

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 AND
YOUNGBLOOD, MARCH 29, 2005

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 29, 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 "waste tire recycling facility"; and
14 further providing for the disposal of whole waste tires, for
15 Environmental Quality Board regulations, for waste tire
16 registry and for remediation liens.

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

19 Section 1. The definition of "waste tire" in section 104 of
20 the act of December 19, 1996 (P.L.1478, No.190), entitled "An
21 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 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 "Waste tire." A tire that will no longer be used for the
18 purpose for which it was originally intended. The term includes
19 a tire that has been discarded by any owner or user even though
20 the tire may have some remaining useful life. A tire becomes a
21 waste tire when it is discarded by any owner or user.

22 * * *

23 "Waste tire recycling facility." A facility whose purpose is
24 the systemic collection, sorting, storage, recapping or cleaning
25 of waste tires to return them to commerce for use as
26 commodities. The term includes a facility that may use waste
27 reduction, reuse or recycling equipment to process or convert
28 waste tires into a beneficial product or productive use.

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

1 Section 106. Disposal of whole waste tires.

2 * * *

3 (e) Permit.--No person shall construct, alter, operate or
4 utilize a waste tire recycling facility without a processing
5 permit from the department as required by the act of July 7,
6 1980 (P.L.380, No.97), known as the Solid Waste Management Act,
7 or in violation of the regulations promulgated thereunder that
8 relate to the storage of waste tires.

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

11 Section 106.1. Authorization program.

12 * * *

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

18 (1) Encourage the processing and beneficial use of waste
19 tires when the department determines that the processing and
20 use does not harm or present a threat of harm to the health,
21 safety or welfare of the people or environment of this
22 Commonwealth.

23 (2) Allow the department to determine that waste tires,
24 after processing or when beneficially used, no longer
25 constitute a waste.

26 Section 106.3. Waste tire registry.

27 * * *

28 (c) Duty to use authorized hauler.--No person may provide
29 whole used or waste tires to a waste tire hauler that does not
30 have a valid authorization as provided under this act. No person

1 may accept whole used or waste tires from a waste tire hauler
2 that does not have a valid authorization as provided under this
3 act. Failure to comply with this provision shall result in a
4 civil penalty assessment as provided under section 108.1.

5 Section 111.1. Remediation liens.

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

16 [(b) Statement to be filed with prothonotary.--Within six
17 months after the completion of remediation activity by a grant
18 recipient on a site, the department shall itemize the amount of
19 grant moneys expended on remediation of the site and may file a
20 statement thereof in the office of the prothonotary of the
21 county in which the land is situated. The department shall affix
22 to the statement a notarized appraisal by an independent
23 appraiser of the value of the land before and after the
24 remediation if the moneys so expended shall result in a
25 significant increase in property value. The statement shall
26 constitute a lien upon the land as of the date of the
27 expenditure of the moneys and shall have priority as a lien
28 second only to the lien of real estate taxes imposed on the
29 land.

30 (c) Amount of lien.--The amount of the lien shall not exceed

1 the amount determined by the appraisal to be the increase in the
2 market value of the land as a result of the remediation
3 immediately after the grant recipient has completed its work,
4 and the lien shall extend only to that portion of the land
5 directly involved in the remediation activity.

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

15 (e) Right of appeal.--Any party aggrieved by the decision of
16 the board of viewers may appeal as provided in the Eminent
17 Domain Code.

18 (f) Entry and enforcement of lien.--The lien authorized by
19 this section shall be entered in the judgment index and shall be
20 given the effect of a judgment against the land. The lien shall
21 be enforced by the direct issuance of a writ of execution
22 without prosecution to judgment of a writ of scire facias in the
23 manner provided by law for enforcement, collection and
24 enforcement of Commonwealth liens.

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

28 (b.1) Escrow.--After the completion of remediation activity
29 by a grant recipient on a site, the department shall itemize the
30 amount of grant moneys expended on remediation of the site and

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

24 (c.1) Lien.--If the person or municipality liable to pay the
25 amount of grant moneys expended on remediation of a site
26 neglects or refuses to pay the same after demand, the amount,
27 together with interest, shall be a judgment in favor of the
28 Commonwealth upon the property of such person or municipality,
29 but only after the same has been entered and docketed of record
30 by the prothonotary where such property is situated. The

1 Commonwealth may, at any time, transmit to the prothonotaries of
2 the respective counties certified copies of all such judgments,
3 and it shall be the duty of each prothonotary to enter and
4 docket the same of record in the prothonotary's office, and to
5 index the same as judgments are indexed, without requiring the
6 payment of costs as a condition precedent to the entry thereof.
7 Any lien on real estate shall have priority second only to the
8 lien of real estate taxes imposed on the land.

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

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

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

20 The definition of "waste tire recycling facility" in section
21 104 and the provisions of section 106(e) shall be construed in
22 pari materia with the permitting requirements of the act of July
23 7, 1980 (P.L.380, No.97), known as the Solid Waste Management
24 Act.

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