

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL****No. 1929** Session of  
1995

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 ALLEN, GAMBLE, EGOLF, STEELMAN, CIVERA, PISTELLA, SERAFINI  
 AND MCGEEHAN, JUNE 29, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
 DECEMBER 12, 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; AND PROVIDING FOR DEMONSTRATION <—  
 6 ROAD PROJECTS.

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1                   reducing, reusing or recycling whole used  
2                   or waste tires.

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7 SECTION 13. COMMONWEALTH RECYCLING AND USE OF WASTE TIRES.                   <—

8 SECTION 14. DEMONSTRATION PROJECTS.

9 Section ~~14~~ 15. Effective date.                   <—

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

12 Section 1. Short title.

13       This act shall be known and may be cited as the Waste Tire  
14 Recycling Act.

15 Section 2. Legislative findings.

16       The General Assembly finds and declares as follows:

17           (1) An estimated 36,000,000 waste tires are stockpiled  
18           in Pennsylvania.

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

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

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

25           (5) Landfilled whole tires and tire piles use valuable  
26           and productive land space.

27           (6) Financial incentives need to be created to help  
28           stimulate waste tire markets.

29 Section 3. Purpose.

30       It is the purpose of this act:

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

3 (2) To provide for the abatement of whole used and waste  
4 tire dumps and their associated threats to public health and  
5 welfare.

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

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

12 Section 4. 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 "Commonwealth agency." The Commonwealth and its departments,  
17 boards, commissions and agencies, Commonwealth-owned  
18 universities and the State Public School Building Authority and  
19 any other authority now in existence or hereafter created or  
20 organized by the Commonwealth.

21 "Department." The Department of Environmental Protection of  
22 the Commonwealth.

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

26 "Landfill." A facility using land for disposing of solid  
27 waste.

28 "Person." Any individual, partnership, corporation,  
29 association, institution, cooperative enterprise, municipal  
30 authority, Federal Government or agency, State institution and

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

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

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

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

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

19 Section 5. Powers and duties of department.

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

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

23 (2) Consult with the Department of Revenue concerning  
24 matters of tax credit disbursements.

25 (3) Cooperate with local units of government and  
26 appropriate private businesses in carrying out the duties of  
27 this act.

28 (4) Regulate the disposal of waste tires.

29 Section 6. Disposal of whole waste tires.

30 (a) Landfill disposal prohibited.--No person shall knowingly

1 mix any whole used or waste tires with solid waste for disposal.  
2 Owners or operators of landfills shall not accept whole used or  
3 waste tires for disposal. Nothing in this section shall prohibit  
4 the disposal at landfills of occasional whole used or waste  
5 tires unknowingly and inadvertently mixed with solid waste.

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

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

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

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

18 (C) MUNICIPAL WASTE LANDFILLS.--MUNICIPAL WASTE LANDFILLS <—  
19 SHALL BE PROHIBITED FROM ACCEPTING WHOLE USED OR WASTE TIRES OR  
20 TIRES THAT HAVE BEEN SHREDDED, CHOPPED OR SPLIT EXCEPT TO  
21 IMPLEMENT THE PROVISIONS OF SUBSECTION (B)(2) AND (3).

22 (D) MUNICIPAL AND RESIDUAL WASTE LANDFILLS.--THE DEPARTMENT  
23 SHALL NOT APPROVE APPLICATIONS FOR PERMIT MODIFICATIONS FOR  
24 MUNICIPAL OR RESIDUAL WASTE LANDFILLS THAT PROPOSE TO ACCEPT AND  
25 DISPOSE OF ANY HAZARDOUS WASTE.

26 ~~(e)~~ (E) Written management plan.--Landfills that accept <—  
27 whole used or waste tires shall prepare and implement a written  
28 plan that addresses the management of waste tires. The plan  
29 shall, at a minimum, consist of the following:

30 (1) Procedures for notifying transporters of solid waste

1 to the landfill of the existence and purpose of the waste  
2 tire management program.

