

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1929 Session of 1995

INTRODUCED BY ARGALL, PETRONE, BATTISTO, CARONE, HARHART, PLATTS, HUTCHINSON, DeLUCA, LYNCH, MIHALICH, SATHER, BAKER, HERSHEY, HERMAN, DEMPSEY, JAROLIN, GODSHALL, MUNDY, FARGO, NAILOR, PETTIT, M. N. WRIGHT, LEVDANSKY, YOUNGBLOOD, BELARDI, BARD, SAYLOR, MANDERINO, COY, TRELLO, WAUGH, STURLA, RAYMOND, WOGAN, LAUGHLIN, D. W. SNYDER, MELIO, L. I. COHEN, MERRY, ALLEN, GAMBLE, EGOLF, STEELMAN, CIVERA, PISTELLA, SERAFINI AND MCGEEHAN, JUNE 29, 1995

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 1995

AN ACT

1 Relating to the recycling and reuse of waste tires; providing
2 for the proper disposal of waste tires and the cleanup of
3 stockpiled tires; authorizing investment tax credits for
4 utilizing waste tires; and providing remediation grants for
5 the cleanup of tire piles.

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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 Recycling Act.

18 Section 2. Legislative findings.

19 The General Assembly finds and declares as follows:

20 (1) An estimated 36,000,000 waste tires are stockpiled
21 in Pennsylvania.

22 (2) Waste tires and stockpiled tires continue to be an
23 environmental threat to this Commonwealth.

24 (3) Approximately 12,000,000 waste tires are generated
25 in Pennsylvania each year.

26 (4) Stockpiled tires create environmental hazards such
27 as tire fires and heavy mosquito infestations.

28 (5) Landfilled whole tires and tire piles use valuable
29 and productive land space.

30 (6) Financial incentives need to be created to help

1 stimulate waste tire markets.

2 Section 3. Purpose.

3 It is the purpose of this act:

4 (1) To ensure that whole used and waste tires are
5 collected and put to beneficial use or properly disposed.

6 (2) To provide for the abatement of whole used and waste
7 tire dumps and their associated threats to public health and
8 welfare.

9 (3) To encourage qualified investments by private
10 companies to rehabilitate, expand or improve manufacturing
11 processes, facilities, buildings and land to promote the use
12 and recycling of waste tires.

13 (4) To reuse the current supply of waste tires generated
14 each year in this Commonwealth.

15 Section 4. Definitions.

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

19 "Commonwealth agency." The Commonwealth and its departments,
20 boards, commissions and agencies, Commonwealth-owned
21 universities and the State Public School Building Authority and
22 any other authority now in existence or hereafter created or
23 organized by the Commonwealth.

24 "Department." The Department of Environmental Protection of
25 the Commonwealth.

26 "Disposal." The dumping, spilling or placing of whole used
27 or waste tires into or on the land or water in a manner that the
28 tires or a constituent of the tires enters the environment.

29 "Landfill." A facility using land for disposing of solid
30 waste.

1 "Person." Any individual, partnership, corporation,
2 association, institution, cooperative enterprise, municipal
3 authority, Federal Government or agency, State institution and
4 agency, including, but not limited to, the Department of General
5 Services and the State Public School Building Authority, or any
6 other legal entity whatsoever which is recognized by law as the
7 subject of rights and duties. In any provisions of this act
8 prescribing a fine, imprisonment or penalty, or any combination
9 of the foregoing, the term "person" shall include the officers
10 and directors of any corporation or other legal entity having
11 officers and directors.

12 "Priority site." Any site designated by the Department of
13 Environmental Protection to contain more than 10,000 stockpiled
14 tires.

15 "Recycling." The systematic collection, sorting, cleaning
16 and returning of waste tires to commerce for use as commodities.

17 "Waste reduction, reuse or recycling equipment." Machinery,
18 equipment or facility modification designed to process or
19 convert waste tires into a beneficial product or productive use.

20 "Waste tire." A tire that will no longer be used for the
21 purpose for which it was originally intended.

22 Section 5. Powers and duties of department.

23 The department shall have the power and its duty shall be to:

24 (1) Administer the whole used or waste tire management
25 program pursuant to the provisions of this act.

26 (2) Consult with the Department of Revenue concerning
27 matters of tax credit disbursements.

28 (3) Cooperate with local units of government and
29 appropriate private businesses in carrying out the duties of
30 this act.

1 (4) Regulate the disposal of waste tires.

