

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1114 Session of  
2005

INTRODUCED BY YUDICHAK, W. KELLER, CAPPELLI, TIGUE, ARGALL,  
BASTIAN, BELFANTI, CALTAGIRONE, CAWLEY, CORRIGAN, CRAHALLA,  
DALLY, FABRIZIO, FREEMAN, GEORGE, GODSHALL, GOOD, GOODMAN,  
GRUCELA, HALUSKA, HASAY, HERMAN, HERSHEY, HESS, HUTCHINSON,  
JOSEPHS, KIRKLAND, LEACH, LEDERER, LEH, MANN, MUNDY, NICKOL,  
O'NEILL, PICKETT, READSHAW, REICHLEY, SCAVELLO, SHANER,  
SOLOBAY, TANGRETTI, THOMAS, WALKO, WANSACZ, WRIGHT,  
YOUNGBLOOD, COSTA AND BROWNE, MARCH 29, 2005

AS RE-REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 10, 2005

## AN ACT

1 Amending the act of December 19, 1996 (P.L.1478, No.190),  
2 entitled "An act relating to the recycling and reuse of waste  
3 tires; providing for the proper disposal of waste tires and  
4 the cleanup of stockpiled tires; authorizing investment tax  
5 credits for utilizing waste tires; providing remediation  
6 grants for the cleanup of tire piles and for pollution  
7 prevention programs for small business and households;  
8 establishing the Small Business and Household Pollution  
9 Prevention Program and management standards for small  
10 business hazardous waste; providing for a household hazardous  
11 waste program and for grant programs; making appropriations;  
12 and making repeals," further providing for the definition of  
13 "waste tire"; defining "RECYCLED TIRE PRODUCT" AND "waste  
14 tire recycling facility"; and further providing for the  
15 disposal of whole waste tires, for Environmental Quality  
16 Board regulations, for waste tire registry and for  
17 remediation liens.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The definition of "waste tire" in section 104 of  
21 the act of December 19, 1996 (P.L.1478, No.190), entitled "An  
22 act relating to the recycling and reuse of waste tires;

1 providing for the proper disposal of waste tires and the cleanup  
2 of stockpiled tires; authorizing investment tax credits for  
3 utilizing waste tires; providing remediation grants for the  
4 cleanup of tire piles and for pollution prevention programs for  
5 small business and households; establishing the Small Business  
6 and Household Pollution Prevention Program and management  
7 standards for small business hazardous waste; providing for a  
8 household hazardous waste program and for grant programs; making  
9 appropriations; and making repeals," amended July 10, 2002  
10 (P.L.781, No.111), is amended and the section is amended by  
11 adding ~~a definition~~ DEFINITIONS to read: <—

12 Section 104. Definitions.

13 The following words and phrases when used in this chapter  
14 shall have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 \* \* \*

17 "RECYCLED TIRE PRODUCT." RUBBER MATERIAL DERIVED FROM WASTE <—  
18 TIRES PRODUCED AT A PERMITTED WASTE TIRE RECYCLING FACILITY AND  
19 INTENDED FOR BENEFICIAL USE.

20 \* \* \*

21 "Waste tire." A tire that will no longer be used for the  
22 purpose for which it was originally intended. The term includes  
23 a tire that has been discarded by any owner or user even though  
24 the tire may have some remaining useful life. A tire becomes a  
25 waste tire when it is discarded by any owner or user.

26 \* \* \*

27 "Waste tire recycling facility." A facility whose purpose is  
28 the systemic collection, sorting, storage, recapping or cleaning  
29 of waste tires to return them to commerce for use as  
30 commodities. The term includes a facility that may use waste

1 reduction, reuse or recycling equipment to process or convert  
2 waste tires into a beneficial product or productive use.