3 (2) Procedures for distributing information regarding  
4 alternative management methods for waste tires or processed  
5 tires.

6 ~~(d)~~ (F) Notice to department.--Landfills that transfer whole ←  
7 used or waste tires to an appropriate facility for reuse,  
8 recycling or processing or as an alternative fuel source shall  
9 submit an annual report to the department. Notification shall  
10 include information regarding the following:

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

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

14 (3) The type of operation using the whole used or waste  
15 tires.

16 (4) The dates of shipments or transfers.

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

19 Section 7. Priority enforcement list.

20 (a) Development of list of waste tire sites.--Within 90 days  
21 of the effective date of this act, the department shall identify  
22 and develop a Statewide list of waste tire sites with more than  
23 10,000 waste tires known or estimated to be stockpiled. The  
24 department shall rank the waste tire sites according to their  
25 potential for creating environmental health and safety hazards  
26 and designate these sites as priority sites to those facilities  
27 requesting tax investment credits under section 9.

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

30 (C) MUNICIPAL NOTIFICATION.--FOR THE PURPOSES OF SECTION 12, ←

1 THE DEPARTMENT SHALL NOTIFY IN WRITING THE COUNTIES AND  
2 MUNICIPALITIES OF THE WASTE TIRE SITES SELECTED TO BE LISTED ON  
3 THE PRIORITY ENFORCEMENT LIST THAT ARE LOCATED WITHIN THEIR  
4 BORDERS.

5 Section 8. Penalties.

6 (a) Penalty for first violation.--For the first violation, a  
7 person commits a summary offense and shall, upon conviction, be  
8 sentenced to pay a fine of not less than \$100 and not more than  
9 \$1,000 per violation, or be subject to imprisonment for not more  
10 than 30 days, or both.

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

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

19 (a) Equipment purchase, retrofitting or expansion of  
20 facilities tax credit.--Beginning with tax years beginning on or  
21 after January 1, 1996, every taxpayer engaged in the business of  
22 reducing, reusing or recycling whole used or waste tires that  
23 purchases waste reduction, reuse or recycling equipment or  
24 retrofits existing facilities for the purpose of reducing the  
25 number of whole used or waste tires or reusing or recycling  
26 whole used or waste tires or makes a qualified investment to  
27 rehabilitate, expand or improve buildings for the purpose of  
28 reducing, reusing or recycling whole used or waste tires for  
29 which an end market exists shall receive an investment tax  
30 credit equal to 30% of the cost of the waste reduction, reuse or

1 recycling equipment or infrastructure investments. The credit  
2 may be claimed against any tax due under Article III, IV or VI  
3 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax  
4 Reform Code of 1971, for the tax year during which the cost was  
5 incurred.

6 (b) New business tax credit.--Beginning with tax years  
7 beginning on or after January 1, 1996, every new business  
8 created for the purpose of reducing, reusing or recycling whole  
9 used or waste tires which purchases waste reduction, reuse or  
10 recycling equipment or makes qualified infrastructure  
11 investments for the purposes of waste tire reduction, reuse or  
12 recycling for which an end market exists shall receive an  
13 investment tax credit equal to 5% of the cost of the waste  
14 reduction, reuse or recycling equipment or infrastructure  
15 investments. The credit may be claimed against any tax due under  
16 Article III, IV or VI of the Tax Reform Code of 1971 for the tax  
17 year during which the cost was incurred.

18 (c) Certification from department required.--To claim credit  
19 under this section, a taxpayer must obtain certification from  
20 the department certifying to the Department of Revenue all of  
21 the following:

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

24 (2) The equipment purchased or infrastructure investment  
25 is for the purpose of whole used or waste tire reduction,  
26 reuse or recycling.

27 (3) The taxpayer engaged in the business of whole used  
28 or waste tire reduction, reuse or recycling must demonstrate  
29 that at least 10% of the whole used or waste tires processed  
30 each year were collected from priority tire sites as



1 identified by the department.

