

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2168 Session of
1991

INTRODUCED BY GAMBLE, BROUJOS, NOYE, WOGAN, J. TAYLOR, DALEY,
KENNEY, SERAFINI, SAURMAN, MAIALE, VROON, CARONE, BATTISTO,
E. Z. TAYLOR, NAHILL, KOSINSKI, VAN HORNE, DeLUCA, FOX,
M. N. WRIGHT, LEE, COY, LAUGHLIN, SCHEETZ, OLASZ, HALUSKA,
NICKOL, HERMAN, FARGO, BUNT AND HUGHES, NOVEMBER 13, 1991

REFERRED TO COMMITTEE ON CONSERVATION, NOVEMBER 13, 1991

AN ACT

1 Providing for the collection and disposal of scrap tires;
2 imposing a scrap tire disposal fee and providing for
3 disposition of the revenue generated by the fee; requiring a
4 permit for the maintenance of a scrap tire collection site;
5 prohibiting disposal of scrap tires except at a scrap tire
6 collection site; providing for powers and duties of the
7 Department of Environmental Resources; requiring registration
8 of tire haulers; providing for abatement of tire collection
9 sites that constitute a nuisance; and imposing a civil
10 penalty.

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Scrap Tire
7 Disposal Act.

8 Section 2. Legislative findings and purpose.

9 (a) Legislative findings.--The General Assembly finds as
10 follows:

11 (1) Scrap tire disposal poses a unique and troublesome
12 solid waste management problem.

13 (2) Scrap tires are a usable resource that may be
14 recycled for energy value.

15 (3) Uncontrolled disposal of scrap tires may create a
16 public health and safety problem because tire piles act as
17 breeding sites for mosquitoes and other disease-transmitting
18 vectors, pose substantial fire hazards and present a
19 difficult disposal problem for landfills.

20 (4) A significant number of scrap tires are illegally
21 dumped in this Commonwealth.

22 (5) It is in this Commonwealth's best interest to
23 encourage efforts to recycle or recover resources from scrap
24 tires.

25 (6) It is desirable to allow municipalities to control
26 tire disposal for themselves and to encourage multicounty,
27 regional approaches to scrap tire disposal and collection.

28 (7) It is desirable to encourage reduction in the volume
29 of scrap tires being disposed of at public sanitary
30 landfills.

1 (b) Purpose.--The purpose of this act is to provide
2 Statewide guidelines and structure for the environmentally safe
3 disposal of scrap tires to be administered through
4 municipalities.

5 Section 3. Definitions.

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

9 "Collection site." An area used for the storage of scrap
10 tires.

11 "Department." The Department of Environmental Resources of
12 the Commonwealth.

13 "Disposal fee." An amount charged by a tire collector, tire
14 processor or municipality in exchange for accepting scrap tires.

15 "In-county scrap tire." A scrap tire brought for disposal
16 from inside the county in which the collection or processing
17 site is located.

18 "Out-of-county scrap tire." A scrap tire brought for
19 disposal from outside the county in which the collection or
20 processing site is located.

21 "Processing site." A site actively used to produce or
22 manufacture usable materials, including fuel, from scrap tires.
23 Commercial enterprises processing scrap tires shall not be
24 considered to be solid waste processing, storage, treatment or
25 disposal facilities under the act of July 7, 1980 (P.L.380,
26 No.97), known as the Solid Waste Management Act.

27 "Scrap tire." A tire that is no longer suitable for its
28 original, intended purpose because of wear, damage or defect.

29 "Tire." A continuous solid or pneumatic rubber covering
30 encircling the wheel of a motor vehicle as defined in 75 Pa.C.S.

1 § 102 (relating to definitions). For purposes of this act, an
2 "inner tube" and a cupples liner flap shall be considered to be
3 integral parts of a tire.

4 "Tire collector." A person who owns or operates a site used
5 for the storage, collection or deposit of more than 50 scrap
6 tires.

7 "Tire hauler." A person engaged in the picking up or
8 transporting of scrap tires for the purpose of storage,
9 processing or disposal.

