALL BE SUBMITTED TO THE
8 GENERAL ASSEMBLY AND MADE AVAILABLE TO THE PUBLIC UPON
9 REQUEST.

10 (7) TO ISSUE AND REVOKE PERMITS PURSUANT TO THIS ACT.

11 (8) TO REQUIRE CONTINGENCY PLANS AND FINANCIAL ASSURANCE
12 AS MAY BE NECESSARY FOR WASTE TIRE SITES, COLLECTION CENTERS,
13 PROCESSORS AND TRANSPORTERS.

14 (9) TO PROMULGATE RULES AND REGULATIONS AS MAY BE
15 NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT.

16 SECTION 5. LAND DISPOSAL OF TIRES PROHIBITED.

17 (A) GENERAL RULE.--THE DISPOSAL OF WHOLE WASTE TIRES IN THE
18 LAND IS PROHIBITED AFTER DECEMBER 31, 1990, AND NO PERSON MAY
19 PLACE A WASTE TIRE IN MIXED MUNICIPAL WASTE, OR DISCARD OR
20 OTHERWISE DISPOSE OF A WASTE TIRE EXCEPT BY DELIVERY TO A TIRE
21 RETAILER OR WHOLESALE OR TO A PERMITTED WASTE TIRE SITE,
22 COLLECTION OR PROCESSING FACILITY. NO TIRE RETAILER OR
23 WHOLESALE SHALL DISPOSE OF WASTE TIRES EXCEPT BY DELIVERY TO A
24 PERMITTED WASTE TIRE SITE OR COLLECTION OR PROCESSING FACILITY.

25 (B) EXCEPTIONS.--THE PROHIBITIONS CONTAINED IN SUBSECTION
26 (A) SHALL NOT APPLY TO THE DISPOSAL OF SHREDDED WASTE TIRES AT A
27 PERMITTED SOLID WASTE DISPOSAL FACILITY, THE USE OF SHREDDED
28 WASTE TIRE PRODUCTS AS DAILY COVER MATERIAL AT LANDFILLS, OR TO
29 THE STORAGE OF UNPROCESSED WASTE TIRES AT A PERMITTED WASTE TIRE
30 PROCESSING FACILITY OR COLLECTION CENTER OR AT A WASTE TIRE SITE

1 THAT IS AN INTEGRAL PART OF A PERMITTED WASTE TIRE PROCESSING
2 FACILITY.

3 (C) WASTE TIRE SITES.--NO PERSON MAY MAINTAIN A WASTE TIRE
4 SITE UNLESS THE SITE IS AN INTEGRAL PART OF A PERMITTED WASTE
5 TIRE PROCESSING FACILITY.

6 SECTION 6. WASTE TIRE NUISANCE; ABATEMENT.

7 (A) NUISANCE.--A TIRE DUMP UNREASONABLY ENDANGERS THE
8 HEALTH, SAFETY AND WELFARE OF THE PUBLIC AND IS A NUISANCE.

9 (B) ABATEMENT.--THE DEPARTMENT MAY ABATE A NUISANCE CAUSED
10 BY A TIRE DUMP OR IMPROPER TIRE DISPOSAL PROHIBITED UNDER
11 SECTION 5 PURSUANT TO ITS POWERS AND DUTIES UNDER THIS ACT, THE
12 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT, THE
13 SOLID WASTE MANAGEMENT ACT, AND ANY OTHER ACT GOVERNING
14 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION, SOLID
15 WASTE MANAGEMENT, OR POLLUTION. IN ADDITION TO ASSESSING
16 PENALTIES, THE DEPARTMENT MAY RECOVER REASONABLE AND NECESSARY
17 EXPENSE INCURRED BY THE DEPARTMENT FOR ABATEMENT AND
18 ADMINISTRATIVE AND LEGAL COSTS INCURRED UNDER THIS SECTION.

19 SECTION 7. PERMITS FOR TIRE COLLECTORS AND PROCESSORS.

20 (A) PERMIT REQUIRED.--A TIRE COLLECTOR OR TIRE PROCESSOR
21 WITH MORE THAN 250 TIRES SHALL OBTAIN A PERMIT FROM THE
22 DEPARTMENT UNLESS EXEMPTED UNDER SUBSECTION (B).