2 Section 6. Disposal of whole waste tires.

3 (a) Landfill disposal prohibited.--No person shall knowingly
4 mix any whole used or waste tires with solid waste for disposal.
5 Owners or operators of landfills shall not accept whole used or
6 waste tires for disposal. Nothing in this section shall prohibit
7 the disposal at landfills of occasional whole used or waste
8 tires unknowingly and inadvertently mixed with solid waste.

9 (b) Exceptions.--Landfills may accept whole tires when:

10 (1) the landfill provides for shredding, chopping or
11 splitting of whole used or waste tires prior to disposal;

12 (2) the landfill uses the whole used or waste tires for
13 alternative uses, which may include onsite uses such as
14 lining of roadways with waste tires, use in landfill
15 construction as liner protection, alternative daily landfill
16 cover, use in a landfill leachate collection system or as
17 otherwise provided for by regulation; or

18 (3) the landfill makes available the whole used or waste
19 tires to an appropriate facility for reuse, recycling or use
20 as an alternative fuel source.

21 (c) Written management plan.--Landfills that accept whole
22 used or waste tires shall prepare and implement a written plan
23 that addresses the management of waste tires. The plan shall, at
24 a minimum, consist of the following:

25 (1) Procedures for notifying transporters of solid waste
26 to the landfill of the existence and purpose of the waste
27 tire management program.

28 (2) Procedures for distributing information regarding
29 alternative management methods for waste tires or processed
30 tires.

1 (d) Notice to department.--Landfills that transfer whole
2 used or waste tires to an appropriate facility for reuse,
3 recycling or processing or as an alternative fuel source shall
4 submit an annual report to the department. Notification shall
5 include information regarding the following:

6 (1) The name and address of the facility owner and
7 operator to which waste tires are transferred.

8 (2) The name, address and location of the facility.

9 (3) The type of operation using the whole used or waste
10 tires.

11 (4) The dates of shipments or transfers.

12 (5) The number of whole used and waste tires or the
13 volume or weight of processed tires transferred.

14 Section 7. Priority enforcement list.

15 (a) Development of list of waste tire sites.--Within 90 days
16 of the effective date of this act, the department shall identify
17 and develop a Statewide list of waste tire sites with more than
18 10,000 waste tires known or estimated to be stockpiled. The
19 department shall rank the waste tire sites according to their
20 potential for creating environmental health and safety hazards
21 and designate these sites as priority sites to those facilities
22 requesting tax investment credits under section 9.

23 (b) Maintenance of updated list.--The department shall
24 review and update the priority enforcement list every two years.

25 Section 8. Penalties.

26 (a) Penalty for first violation.--For the first violation, a
27 person commits a summary offense and shall, upon conviction, be
28 sentenced to pay a fine of not less than \$100 and not more than
29 \$1,000 per violation, or be subject to imprisonment for not more
30 than 30 days, or both.

1 (b) Additional penalty for subsequent violations.--For the
2 second and any subsequent violations, a person commits a
3 misdemeanor of the third degree and shall, upon conviction, be
4 sentenced to pay a fine of not less than \$1,000 and not more
5 than \$5,000 per violation, or be subject to imprisonment for not
6 more than 90 days, or both.

7 Section 9. Investment tax credits for equipment for reducing,
8 reusing or recycling whole used or waste tires.

9 (a) Equipment purchase, retrofitting or expansion of
10 facilities tax credit.--Beginning with tax years beginning on or
11 after January 1, ~~1994~~ 1996, every taxpayer engaged in the <—
12 business of reducing, reusing or recycling whole used or waste
13 tires that purchases waste reduction, reuse or recycling
14 equipment or retrofits existing facilities for the purpose of
15 reducing the number of whole used or waste tires or reusing or
16 recycling whole used or waste tires or makes a qualified
17 investment to rehabilitate, expand or improve buildings for the
18 purpose of reducing, reusing or recycling whole used or waste
19 tires for which an end market exists shall receive an investment
20 tax credit equal to 30% of the cost of the waste reduction,
21 reuse or recycling equipment or infrastructure investments. THE <—
22 CREDIT MAY BE CLAIMED AGAINST ANY TAX DUE UNDER ARTICLE III, IV
23 OR VI OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE
24 TAX REFORM CODE OF 1971, FOR THE TAX YEAR DURING WHICH THE COST
25 WAS INCURRED.