2 (d) Continuing tax credits.--For the years following the  
3 first year a taxpayer or business receives an investment tax  
4 credit under subsection (a) or (b), an investment tax credit of  
5 10% of the cost of the waste reduction, reuse or recycling  
6 equipment or infrastructure investments shall be allowed for  
7 each year in which a taxpayer engaged in the business of whole  
8 used or waste tire reduction, reuse or recycling demonstrates at  
9 least 25% of the waste tires processed were collected from  
10 priority tire sites as designated by the department.

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

14 (f) Determination of distribution.--If the requests for tax  
15 investment credits under subsection (a) or (b) exceeds  
16 \$2,000,000 during any calendar year, the department shall  
17 determine which taxpayers engaged in the business of whole used  
18 or waste tire reduction, reuse or recycling shall receive the  
19 investment tax credits.

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

23 (h) Computation to exclude certain costs.--The cost of  
24 feasibility studies or equipment used to service the waste  
25 reduction, reuse or recycling equipment shall not be used to  
26 compute tax credits.

27 Section 10. Funds.

28 (a) Establishment of restricted account.--There is hereby  
29 established in the General Fund a restricted account to be known  
30 as the Used Tire Pile Remediation Restricted Account. This

1 account shall receive up to \$1,000,000, transferred upon  
2 approval of the Governor, on an annual basis for a period not to  
3 exceed five consecutive years from the ~~Recycling Fund created by~~ <—  
4 ~~section 706 of the act of July 28, 1988 (P.L.556, No.101), known~~  
5 ~~as the Municipal Waste Planning, Recycling and Waste Reduction~~  
6 ~~Act.~~ HAZARDOUS SITES CLEANUP FUND ESTABLISHED UNDER SECTION 901 <—  
7 OF THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE  
8 HAZARDOUS SITES CLEANUP ACT.

9 (b) Appropriation of fund.--Moneys in the account are hereby  
10 appropriated upon approval of the Governor to the department for  
11 the purposes of this act. No more than 5% of the money in the  
12 account may be used for the development and implementation of  
13 public education and technical assistance programs concerning  
14 the management of used tires.

15 (c) Transfer of unexpended funds.--Any unexpended funds  
16 remaining in the account ten years after its establishment shall  
17 be transferred to the Solid Waste Abatement Fund.

18 Section 11. Remediation grants.

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

23 (b) Priority.--The department will announce the sites for  
24 which each proposal may be accepted. The department shall select  
25 these sites based on the environmental danger posed by the sites  
26 as determined by the department.

27 (c) Prerequisites.--

28 (1) Persons or municipalities submitting proposals to  
29 the department to remediate sites shall do so on a form  
30 provided by the department. The proposal at a minimum shall

1 contain:

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

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

5 (iii) Schedule for the remediation of tires.

6 (iv) Proposed cost of the used tire pile  
7 remediation.

8 (2) Proposals shall include any additional information  
9 the department deems necessary. The department shall  
10 establish guidelines for awarding grants. These guidelines  
11 may be updated by the department as needed.

12 (3) The department shall establish a grant ceiling for  
13 each proposed tire pile to be remediated based on the number  
14 of tires contained in the pile and estimated processing  
15 costs. Proposals must request an amount that may not exceed  
16 the ceiling established by the department. The department  
17 will give priority to those proposals indicating the removal  
18 of tires for reuse, recycling or energy recovery in that  
19 order. The department shall award a grant for the proposal  
20 requesting the fewest funds for any given site unless it  
21 determines, in its sole discretion, that a greater potential  
22 for environmental degradation would be remediated by a  
23 proposal for another site.

24 (4) Grant recipients shall apply funds received from the  
25 department under this section only to those purposes and  
26 activities authorized by contract with the department or  
27 otherwise approved by the department.

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

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

3 (f) Lapse of grant.--A grant offering under this chapter  
4 shall lapse automatically if funds for the grant are not  
5 encumbered within one year of the offering. The department may,  
6 in its sole discretion, reoffer the grant, offer the grant for  
7 the remediation of that site to another entity which submitted a  
8 proposal, or announce the solicitation for new proposals for  
9 that site.