3 Section 2. Section 106 of the act is amended by adding a  
4 subsection to read:

5 Section 106. Disposal of whole waste tires.

6 \* \* \*

7 (e) Permit.--No person shall construct, alter, operate or  
8 utilize a waste tire recycling facility without a processing  
9 permit from the department as required by the act of July 7,  
10 1980 (P.L.380, No.97), known as the Solid Waste Management Act,  
11 or in violation of the regulations promulgated thereunder that  
12 relate to the storage of waste tires.

13 Section 3. Sections 106.1(g), 106.3(c) and 111.1 of the act,  
14 added July 10, 2002 (P.L.781, No.111), are amended to read:

15 Section 106.1. Authorization program.

16 \* \* \*

17 (g) Powers and duties of Environmental Quality Board.--The  
18 Environmental Quality Board shall have the power and duty to  
19 adopt such regulations of the department as it deems necessary  
20 and appropriate to accomplish the purposes and to carry out the  
21 provisions of this act[.], including regulations that:

22 (1) Encourage the processing OF WASTE TIRES and <—  
23 beneficial use of waste tires AND RECYCLED TIRE PRODUCTS when <—  
24 the department determines that the processing and use does  
25 not harm or present a threat of harm to the health, safety or  
26 welfare of the people or environment of this Commonwealth.

27 (2) Allow the department to determine that waste tires,  
28 after processing or when beneficially used, no longer  
29 constitute a waste.

30 (3) ENCOURAGE THE BENEFICIAL USE OF RECYCLED TIRE <—

1        PRODUCTS.

2        Section 106.3.    Waste tire registry.

3            \* \* \*

4            (c)    Duty to use authorized hauler.--No person may provide  
5        whole used or waste tires to a waste tire hauler that does not  
6        have a valid authorization as provided under this act. No person  
7        may accept whole used or waste tires from a waste tire hauler  
8        that does not have a valid authorization as provided under this  
9        act. Failure to comply with this provision shall result in a  
10       civil penalty assessment as provided under section 108.1.

11       Section 111.1.    Remediation liens.

12            (a)    Effect of remediation activity.--The amount of a grant  
13        issued under section 111 for remediation that is attributable to  
14        or expended on a specific site where the grant recipient  
15        conducts remediation activity and the benefits accruing to the  
16        land on which the site is located shall be chargeable against  
17        the land and shall mitigate or offset any claim in or any action  
18        brought by any owner of any interest in the land for any damages  
19        by virtue of the remediation activity. This subsection shall not  
20        be construed to establish a new right of action or eliminate any  
21        existing immunity.

22            [(b)    Statement to be filed with prothonotary.--Within six  
23        months after the completion of remediation activity by a grant  
24        recipient on a site, the department shall itemize the amount of  
25        grant moneys expended on remediation of the site and may file a  
26        statement thereof in the office of the prothonotary of the  
27        county in which the land is situated. The department shall affix  
28        to the statement a notarized appraisal by an independent  
29        appraiser of the value of the land before and after the  
30        remediation if the moneys so expended shall result in a

1 significant increase in property value. The statement shall  
2 constitute a lien upon the land as of the date of the  
3 expenditure of the moneys and shall have priority as a lien  
4 second only to the lien of real estate taxes imposed on the  
5 land.

6 (c) Amount of lien.--The amount of the lien shall not exceed  
7 the amount determined by the appraisal to be the increase in the  
8 market value of the land as a result of the remediation  
9 immediately after the grant recipient has completed its work,  
10 and the lien shall extend only to that portion of the land  
11 directly involved in the remediation activity.

12 (d) Rights of landowner.--The landowner may proceed as  
13 provided in the act of June 22, 1964 (Sp.Sess., P.L.84, No.6),  
14 known as the Eminent Domain Code, to petition for a board of  
15 view within 60 days of the filing of the lien to determine the  
16 increase in the market value of that portion of the land  
17 directly involved in the remediation activity. The amount  
18 reported by the board of viewers to be the increase in value of  
19 the land shall constitute the amount of the lien and shall be  
20 recorded with the statement required by subsection (b).