23 (B) EXEMPTIONS.--THE FOLLOWING PERSONS ARE NOT REQUIRED TO
24 OBTAIN A PERMIT:

25 (1) A RETAIL OR WHOLESALE TIRE DEALER FOR A SALES SITE
26 IF NO MORE THAN 500 WASTE TIRES ARE KEPT ON THE BUSINESS
27 PREMISES.

28 (2) A RETAIL OR WHOLESALE TIRE DEALER FOR A SALES SITE
29 WHICH IS SERVING AS A WASTE TIRE COLLECTION CENTER IF NO MORE
30 THAN 1,000 WASTE TIRES ARE KEPT ON THE BUSINESS PREMISES.

1 (3) AN OWNER OR OPERATOR OF A TIRE RETREADING BUSINESS
2 IF NO MORE THAN 1,000 WASTE TIRES ARE KEPT ON THE BUSINESS
3 PREMISES.

4 (4) AN OWNER OR OPERATOR OF A BUSINESS WHO, IN THE
5 ORDINARY COURSE OF BUSINESS, REMOVES TIRES FROM MOTOR
6 VEHICLES IF NO MORE THAN 500 WASTE TIRES ARE KEPT ON THE
7 BUSINESS PREMISES.

8 (5) A PERSON USING WASTE TIRES FOR AGRICULTURAL PURPOSES
9 IF THE WASTE TIRES ARE KEPT ON THE SITE OF USE, PROVIDED THAT
10 THE WASTE TIRES ARE REGULARLY USED FOR AGRICULTURAL PURPOSES.

11 (6) A PERSON USING WASTE TIRES FOR EROSION CONTROL, BANK
12 STABILIZATION AND OTHER CONSERVATION PROJECTS IF PRACTICED IN
13 ACCORDANCE WITH A WRITTEN CONSERVATION PLAN APPROVED BY THE
14 DEPARTMENT.

15 (C) PERMIT FEE.--THE DEPARTMENT SHALL ESTABLISH REASONABLE
16 PERMIT FEES. THE REVENUE FROM PERMIT FEES SHALL BE PAID INTO
17 THE WASTE TIRE MANAGEMENT FUND ESTABLISHED BY THIS ACT.

18 SECTION 8. USE OF WASTE TIRE-DERIVED PRODUCTS BY STATE
19 AGENCIES; ENCOURAGEMENT OF TECHNOLOGIES FOR
20 PRODUCTION OF TIRE-DERIVED ENERGY OR FUEL.

21 (A) HIGHWAY CONSTRUCTION MATERIALS.--THE DEPARTMENT, IN
22 COOPERATION WITH THE DEPARTMENT OF TRANSPORTATION, SHALL
23 ENCOURAGE THE USE OF RUBBER RECOVERED FROM WASTE TIRES AS
24 SURFACING MATERIAL, STRUCTURAL MATERIAL AND FILL FOR HIGHWAY
25 IMPROVEMENT PROJECTS, CONSISTENT WITH STANDARD ENGINEERING
26 PRACTICES.

27 (B) PREFERENTIAL PURCHASE PROGRAM.--THE DEPARTMENT, IN
28 COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, SHALL
29 ESTABLISH AN AFFIRMATIVE PROCUREMENT PROGRAM FOR THE
30 PREFERENTIAL PURCHASE OF RETREAD TIRES BY STATE AGENCIES WHEN A

1 PURCHASE WOULD BE PRACTICABLE, TAKING PRODUCT SPECIFICATIONS,
2 PERFORMANCE, PRICE, AVAILABILITY AND MAINTENANCE INTO
3 CONSIDERATION.

4 (C) RESEARCH AND DEMONSTRATION PROJECTS.--THE DEPARTMENT, IN
5 COOPERATION WITH THE PENNSYLVANIA ENERGY OFFICE AND THE
6 PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY, SHALL ENCOURAGE
7 RESEARCH AND DEMONSTRATION PROJECTS RELATED TO THE FEASIBILITY
8 AND USE OF TIRE-COMBUSTION TECHNOLOGIES FOR THE PRODUCTION OF
9 FUEL OR ENERGY.

10 (D) PROCESSING AND RECYCLING.-- THE DEPARTMENT, IN
11 COOPERATION WITH THE DEPARTMENT OF COMMERCE, SHALL ENCOURAGE AND
12 ASSIST THE ESTABLISHMENT OR IMPROVEMENT OF TIRE PROCESSING OR
13 RECYCLING FACILITIES.