26 (b) New business tax credit.--Beginning with tax years
27 beginning on or after January 1, ~~1994~~ 1996, every new business <—
28 created for the purpose of reducing, reusing or recycling whole
29 used or waste tires which purchases waste reduction, reuse or
30 recycling equipment or makes qualified infrastructure

1 investments for the purposes of waste tire reduction, reuse or
2 recycling for which an end market exists shall receive an
3 investment tax credit equal to 5% of the COST OF THE WASTE ←
4 REDUCTION, REUSE OR RECYCLING equipment or infrastructure
5 investments. THE CREDIT MAY BE CLAIMED AGAINST ANY TAX DUE UNDER ←
6 ARTICLE III, IV OR VI OF THE TAX REFORM CODE OF 1971 FOR THE TAX
7 YEAR DURING WHICH THE COST WAS INCURRED.

8 (c) Certification from department required.--To claim credit
9 under this section, a taxpayer must obtain certification from
10 the department certifying to the Department of Revenue all of
11 the following:

12 (1) The taxpayer is engaged in the business of reducing,
13 reusing or recycling whole used or waste tires.

14 (2) The equipment purchased or infrastructure investment
15 is for the purpose of whole used or waste tire reduction,
16 reuse or recycling.

17 (3) The taxpayer engaged in the business of whole used
18 or waste tire reduction, reuse or recycling must demonstrate
19 that at least 10% of the whole used or waste tires processed
20 each year were collected from priority tire sites as
21 identified by the department.

22 (d) Continuing tax credits.--For the years following the
23 first year a taxpayer or business receives an investment tax
24 credit under subsection (a) or (b), an investment tax credit of
25 10% of the cost of the waste reduction, reuse or recycling
26 equipment or infrastructure investments shall be allowed for
27 each year in which a taxpayer engaged in the business of whole
28 used or waste tire reduction, reuse or recycling demonstrates at
29 least 25% of the waste tires processed were collected from
30 priority tire sites as designated by the department.

1 (e) Limitation.--The dollar amount made available through
2 the Department of Revenue in each calendar year for tax credits
3 shall not exceed \$2,000,000.

4 (f) Determination of distribution.--If the requests for tax
5 investment credits under subsection (a) or (b) exceeds
6 \$2,000,000 during any calendar year, the department shall
7 determine which taxpayers engaged in the business of whole used
8 or waste tire reduction, reuse or recycling shall receive the
9 investment tax credits.

10 (g) Sunset.--The investment tax credits under subsection (a)
11 or (b) shall expire within three years of the effective date of
12 this act.

13 (h) Computation to exclude certain costs.--The cost of
14 feasibility studies or equipment used to service the waste
15 reduction, reuse or recycling equipment shall not be used to
16 compute tax credits.

17 ~~Section 10. Transfer of funds.~~ <—

18 ~~(a) General rule. The sum of \$1,000,000 shall be~~
19 ~~transferred on an annual basis for a period not to exceed five~~
20 ~~consecutive years from the Recycling Fund created by section 706~~
21 ~~of the act of July 28, 1988 (P.L.556, No.101), known as the~~
22 ~~Municipal Waste Planning, Recycling and Waste Reduction Act, to~~
23 ~~the Waste Tire Pile Remediation Fund created by section 11 for~~
24 ~~the purpose of implementing this act.~~

25 ~~(b) Schedule. The first transfer of funds shall be made 90~~
26 ~~days after the effective date of this act. Subsequent transfers~~
27 ~~of funds shall occur on the first day of January.~~

28 ~~Section 11. Waste Tire Pile Remediation Fund.~~

29 ~~(a) Establishment of fund. All moneys transferred under~~
30 ~~section 10 and any other funds appropriated by the General~~

1 ~~Assembly for the purposes of implementing this act, shall be~~
2 ~~paid into the State Treasury into a special fund to be known as~~
3 ~~the Waste Tire Pile Remediation Fund, which is hereby~~
4 ~~established.~~

5 ~~(b) Education and assistance programs. Up to 5% of the~~
6 ~~moneys in the fund may be expended annually by the department~~
7 ~~for the development and implementation of public education and~~
8 ~~technical assistance programs concerning the management of used~~
9 ~~tires.~~

10 ~~(c) Unexpended funds. Any unexpended funds left in the fund~~
11 ~~ten years after the establishment of this fund shall be~~
12 ~~transferred to the Solid Waste Abatement Fund.~~

13 SECTION 10. FUNDS. ←

14 (A) ESTABLISHMENT OF RESTRICTED ACCOUNT.--THERE IS HEREBY
15 ESTABLISHED IN THE GENERAL FUND A RESTRICTED ACCOUNT TO BE KNOWN
16 AS THE USED TIRE PILE REMEDIATION RESTRICTED ACCOUNT. THIS
17 ACCOUNT SHALL RECEIVE UP TO \$1,000,000, TRANSFERRED UPON
18 APPROVAL OF THE GOVERNOR, ON AN ANNUAL BASIS FOR A PERIOD NOT TO
19 EXCEED FIVE CONSECUTIVE YEARS FROM THE RECYCLING FUND CREATED BY
20 SECTION 706 OF THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN
21 AS THE MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION
22 ACT.