21 (e) Right of appeal.--Any party aggrieved by the decision of  
22 the board of viewers may appeal as provided in the Eminent  
23 Domain Code.

24 (f) Entry and enforcement of lien.--The lien authorized by  
25 this section shall be entered in the judgment index and shall be  
26 given the effect of a judgment against the land. The lien shall  
27 be enforced by the direct issuance of a writ of execution  
28 without prosecution to judgment of a writ of scire facias in the  
29 manner provided by law for enforcement, collection and  
30 enforcement of Commonwealth liens.

1 (g) Construction.--Entry by a grant recipient upon lands for  
2 the purpose of remediation under this act shall not be construed  
3 as an act of condemnation of property or of trespass thereon.]

4 (b.1) Escrow.--After the completion of remediation activity  
5 by a grant recipient on a site, the department shall itemize the  
6 amount of grant moneys expended on remediation of the site and  
7 inform any person or municipality that has contributed in any  
8 manner to the creation of the waste tire pile or that owns the  
9 site of the amount of grant moneys that have been expended. The  
10 person or municipality charged with the amount shall then have  
11 30 days to pay the amount in full or, if the person or  
12 municipality wishes to contest the amount, its contribution to  
13 the waste tire pile or its ownership of the site, either to  
14 forward the amount to the department for placement in an escrow  
15 account with the State Treasurer or with a bank in this  
16 Commonwealth or to post an appeal bond in the amount. The bond  
17 must be executed by a surety licensed to do business in this  
18 Commonwealth or contain collateral and must be satisfactory to  
19 the department. If, through administrative or judicial review of  
20 the amount, it is determined that the person or municipality did  
21 not contribute to the creation of the waste tire pile or did not  
22 own the site or that the amount shall be reduced, the department  
23 shall, within 30 days, remit the appropriate amount to the  
24 person or municipality. Failure to forward the money or the  
25 appeal bond to the department within 30 days shall result in a  
26 waiver of all legal rights to contest the contribution of the  
27 person or municipality to the creation of the waste tire pile,  
28 the ownership of the site or the amount charged against the  
29 person or municipality.

30 (c.1) Lien.--If the person or municipality liable to pay the

1 amount of grant moneys expended on remediation of a site  
2 neglects or refuses to pay the same after demand, the amount,  
3 together with interest, shall be a judgment in favor of the  
4 Commonwealth upon the property of such person or municipality,  
5 but only after the same has been entered and docketed of record  
6 by the prothonotary where such property is situated. The  
7 Commonwealth may, at any time, transmit to the prothonotaries of  
8 the respective counties certified copies of all such judgments,  
9 and it shall be the duty of each prothonotary to enter and  
10 docket the same of record in the prothonotary's office, and to  
11 index the same as judgments are indexed, without requiring the  
12 payment of costs as a condition precedent to the entry thereof.  
13 Any lien on real estate shall have priority second only to the  
14 lien of real estate taxes imposed on the land.

15 (d.1) Limitation on action.--Notwithstanding any other  
16 provision of law to the contrary, actions for the recovery of  
17 grant moneys expended under this section may be commenced at any  
18 time within a period of 20 years from the date it is discovered  
19 that the person or municipality contributed, in any manner, to  
20 the creation of the waste tire pile.

21 (e.1) Deposit of amounts collected.--All grant moneys  
22 collected under this section shall be deposited into the fund or  
23 account from which the grant was issued.

24 Section 4. The act is amended by adding a section to read:  
25 Section 116. Construction.

26 The definition of "waste tire recycling facility" in section  
27 104 and the provisions of section 106(e) shall be construed in  
28 pari materia with the permitting requirements of the act of July  
29 7, 1980 (P.L.380, No.97), known as the Solid Waste Management  
30 Act.

1       Section 5.   This act shall take effect in 60 days.