10 "Tire processor." A person who engages in the processing of
11 scrap tires or one who owns or operates a tire processing site.

12 "Tire retailer." A person who engages in the retail sale of
13 a tire in any quantity for any use or purpose by the purchaser
14 other than for resale.

15 Section 4. Scrap tire disposal fee.

16 (a) Imposition.--

17 (1) A fee is imposed on the privilege of selling new
18 motor vehicle tires in this Commonwealth. This fee shall be
19 in addition to all other taxes and fees imposed and shall be
20 imposed only at the initial point of sale at the retail
21 level.

22 (2) The fee shall also be imposed upon new tires that
23 are rented or leased and shall be imposed at the point of
24 rental or lease at the time the rental or lease agreement is
25 executed.

26 (b) Method of collection.--The fee imposed under subsection
27 (a) shall be collected by the Department of Revenue in the same
28 manner as the sales tax is collected under the act of March 4,
29 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

30 (c) Amount of fee.--Beginning January 1, 1992, a scrap tire

1 disposal fee shall be imposed upon the retail sale, rental or
2 lease of each new motor vehicle tire at the rate of 1% of the
3 sales, rental or lease price for each new tire sold, rented or
4 leased. The scrap tire disposal fee shall not apply to recapped
5 tires.

6 (d) Disposition of revenue.--Ten percent of the proceeds of
7 the scrap tire disposal fee shall be deposited on a quarterly
8 basis in the Solid Waste Abatement Fund. The Secretary of
9 Revenue shall distribute the remainder of the proceeds of the
10 scrap tire disposal fee quarterly among the counties on a per
11 capita basis according to the most recent Federal census for use
12 by the counties in disposing of scrap tires under this act.

13 Section 5. Scrap tire disposal program.

14 (a) Information concerning scrap tires.--The owner or
15 operator of any scrap tire collection site shall, within six
16 months after the effective date of this act, provide the
17 department with information concerning the site's location and
18 size and the approximate number of scrap tires that are
19 accumulated at the site and shall initiate steps to comply with
20 subsection (b).

21 (b) Prohibition.--On or after July 1, 1992:

22 (1) A person may not maintain a scrap tire collection
23 site or a scrap tire disposal site unless the site is
24 permitted.

25 (2) It is unlawful for any person to dispose of scrap
26 tires in this Commonwealth unless the scrap tires are
27 disposed of at a scrap tire collection site or at a tire
28 disposal site or disposed of for processing at a scrap tire
29 processing facility.

30 (c) Regulations.--By January 1, 1992, the department shall

1 adopt regulations to carry out the provisions of this section.

2 The regulations shall do the following:

3 (1) Provide for the administration of scrap tire
4 collector and collection center permits and scrap tire
5 disposal site permits, the fees for which may not exceed \$250
6 annually.

7 (2) Set standards for scrap tire processing facilities
8 and associated scrap tire sites, scrap tire collection
9 centers and scrap tire collectors.

10 (3) Authorize the final disposal of scrap tires at a
11 permitted solid waste disposal facility, provided the tires
12 have been cut into sufficiently small parts to assure their
13 proper disposal.

14 (d) Exceptions.--A permit is not required for the following:

15 (1) A tire retreading business where fewer than 5,000
16 scrap tires are kept on the business premises.

17 (2) A business that, in the ordinary course of business,
18 removes tires from motor vehicles if fewer than 5,000 of
19 these tires are kept on the business premises.

20 (3) A retail tire-selling business which is serving as a
21 scrap tire collection center if fewer than 5,000 scrap tires
22 are kept on the business premises.

23 (e) Voluntary establishment of scrap tire collection
24 centers.--The department shall encourage the voluntary
25 establishment of scrap tire collection centers at retail tire-
26 selling businesses, scrap tire processing facilities and solid
27 waste disposal facilities, to be open to the public for the
28 deposit of used and scrap tires. The department may establish an
29 incentive program for individuals to encourage them to return
30 their used or scrap tires to a scrap tire collection center.