23 (B) APPROPRIATION OF FUND.--MONEYS IN THE ACCOUNT ARE HEREBY
24 APPROPRIATED UPON APPROVAL OF THE GOVERNOR TO THE DEPARTMENT FOR
25 THE PURPOSES OF THIS ACT. NO MORE THAN 5% OF THE MONEY IN THE
26 ACCOUNT MAY BE USED FOR THE DEVELOPMENT AND IMPLEMENTATION OF
27 PUBLIC EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS CONCERNING
28 THE MANAGEMENT OF USED TIRES.

29 (C) TRANSFER OF UNEXPENDED FUNDS.--ANY UNEXPENDED FUNDS
30 REMAINING IN THE ACCOUNT TEN YEARS AFTER ITS ESTABLISHMENT SHALL

1 BE TRANSFERRED TO THE SOLID WASTE ABATEMENT FUND.

2 Section ~~12~~ 11. Remediation grants. ←

3 (a) Authorization.--The department shall award grants for
4 the remediation of waste tire piles existing on or before the
5 effective date of this act upon receipt of a proposal submitted
6 by a person or municipality.

7 (b) Priority.--The department will announce the sites for
8 which each proposal may be accepted. The department shall select
9 these sites based on the environmental danger posed by the sites
10 as determined by the department.

11 (c) Prerequisites.--

12 (1) Persons or municipalities submitting proposals to
13 the department to remediate sites shall do so on a form
14 provided by the department. The proposal at a minimum shall
15 contain:

16 (i) A description of the person or municipality
17 experienced in tire pile remediation.

18 (ii) Markets or uses for the remediated tires.

19 (iii) Schedule for the remediation of tires.

20 (iv) Proposed cost of the used tire pile
21 remediation.

22 (2) Proposals shall include any additional information
23 the department deems necessary. The department shall
24 establish guidelines for awarding grants. These guidelines
25 may be updated by the department as needed.

26 (3) The department shall establish a grant ceiling for
27 each proposed tire pile to be remediated based on the number
28 of tires contained in the pile and estimated processing
29 costs. Proposals must request an amount that may not exceed
30 the ceiling established by the department. The department

1 will give priority to those proposals indicating the removal
2 of tires for reuse, recycling or energy recovery in that
3 order. The department shall award a grant for the proposal
4 requesting the fewest funds for any given site unless it
5 determines, in its sole discretion, that a greater potential
6 for environmental degradation would be remediated by a
7 proposal for another site.

8 (4) Grant recipients shall apply funds received from the
9 department under this section only to those purposes and
10 activities authorized by contract with the department or
11 otherwise approved by the department.

12 (d) Required grants.--The department shall not award a grant
13 under this section to any person or municipality which has
14 contributed in any manner to the creation of a waste tire pile.

15 (e) Limitation.--Grants under this section shall not be used
16 for the purchase of equipment.

17 (f) Lapse of grant.--A grant offering under this chapter
18 shall lapse automatically if funds for the grant are not
19 encumbered within one year of the offering. The department may,
20 in its sole discretion, reoffer the grant, offer the grant for
21 the remediation of that site to another entity which submitted a
22 proposal, or announce the solicitation for new proposals for
23 that site.

24 (g) Lapse of encumbered funds.--Grant funds that have been
25 encumbered shall lapse automatically to the Waste Tire Pile
26 Remediation Fund if the funds are not expended by the grantee
27 within two years after they have been encumbered. The department
28 may, upon written request from the grantee, extend the two-year
29 period for an additional period not to exceed three months.

30 (h) Availability of funds.--All obligations of the

1 Commonwealth under this section are contingent upon the
2 availability of funds under section ~~11~~ 10.

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3 Section ~~13~~ 12. Report to General Assembly.

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4 The department shall submit a report to the General Assembly
5 concerning the implementation of this act, the success of the
6 waste tire registration and recordkeeping system and the
7 reduction of stockpiled waste tires not later than three years
8 after the implementation of this act.

9 Section ~~14~~ 13. Review by Commonwealth agencies.

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10 Commonwealth agencies shall review and revise their
11 procurement procedures, regulations and specifications on a
12 continuing basis to encourage the use and recycling of waste
13 tires.

14 Section ~~15~~ 14. Effective date.

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15 This act shall take effect immediately.