14 SECTION 9. WASTE TIRE FEE.

15 (A) FEE IMPOSITION.--EXCEPT AS PROVIDED IN SUBSECTION (C),
16 BEGINNING JANUARY 1, 1991, A WASTE TIRE MANAGEMENT FEE OF 25¢
17 PER TIRE SHALL BE COLLECTED FOR EACH NEW VEHICLE TIRE PURCHASED
18 AT RETAIL OR WHOLESALE FOR SALE OR USE WITHIN THIS COMMONWEALTH
19 AND SHALL BE REMITTED TO THE DEPARTMENT OF REVENUE AT THE TIME
20 OF FILING A SALES AND USE TAX RETURN OR WITH AN ALTERNATIVE FORM
21 AS PRESCRIBED BY THE DEPARTMENT OF REVENUE. AT THE TIME OF
22 REMITTING WASTE TIRE MANAGEMENT FEES TO THE DEPARTMENT OF
23 REVENUE, THE RETAILER OR WHOLESALE SHALL REMIT 99% OF THE
24 AMOUNT OF FEES DUE TO THE DEPARTMENT OF REVENUE AND MAY RETAIN
25 1% OF FEES DUE FOR COSTS INCURRED IN COLLECTING THE FEES.

26 (B) PENALTY FOR FAILURE TO REMIT OR COLLECT FEE.--FAILURE TO
27 REMIT FEES COLLECTED IN A TIMELY MANNER SHALL CAUSE THE FEES TO
28 BECOME DELINQUENT, AND THE RETAILER OR WHOLESALE SHALL FORFEIT
29 HIS CLAIM TO THE DISCOUNT AUTHORIZED BY SUBSECTION (A) AND SHALL
30 REMIT 100% OF THE FEES DUE PLUS A PENALTY OF 25¢ PER TIRE FOR

1 EACH TIRE FOR WHICH A FEE IS DUE. FAILURE TO COLLECT THE FEE
2 REQUIRED BY SUBSECTION (A) SHALL SUBJECT THE RETAILER OR
3 WHOLESALE TO A PENALTY OF 50¢ PER TIRE FOR EACH TIRE FOR WHICH
4 THE FEE HAS NOT BEEN COLLECTED. THE DEPARTMENT OF REVENUE MAY
5 PROMULGATE RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY
6 OUT THE PURPOSES OF THIS SUBSECTION.

7 (C) EXEMPTION.--TIRE WHOLESALERS SHALL NOT BE REQUIRED TO
8 COLLECT THE FEE SET FORTH IN SUBSECTION (A) WHEN SELLING TIRES
9 IN BULK TO TIRE RETAILERS FOR RESALE.

10 (D) TIRES ACCEPTED IN TRADE.--ANY PERSON SELLING NEW TIRES
11 AT RETAIL OR WHOLESALE SHALL ACCEPT, AT THE POINT OF TRANSFER,
12 USED TIRES FROM CUSTOMERS IN A QUANTITY AT LEAST EQUAL TO THE
13 NUMBER PURCHASED. FAILURE TO COMPLY WITH THIS SUBSECTION SHALL
14 SUBJECT THE SELLER TO A CIVIL PENALTY, COLLECTIBLE BY THE
15 DEPARTMENT, NOT TO EXCEED THE PRICE OF THE NEW TIRE FOR WHICH A
16 WASTE TIRE WAS NOT ACCEPTED IN EXCHANGE.

17 (E) NOTICE TO BE POSTED.--ANY PERSON SELLING OR OFFERING
18 TIRES FOR SALE AT RETAIL OR WHOLESALE SHALL POST WRITTEN NOTICE
19 WHICH MUST BE AT LEAST 8 1/2 INCHES BY 11 INCHES IN SIZE AND
20 WHICH MUST CONTAIN THE UNIVERSAL RECYCLING SYMBOL AND THE
21 FOLLOWING LANGUAGE:

22 (1) "IT IS ILLEGAL TO DISCARD OF A WASTE TIRE EXCEPT AT
23 AN AUTHORIZED WASTE TIRE SITE, TIRE COLLECTION CENTER, TIRE
24 PROCESSING FACILITY OR TIRE WHOLESALE OR RETAIL FACILITY."

25 (2) "STATE LAW REQUIRES US TO ACCEPT USED VEHICLE TIRES
26 IN EXCHANGE FOR NEW TIRES PURCHASED."