1 Section 6. Disposal of scrap tires.

2 (a) General rule.--Each county is responsible for providing
3 for the disposal of scrap tires located within its boundaries in
4 accordance with the provisions of this act and any regulations
5 issued under this act. The following are permissible methods of
6 scrap tire disposal:

7 (1) Incinerating.

8 (2) Retreading.

9 (3) Constructing crash barriers.

10 (4) Controlling soil erosion when whole tires are not
11 used.

12 (5) Chopping or shredding.

13 (6) Grinding into crumbs for use in road asphalt, tire
14 derived fuel and as raw material for other products.

15 (7) Slicing vertically, resulting in each scrap tire
16 being divided into at least two pieces.

17 (8) Sludge composting.

18 (9) Using for agriculture-related purposes.

19 (10) Chipping for use as an oyster cultch.

20 (11) Cutting, stamping or dyeing tires.

21 (12) Pyrolizing and other physico-chemical processing.

22 (13) Hauling to out-of-State collection or processing
23 sites.

24 (14) Monofilling split, ground, chopped, sliced or
25 shredded scrap tires.

26 (b) Other methods of disposal.--The department may adopt
27 regulations approving other permissible methods of scrap tire
28 disposal. Landfilling of whole scrap tires is prohibited.

29 (c) Municipal action.--Municipalities may enter into joint
30 ventures or other cooperative efforts for the purpose of

1 disposing of scrap tires. A municipality may enter into leases
2 or other contractual arrangements with other municipalities or
3 private entities in order to dispose of scrap tires.

4 (d) Development of disposal procedures.--Each county shall
5 be responsible for developing a description of scrap tire
6 disposal procedures. These procedures shall be included in the
7 municipal waste management plan required by the act of July 7,
8 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

9 (e) Establishment of site for disposal of scrap tires by
10 county.--A county shall provide, directly or by contract with
11 another municipality or private entity, at least one site for
12 scrap tire disposal for that county. The municipality or
13 contracting party may charge a disposal fee for the disposal of
14 in-county scrap tires, and the disposal fees shall be assessed
15 only to the extent that the cost per tire of disposal exceeds
16 the scrap tire disposal fees received by the county during the
17 preceding 12-month period, divided by the number of tires
18 disposed of within the county according to the tire disposal
19 procedures during that period. The municipality or contracting
20 party may charge a disposal fee for the disposal of scrap tires
21 from tire manufacturers, retreaders not engaged in the retail
22 sale of new tires and any others subject to the scrap tire
23 disposal fee, regardless of where the scrap tires originated,
24 and the fees shall not exceed the cost of disposal for the
25 tires. The municipality or contracting party also may charge a
26 disposal fee for the disposal of out-of-county and out-of-State
27 scrap tires at the county's site.

28 (f) Certification.--Every tire retailer or other person
29 disposing of scrap tires shall complete and sign a certification
30 form prescribed by the department and distributed to each

1 county, certifying that the tires were collected in the normal
2 course of business for disposal, the county in which the tires
3 were collected and the number of tires to be disposed of. The
4 form also shall be completed and signed by the tire hauler,
5 certifying that the load contains the same tires that were
6 received from the tire retailer or other person disposing of
7 scrap tires. The tire hauler shall present this certification
8 form to the tire processor or tire collector at the time of
9 delivery of the scrap tires for disposal, collection or
10 processing. Copies of these certification forms shall be
11 retained for a minimum of three years after the date of delivery
12 of the scrap tires.

13 (g) Exception.--The provisions of subsection (f) shall not
14 apply to tires that are brought for disposal in quantities of
15 five or less by someone other than a tire collector, tire
16 processor or tire hauler.

17 Section 7. Registration of tire haulers.

18 (a) General rule.--Before engaging in the hauling of scrap
19 tires in this Commonwealth, a tire hauler must register with the
20 department, whereupon the department shall issue to the tire
21 hauler a scrap tire hauling identification number. A tire
22 retailer engaged solely in the hauling of scrap tires received
23 by it in connection with the retail sale of replacement tires is
24 not required to register under this section.