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

16 (h) Availability of funds.--All obligations of the  
17 Commonwealth under this section are contingent upon the  
18 availability of funds under section 10.

19 Section 12. Report to General Assembly.

20 The department shall submit a report to the General Assembly  
21 concerning the implementation of this act, the success of the  
22 waste tire registration and recordkeeping system and the  
23 reduction of stockpiled waste tires not later than three years  
24 after the implementation of this act.

25 ~~Section 13. Review by Commonwealth agencies.~~ <—

26 ~~Commonwealth agencies shall review and revise their~~  
27 ~~procurement procedures, regulations and specifications on a~~  
28 ~~continuing basis to encourage the use and recycling of waste~~  
29 ~~tires.~~

30 SECTION 13. COMMONWEALTH RECYCLING AND USE OF WASTE TIRES. <—

1 (A) USE OF WASTE TIRES BY COMMONWEALTH AGENCIES.--WITHIN TWO  
2 YEARS AFTER THE EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT OF  
3 CONSERVATION AND NATURAL RESOURCES, THE DEPARTMENT OF  
4 ENVIRONMENTAL PROTECTION AND THE DEPARTMENT OF TRANSPORTATION  
5 SHALL, TO THE MAXIMUM EXTENT PRACTICABLE AND FEASIBLE, GIVE DUE  
6 CONSIDERATION AND PREFERENCE TO THE USE OF WASTE TIRES IN ALL  
7 CONSTRUCTION AND ENGINEERING ACTIVITIES WHICH ARE PAID WITH  
8 PUBLIC FUNDS.

9 (B) REPORTS.--WITHIN THREE YEARS AFTER THE EFFECTIVE DATE OF  
10 THIS ACT, THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES,  
11 THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE DEPARTMENT OF  
12 TRANSPORTATION SHALL SUBMIT A REPORT TO THE ENVIRONMENTAL  
13 RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND THE  
14 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF  
15 REPRESENTATIVES CONCERNING THE IMPLEMENTATION OF THIS SECTION.  
16 THE REPORT SHALL INCLUDE A DESCRIPTION OF WHAT ACTIONS THE  
17 AGENCIES HAVE TAKEN IN THE PREVIOUS TWO YEARS TO IMPLEMENT THIS  
18 SECTION.

19 SECTION 14. DEMONSTRATION PROJECTS.

20 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ACT THE  
21 SECRETARY OF TRANSPORTATION SHALL ESTABLISH NOT LESS THAN SIX  
22 DEMONSTRATION PROJECTS WHICH USE ASPHALT MODIFIED WITH PRODUCT  
23 DERIVED FROM WASTE TIRES FOR ROAD REPAIR AND CONSTRUCTION. THE  
24 PROJECTS SHALL TEST THE PERFORMANCE OF THE MODIFIED ASPHALT  
25 UNDER VARIOUS CLIMATES AND USE CONDITIONS. THESE PROJECTS SHALL  
26 BE IN ADDITION TO ANY OTHER PROJECTS PREVIOUSLY ESTABLISHED.  
27 ADDITIONALLY, THE SECRETARY OF TRANSPORTATION SHALL GIVE DUE  
28 CONSIDERATION AND PREFERENCE FOR THE USE OF WASTE TIRES IN  
29 TRANSPORTATION-RELATED CIVIL ENGINEERING APPLICATIONS THROUGHOUT  
30 THIS COMMONWEALTH. THE SECRETARY OF TRANSPORTATION SHALL REPORT

1 ANNUALLY TO THE GENERAL ASSEMBLY STUDY RESULTS OF EACH  
2 DEMONSTRATION PROJECT AND ON THE USAGE OF WASTE TIRES IN  
3 TRANSPORTATION-RELATED CIVIL ENGINEERING APPLICATIONS.

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

←

5 This act shall take effect immediately.