27 (F) FAILURE TO POST NOTICE.--THE DEPARTMENT SHALL PROVIDE
28 THE NOTICES REQUIRED BY SUBSECTION (E) TO ALL PLACES WHERE NEW
29 TIRES ARE OFFERED FOR SALE AT RETAIL OR WHOLESALE. THE
30 DEPARTMENT MAY INSPECT ANY SUCH PLACE, AND AUTHORIZED EMPLOYEES

1 OF THE DEPARTMENT MAY ISSUE WARNINGS AND CITATIONS TO PERSONS
2 WHO FAIL TO COMPLY. FAILURE TO POST THE NOTICE REQUIRED BY
3 SUBSECTION (E) SHALL SUBJECT THE RETAILER OR WHOLESALER TO A
4 CIVIL PENALTY OF \$25 PER DAY, COLLECTIBLE BY THE DEPARTMENT.

5 SECTION 10. WASTE TIRE MANAGEMENT FUND.

6 (A) ESTABLISHMENT.--ALL FEES, PENALTIES, AND REPAYMENTS FOR
7 ABATEMENT ACTIVITIES COLLECTED PURSUANT THIS ACT, SHALL BE PAID
8 INTO A SPECIAL FUND KNOWN AS THE WASTE TIRE MANAGEMENT FUND
9 WHICH IS HEREBY ESTABLISHED.

10 (B) ADMINISTRATIVE COSTS.-- NO MORE THAN 5% OF THE MONEYS
11 DEPOSITED ANNUALLY INTO THE FUND SHALL BE USED BY THE DEPARTMENT
12 FOR ADMINISTRATION OF THIS ACT.

13 (C) GRANTS TO COUNTIES.--GRANTS MAY BE MADE TO COUNTIES
14 WHICH ELECT TO ADMINISTER AN APPROVED WASTE TIRE MANAGEMENT
15 PROGRAM PURSUANT TO THE PROVISIONS OF THIS ACT. NO MORE THAN 25%
16 OF THE MONEYS DEPOSITED ANNUALLY INTO THE FUND SHALL, HOWEVER,
17 BE USED FOR GRANTS TO COUNTIES.

18 (D) REMAINDER OF FUND.--THE REMAINING MONEYS IN THE FUND
19 SHALL BE USED FOR NECESSARY ABATEMENT ACTIVITIES AND ALLOCATED
20 IN THE FORM OF GRANTS AND LOANS FOR PUBLIC EDUCATION, INCENTIVE
21 PROGRAMS, MARKETING STUDIES, RESEARCH, AND TECHNICAL ASSISTANCE
22 PROGRAMS RELATED TO WASTE TIRE ABATEMENT, COLLECTION AND
23 PROCESSING.

24 SECTION 11. REGULATIONS; COUNTY RESPONSIBILITIES.

25 (A) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE RULES AND
26 REGULATIONS GOVERNING THE ADMINISTRATION OF A WASTE TIRE
27 MANAGEMENT PROGRAM PURSUANT TO THE PROVISIONS OF THIS ACT, THE
28 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT, THE
29 SOLID WASTE MANAGEMENT ACT, AND ANY OTHER ACT GOVERNING
30 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION, SOLID

1 WASTE MANAGEMENT AND POLLUTION, WITHIN 180 DAYS OF THE EFFECTIVE
2 DATE OF THIS ACT.

3 (B) COUNTY RESPONSIBILITIES.--COUNTIES WHICH DESIRE TO
4 ESTABLISH WASTE TIRE MANAGEMENT PROGRAMS SHALL ADOPT ORDINANCES
5 THAT CONFORM WITH THIS ACT AND RULES AND REGULATIONS OF THE
6 DEPARTMENT PROMULGATED UNDER IT.

7 SECTION 12. UNLAWFUL ACTS.

8 (A) OFFENSES DEFINED.--IT SHALL BE UNLAWFUL FOR ANY PERSON
9 TO:

10 (1) DISPOSE, COLLECT, STORE OR PROCESS WASTE TIRES
11 WITHIN THIS COMMONWEALTH UNLESS THE DISPOSAL, COLLECTION,
12 STORAGE OR PROCESSING IS IN ACCORDANCE WITH THIS ACT AND ANY
13 RULES AND REGULATIONS PROMULGATED UNDER IT.