25 (b) Furnishing identification numbers.--Each tire hauler
26 shall furnish its hauling identification number on all
27 certification forms required under section 6(f). A tire retailer
28 engaged in the hauling of scrap tires and not required by
29 subsection (a) to be registered shall supply its sales and use
30 tax identification number on all certification forms required by

1 section 6(f).

2 Section 8. Nuisance tire collection sites.

3 (a) Order to abate nuisance.--On or after July 1, 1992, if
4 the department determines that a tire collection site is a
5 nuisance, it shall notify the person responsible for the
6 nuisance and request that the tires be processed or removed
7 within 90 days. If the person fails to take the requested action
8 within 90 days, the department shall order the person to abate
9 the nuisance within 90 days. If the person responsible for the
10 nuisance is not the owner of the property on which the tire
11 collection site is located, the department may order the
12 property owner to permit abatement of the nuisance. If the
13 person responsible for the nuisance fails to comply with the
14 order, the department shall take any action necessary to abate
15 the nuisance, including entering the property where the tire
16 collection site is located and confiscating the scrap tires or
17 arranging to have the scrap tires processed or removed.

18 (b) Payment of costs.--When the department abates the
19 nuisance under subsection (a), the person responsible for the
20 nuisance shall be liable for the actual costs incurred by the
21 department for its nuisance abatement activities and its
22 administrative and legal expenses related to the abatement. The
23 department may ask the Attorney General to initiate a civil
24 action to recover these costs from the person responsible for
25 the nuisance. Nonpayment of the actual costs incurred by the
26 department shall result in the imposition of a lien on the real
27 property on which the tire collection site is located.

28 (c) Exceptions.--This section does not apply to any of the
29 following:

30 (1) A retail business premises where tires are sold if

1 no more than 500 scrap tires are kept on the premises at one
2 time.

3 (2) The premises of a tire retreading business if no
4 more than 3,000 scrap tires are kept on the premises at one
5 time.

6 (3) A premises where tires are removed from motor
7 vehicles in the ordinary course of business if no more than
8 500 scrap tires are kept on the premises at one time.

9 (4) A solid waste disposal facility where no more than
10 60,000 scrap tires are stored above ground at one time if all
11 tires received for storage are processed, buried or removed
12 from the facility within one year after receipt.

13 (5) A site where no more than 250 scrap tires are stored
14 for agricultural uses.

15 (6) A construction site where scrap tires are stored for
16 use or used in road surfacing and construction of
17 embankments.

18 (d) Priority for abatement activities.--The descending order
19 of priority for the department's abatement activities under
20 subsection (a) is as follows:

21 (1) Tire collection sites determined by the department
22 to contain more than 1,000,000 tires.

23 (2) Tire collection sites which constitute a fire hazard
24 or threat to public health.

25 (3) Tire collection sites in densely populated areas.

26 (4) Any other tire collection sites that are determined
27 to be a nuisance.

28 (e) Authority of department unchanged.--This section does
29 not change the authority of the department to enforce any
30 existing laws or of any person to abate a nuisance.

1 (f) Definition.--As used in this section, the term
2 "nuisance" means an unreasonable danger to public health, safety
3 or welfare or to the environment.

4 Section 9. Preemption.

5 This act preempts any local ordinance regarding the disposal
6 of scrap tires to the extent that the local ordinance is
7 inconsistent with this act or regulations adopted under this
8 act. A municipality may not charge any fees for the disposal of
9 scrap tires except as authorized by this act.

10 Section 10. Penalty.

11 Any person who knowingly hauls or disposes of a tire in
12 violation of this act or the regulations adopted under this act
13 shall be assessed a civil penalty of \$50 for each violation.
14 Each tire hauled or disposed of in violation of this act or
15 regulations adopted pursuant to this act constitutes a separate
16 violation.

17 Section 11. Effective date.

18 This act shall take effect in 60 days.