

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 10, 1989

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

15 Section 1. Short title.

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

18 Section 2. Legislative findings and declaration of policy.

19       The General Assembly finds and declares as follows:

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

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

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

30           (4) The existing interim Commonwealth policy for the

1 storage of waste tires has never been adopted as regulation  
2 and does not encourage the use of materials produced from  
3 waste tires. Furthermore, the General Assembly failed to  
4 address the waste-tire disposal problem when it passed the  
5 act of July 28, 1988 (P.L.556, No.101), known as the  
6 Municipal Waste Planning, Recycling and Waste Reduction Act.

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

### 12 Section 3. Definitions.

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

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

20 "Department." The Department of Environmental Resources of  
21 the Commonwealth.

22 "Fund." The Waste Tire Abatement Fund.

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

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

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

1 "Tire collector." The owner or operator of a site used for  
2 the collection of tires from the public.

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

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

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

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

14 Section 4. Land disposal of tires prohibited.

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

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

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

27 Section 5. Waste tire nuisance; abatement.

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

30 (b) Abatement.--The department may abate a nuisance caused

1 by improper tire disposal by providing for the removal and  
2 processing of the tires. Before taking any action to abate the  
3 nuisance, the department shall give notice to the tire collector  
4 responsible for the nuisance that the tires constitute a  
5 nuisance and require that the tires be processed and removed  
6 within a specified period. Failure of the tire collector to take  
7 the required action within the specified period shall result in  
8 the issuance of a departmental order to abate the nuisance.

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

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

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

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

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

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

28 (2) A retail tire dealer for a retail sales site which  
29 is serving as a waste tire collection center if no more than  
30 1,000 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          (c) Permit fee.--The department shall establish reasonable  
12          permit fees. The revenue from permit fees shall be paid into the  
13          fund.

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

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

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

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

1 conduct of the required market study.

2 Section 8. Use of recovered rubber and retread tires by State  
3 agencies; encouragement of tire-combustion  
4 technologies.

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

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

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

24 Section 9. Motor vehicle transfer fee.

25 (a) Fee charged.--Beginning January 1, 1990, a waste tire  
26 abatement fee of \$2 shall be charged for the initial  
27 registration, and on each subsequent transfer of title within  
28 this Commonwealth other than transfers for resale purposes, of  
29 every motor vehicle weighing more than 1,000 pounds. The fee  
30 shall be collected by the Department of Transportation for a

1 period of ten years, or until December 31, 2000, whichever first  
2 occurs, unless the period of collection is extended by law.  
3 Registration plates or certificates may not be issued for the  
4 operation or ownership of a motor vehicle subject to the  
5 transfer fee unless the fee is paid.

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

10 Section 10. Waste Tire Abatement Fund.

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

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

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

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



1 priorities:

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

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

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

9 (iv) Abatement activities at tire dumps which are  
10 determined by the department to contain fewer than  
11 500,000 tires.

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

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

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

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

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

30 (d) Transfer of moneys.--On January 1, 2001, all moneys in

1 the fund that are not obligated shall be transferred to the  
2 Solid Waste Abatement Fund and expended in the same manner as  
3 other moneys in the Solid Waste Abatement Fund. On January 1,  
4 2003, all moneys in the fund that are not expended shall be  
5 transferred to the Solid Waste Abatement Fund and expended in  
6 the same manner as other moneys in the Solid Waste Abatement  
7 Fund.

8 Section 11. Waste tire grants to counties.

9 (a) Grants to counties.--The department shall, by April 1,  
10 1990, establish a program to make grants pursuant to section  
11 10(c) to counties which desire, individually or collectively,  
12 to:

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

15 (2) establish waste tire collection centers at solid  
16 waste disposal facilities or waste tire processing  
17 facilities;

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

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

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

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

28 (b) Priorities for grants.--The department shall award  
29 grants pursuant to the priority schedule established in section  
30 10.

1 Section 12. Regulations; county responsibilities.

2 (a) Regulations.--The department may promulgate rules and  
3 regulations to administer and enforce this act

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

8 Section 13. Unlawful acts.

9 (a) Offenses defined.--It shall be unlawful for any person  
10 to:

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

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

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

21 (b) Maximum amount of waste tires in possession.--No person  
22 or business establishment shall possess, in open storage, more  
23 than 250 waste tires. This provision shall not apply to any  
24 person who has more than 250 waste tires in his possession at  
25 the time this act become effective, provided that, within 60  
26 days of the effective date of this act, the person submits a  
27 plan to the department for the disposition of the excess tires  
28 to a tire collection center or processing or recycling facility  
29 within two years after the effective date of this act. This  
30 subsection shall not apply to persons who qualify for an

1 exemption pursuant to section 6(b).

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

3 (a) Violations in general.--Except as otherwise provided in  
4 subsection (b), a person who violates any provision of this act  
5 shall be subject to the following 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 5  
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 15. Report to General Assembly.

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

30 Section 16. Appropriation.

1       The sum of \$125,000, or as much thereof as may be necessary,  
2       is hereby appropriated to the Department of Environmental  
3       Resources for start-up administrative costs associated with  
4       establishing a waste tire abatement program in this  
5       Commonwealth. Any funds not needed for start-up administrative  
6       purposes shall be deposited in the fund.

7       Section 17. Inconsistent repeals.

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

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

13      Section 18. Effective date.

14      This act shall take effect in 60 days.