14 (2) HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH THE
15 DEPARTMENT OR ITS PERSONNEL IN THE PERFORMANCE OF ANY DUTY
16 UNDER THIS ACT.

17 (3) HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH ANY
18 COUNTY OR ITS PERSONNEL IN THE PERFORMANCE OF ANY DUTY
19 RELATED TO ITS RESPONSIBILITIES UNDER THIS ACT.

20 (B) MAXIMUM AMOUNT OF WASTE TIRES IN POSSESSION.--NO PERSON
21 OR BUSINESS ESTABLISHMENT SHALL POSSESS, IN OPEN STORAGE, MORE
22 THAN 250 WASTE TIRES. THIS PROVISION SHALL NOT APPLY TO ANY
23 PERSON WHO HAS MORE THAN 250 WASTE TIRES IN HIS POSSESSION AT
24 THE TIME THIS ACT BECOMES EFFECTIVE, IF WITHIN 120 DAYS OF THE
25 EFFECTIVE DATE OF THIS ACT, THE PERSON SUBMITS A PLAN TO THE
26 DEPARTMENT FOR DISPOSITION OF THE EXCESS TIRES TO A TIRE
27 COLLECTION CENTER OR PROCESSING OR RECYCLING FACILITY WITHIN TWO
28 YEARS AFTER THE EFFECTIVE DATE OF THIS ACT. THIS SUBSECTION
29 SHALL NOT APPLY TO PERSONS WHO QUALIFY FOR AN EXEMPTION PURSUANT
30 TO SECTION 7(B).

1 SECTION 13. FINES AND PENALTIES.

2 (A) VIOLATIONS IN GENERAL.--EXCEPT AS OTHERWISE PROVIDED IN
3 SECTION 9 AND IN SUBSECTION (B), A PERSON WHO VIOLATES ANY
4 PROVISION OF THIS ACT SHALL BE SUBJECT TO THE FOLLOWING
5 PENALTIES:

6 (1) FOR THE FIRST VIOLATION, A PERSON COMMITS A SUMMARY
7 OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
8 FINE OF NOT LESS THAN \$100 NOR MORE THAN \$1,000 AND COSTS OR,
9 IN DEFAULT OF THE PAYMENT OF THE FINE AND COSTS, TO
10 IMPRISONMENT FOR NOT MORE THAN 30 DAYS.

11 (2) FOR A SECOND AND SUBSEQUENT VIOLATION, A PERSON
12 COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON
13 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN
14 \$1,000 NOR MORE THAN \$5,000 OR TO IMPRISONMENT FOR NOT MORE
15 THAN 90 DAYS, OR BOTH.

16 (B) PUBLIC NUISANCE.--A PERSON WHO VIOLATES SECTION 6
17 COMMITS A MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON
18 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$2,500
19 NOR MORE THAN \$10,000 OR TO IMPRISONMENT FOR NOT MORE THAN ONE
20 YEAR, OR BOTH.

21 (C) DEPOSIT OF FINES.--FINES AND COSTS COLLECTED PURSUANT TO
22 THIS SECTION SHALL BE PAID INTO THE FUND.

23 SECTION 14. REPORT TO THE GENERAL ASSEMBLY.

24 THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY
25 CONCERNING THE IMPLEMENTATION OF THIS ACT AND THE SUCCESS OF THE
26 WASTE TIRE MANAGEMENT PROGRAM NOT LATER THAN TEN YEARS AFTER THE
27 EFFECTIVE DATE OF THIS ACT. THE REPORT SHALL INCLUDE A
28 RECOMMENDATION REGARDING THE NEED FOR CONTINUATION OF THE FUND
29 OR FOR DISCONTINUATION OF THE FUND AND DEPOSIT OF FUND MONEYS
30 AND FUTURE WASTE TIRE MANAGEMENT FEES, FINES AND PENALTIES INTO

1 THE SOLID WASTE ABATEMENT FUND ESTABLISHED UNDER THE SOLID WASTE
2 MANAGEMENT ACT FOR EXPENDITURE ON WASTE TIRE MANAGEMENT AS WELL
3 AS OTHER SOLID WASTE MANAGEMENT ACTIVITIES.

4 SECTION 15. REPEALS.

5 ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS THEY ARE
6 INCONSISTENT WITH THIS ACT.

7 SECTION 16. EFFECTIVE DATE.

8 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.